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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–STD–0016]

RIN 1904–AD89

Energy Conservation Program: Energy Conservation Standards for Metal Halide Lamp Fixtures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final determination.

SUMMARY: The Energy Policy and Conservation Act, as amended (''EPCA''), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including metal halide lamp fixtures (''MHLFs''). EPCA also requires the U.S. Department of Energy (''DOE'') to periodically determine whether more-stringent, standards would be technologically feasible and economically justified, and would result in significant energy savings. In this final determination, DOE has determined that the energy conservation standards for MHLFs do not need to be amended because they are not economically justified.

DATES: The effective date of this final determination is November 24, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=14.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

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I. Synopsis of the Final Determination

Title III, Part B [1] of the Energy Policy and Conservation Act, as amended (''EPCA''),[2] established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309) These products include metal halide lamp fixtures (''MHLFs''), the subject of this final determination.

EPCA established initial standards for MHLFs. (42 U.S.C. 6295(hh)(1)(A)) EPCA directed the U.S. Department of Energy (''DOE'') to conduct a review of the statutory standards to determine whether they should be amended, and a subsequent review to determine if the standards then in effect should be amended. (42 U.S.C. 6295(hh)(2) and (3)) DOE conducted the first review of MHLF energy conservation standards and published a final rule amending standards on February 10, 2014. 79 FR 7746.[3] DOE is issuing this final determination pursuant to the EPCA requirement that DOE conduct a second review of MHLF energy conservation standards. (42 U.S.C. 6295(hh)(3)(A))

DOE analyzed MHLFs subject to standards specified in 10 CFR 431.326(c). DOE first analyzed the technological feasibility of more efficient MHLFs. For those MHLFs for which DOE determined higher standards to be technologically feasible, DOE estimated energy savings that could result from potential energy conservation standards by conducting a national impacts analysis (''NIA''). DOE evaluated whether higher standards would be cost effective by conducting life-cycle cost (''LCC'') and payback period (''PBP'') analyses, and estimated the net present value (''NPV'') of the total costs and benefits experienced by consumers.

Based on the results of these analyses, summarized in section V of this document, DOE has determined that current standards for metal halide lamp fixtures do not need to be amended because more stringent standards would not be cost-effective (and by extension, would not be economically justified).

II. Introduction

The following section briefly discusses the statutory authority underlying this final determination, as well as some of the relevant historical background related to the establishment of standards for MHLFs.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include MHLFs, the subject of this document. (42 U.S.C. 6292(a)(19)) EPCA, as amended by the Energy Independence and Security Act of 2007 (Pub. L. 110–140, EISA 2007), prescribed energy conservation standards for this equipment. (42 U.S.C. 6295(hh)(1)) EPCA directed DOE to conduct two rulemaking cycles to determine whether to amend these standards. (42 U.S.C. 6295(hh)(2)(A) and (3)(A)) DOE published a final rule amending the standards on February 10, 2014 (''2014 MHLF final rule''). 79 FR 7746. Under 42 U.S.C. 6295(hh)(3)(A), the agency must conduct a second review to determine whether current standards should be amended and publish a final rule. This second MHLF standards rulemaking was initiated on July 1, 2019 through the publication of a request for information (''RFI'') document in the **Federal Register**. 84 FR 31232 (''July 2019 RFI''). On August 5, 2020, DOE published a notice of proposed determination (''NOPD'') regarding energy conservation standards for MHLFs. 85 FR 47472 (''August 2020 NOPD'').

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption in limited instances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (*See* 42 U.S.C. 6297(d))

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6295(o)(3)(A) and 42 U.S.C. 6295(r)) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. (42 U.S.C. 6295(s)) The DOE test procedures for MHLF appear at 10 CFR 431.324.

In making a determination that the standards do not need to be amended, DOE must evaluate under the criteria of 42 U.S.C. 6295(n)(2) whether amended standards (1) will result in significant conservation of energy, (2) are technologically feasible, and (3) are cost effective as described under 42 U.S.C. 6295(o)(2)(B)(i)(II). (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) Under 42 U.S.C. 6295(o)(2)(B)(i)(II), an evaluation of cost effectiveness requires DOE to consider savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard.

DOE is publishing this document to satisfy EPCA's requirement under 42 U.S.C. 6295(hh)(3)(A) to complete a second rulemaking for MHLFs and to satisfy the 6-year lookback provision at 42 U.S.C. 6295(m)(1).

B. Background

1. Current Standards

In the 2014 MHLF final rule, DOE prescribed the current energy conservation standards for MHLFs manufactured on or after February 10, 2017. 79 FR 7746. These standards are set forth in DOE's regulations at 10 CFR 431.326 and are specified in Table II.1.

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[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[3] DOE notes that because of the codification of the MHLF provisions in 42 U.S.C. 6295, MHLF energy conservation standards and the associated test procedures are subject to the requirements of the consumer products provisions of Part B of Title III of EPCA. However, because MHLFs are generally considered to be commercial equipment, DOE established the requirements for MHLFs in 10 CFR part 431 (''Energy Efficiency Program for Certain Commercial and Industrial Equipment'') for ease of reference. DOE notes that the location of the provisions within the CFR does not affect either the substance or applicable procedure for MHLFs. Based upon their placement into 10 CFR part 431, MHLFs are referred to as ''equipment'' throughout this document, although covered by the consumer product provisions of EPCA.

TABLE II.1—CURRENT ENERGY CONSERVATION STANDARDS FOR MHLFS

Designed to be operated with lamps of the following rated lamp wattage	Tested input voltage *	Minimum standard equation * (%)
≥50W and ≤100W	480 V	(1 / (1 + 1.24 × P^(−0.351))) − 0.020.**
≥50W and ≤100W	All others	1 / (1 + 1.24 × P^(−0.351)).
>100W and <150W †	480 V	(1 / (1 + 1.24 × P^(−0.351))) − 0.020.
>100W and <150W †	All others	1 / (1 + 1.24 × P^(−0.351)).
≥150W ‡ and ≤250W	480 V	0.880.
≥150W ‡ and ≤250W	All others	For ≥150W and ≤200W: 0.880. For >200W and ≤250W: 1 / (1 + 0.876 × P^(−0.351)).
>250W and ≤500W	480 V	For >250W and <265W: 0.880. For ≥265W and ≤500W: (1 / (1 + 0.876 × P^(−0.351))) − 0.010.
>250W and ≤500W	All others	1 / (1 + 0.876 × P^(−0.351)).
>500W and ≤1,000W	480 V	>500W and ≤750W: 0.900. >750W and ≤1,000W: 0.000104 × P + 0.822. For >500W and ≤1,000W: may not utilize a probe-start ballast.
>500W and ≤1,000W	All others	For >500W and ≤750W: 0.910. For >750W and ≤1,000W: 0.000104 × P + 0.832. For >500W and ≤1,000W: may not utilize a probe-start ballast.

* Tested input voltage is specified in 10 CFR 431.324.

** P is defined as the rated wattage of the lamp the fixture is designed to operate.

† Includes 150 watt (''W'') fixtures specified in paragraph (b)(3) of 10 CFR 431.326, that are fixtures rated only for 150W lamps; rated for use in wet locations, as specified by the National Fire Protection Association (''NFPA'') 70, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by Underwriters Laboratory (''UL'') 1029.

‡ Excludes 150W fixtures specified in paragraph (b)(3) of 10 CFR 431.326, that are fixtures rated only for 150W lamps; rated for use in wet locations, as specified by the NFPA 70, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029.

2. History of Standards Rulemaking for MHLFs

As described in section II.A, EPCA, as amended by Public Law 110–140, EISA 2007, prescribed energy conservation standards for MHLFs. (42 U.S.C. 6295(hh)(1)) EPCA directed DOE to conduct two rulemaking cycles to determine whether to amend these standards. (42 U.S.C. 6295(hh)(2)(A) and (3)(A)) DOE completed the first of these rulemaking cycles in 2014 by adopting amended performance standards for MHLFs manufactured on or after February 10, 2017. 79 FR 7746. The current energy conservation standards are located in 10 CFR part 431. See 10 CFR 431.326 (detailing the applicable energy conservation standards for different classes of MHLFs). The currently applicable DOE test procedures for MHLFs appear at 10 CFR 431.324. Under 42 U.S.C. 6295(hh)(3)(A), the agency is instructed to conduct a second review of its energy conservation standards for MHLFs and publish a final rule to determine whether to amend those standards. DOE initiated the second MHLF standards rulemaking by publishing the July 2019 RFI and subsequently, DOE published the August 2020 NOPD to support this rulemaking requirement. 84 FR 31232; 85 FR 47472.

DOE received five comments in response to the August 2020 NOPD from the interested parties listed in Table II.2

TABLE II.2—AUGUST 2020 NOPD WRITTEN COMMENTS

Commenter(s)	Reference in this final determination	Commenter type
National Electrical Manufacturers Association *	NEMA	Trade Association.
Signify	Signify	Manufacturer.
California Investor-Owned Utilities (Pacific Gas and Electric Company [PG&E], San Diego Gas and Electric [SDG&E], and Southern California Edison [SCE]).	CA IOUs	Utility Association.
Anonymous	Anonymous	Private Citizen.

* Submitted two separate comments.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[4]

III. General Discussion

DOE developed this final determination after considering oral and written comments, data, and information from interested parties that represent a variety of interests.

A. Product Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that justify differing standards. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE determines are appropriate. (42 U.S.C. 6295(q)) This final determination covers metal halide lamp fixtures defined as light fixtures for general lighting application designed to be operated with a metal halide lamp and a ballast

[4] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop energy conservation standards for MHLFs. (Docket No. EERE–2017–BT–STD–0016–0007, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number at page of that document).

for a metal halide lamp. 42 U.S.C. 6291(64); 10 CFR 431.322. The scope of coverage is discussed in further detail in section IV.B.1 of this document.

B. Test Procedure

EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6293) Manufacturers of covered products must use these test procedures to certify to DOE that their product complies with energy conservation standards and to quantify the efficiency of their product. DOE's current energy conservation standards for MHLFs are expressed in terms of the efficiency of the ballast contained within the fixture. (10 CFR 431.326)

DOE established an active mode and standby mode power test method for MHLFs in a final rule published on March 9, 2010. 75 FR 10950. The current test procedure for MHLFs appears in 10 CFR 431.324 and specifies the ballast efficiency calculation as lamp output power divided by the ballast input power. DOE has since published an RFI to initiate a data collection process to consider whether to amend DOE's test procedure for MHLFs. 83 FR 24680 (May 30, 2018). On July 14, 2021, DOE published a notice of proposed rulemaking to amend DOE's test procedures for MHLFs (''July 2021 NOPR''). 86 FR 37069.

C. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. Section 6(c)(1) of 10 CFR part 430, subpart C, appendix A (the ''Process Rule''). DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. Sections 6(c)(3)(i) and 7(b)(1) of the Process Rule.

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; (3) adverse impacts on health or safety and (4) unique-pathway proprietary technologies. Sections 6(c)(3)(ii)–(v) and 7(b)(2)–(5) of the Process Rule. Additionally, it is DOE policy not to include in its analysis any proprietary technology that is a unique pathway to achieving a certain efficiency level (''EL''). Section IV.B.5 of this document discusses the results of the screening analysis for MHLFs, particularly the designs DOE considered, those it screened out, and those that are the basis for the standards considered in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the final determination technical support document (''TSD'').[5]

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such a product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for MHLFs using the design parameters for the most efficient products available on the market or in working prototypes. The max-tech levels that DOE determined for this rulemaking are described in section IV.C.4 and in chapter 5 of the final determination TSD.

D. Energy Savings

1. Determination of Savings

For each trial standard level (''TSL''), DOE projected energy savings from application of the TSL to MHLFs purchased in the 30-year period that begins in the first full year of compliance with the potential standards (2025–2054).[6] The savings are measured over the entire lifetime of MHLFs purchased in the 30-year analysis period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the no-new-standards case. The no-new-standards case represents a projection of energy consumption that reflects how the market for a product would likely evolve in the absence of energy conservation standards.

DOE used its NIA spreadsheet models to estimate national energy savings (''NES'') from potential amended standards for MHLFs. The NIA spreadsheet model (described in section V.B.2 of this document) calculates energy savings in terms of site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports national energy savings in terms of primary energy savings, which is the savings in the energy that is used to generate and transmit the site electricity. For natural gas, the primary energy savings are considered to be equal to the site energy savings. DOE also calculates NES in terms of full-fuel-cycle (''FFC'') energy savings. The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy conservation standards.[7] DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information on FFC energy savings, see section IV.H.1 of this document.

2. Significance of Savings

To adopt any new or amended standards for a covered MHLFs, DOE must determine that such action would result in significant energy savings. (42 U.S.C. 6295(o)(3)(B)) Although the term ''significant'' is not defined in the EPCA, the U.S. Court of Appeals, for the District of Columbia Circuit in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), opined that Congress intended ''significant'' energy savings in the context of EPCA to be savings that were not ''genuinely trivial.''

Historically, DOE did not provide specific guidance or a numerical threshold for determining what constitutes significant conservation of energy. Instead, DOE determined on a case-by-case basis whether a particular rulemaking would result in significant conservation of energy. In a final rule published February 14, 2020, DOE adopted a numerical threshold for significant conservation of energy. 85 FR 8626, 8670. Specifically, the threshold requires that an energy conservation standard result in a 0.30

[5] The final determination technical support document for this notice can be found at *www.regulations.gov/docket/EERE-;2017-BT-STD-0016.*

[6] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

[7] The FFC metric is discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

quad reduction in site energy use over a 30-year analysis period or a 10-percent reduction in site energy use over that same period. *Id.*

E. Economic Justification

1. Specific Criteria

EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII)) The following sections discuss how DOE has addressed each of those seven factors in this final determination.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of potential amended standards on manufacturers, DOE conducts a manufacturer impact analysis (''MIA''). DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include (1) industry net present value, which values the industry on the basis of expected future cash flows; (2) cash flows by year; (3) changes in revenue and income; and (4) other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and PBP associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the consumer costs and benefits expected to result from particular standards. DOE also evaluates the impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a standard.

As discussed further in section V.C of this document, DOE has concluded amended standards for MHLFs would not be cost-effective (and by extension, would not be economically justified) for the potential standard levels evaluated based on the PBP and LCC analysis. Therefore, DOE did not conduct an MIA analysis or LCC subgroup analysis for this final determination.

b. Savings in Operating Costs Compared To Increase in Price (LCC and PBP)

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product that are likely to result from a standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of a product (including its installation) and the operating cost (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. The LCC analysis requires a variety of inputs, such as product prices, product energy consumption, energy prices, maintenance and repair costs, product lifetime, and discount rates appropriate for consumers. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value.

The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost due to a more-stringent standard by the change in annual operating cost for the year that standards are assumed to take effect.

For its LCC and PBP analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with new or amended standards. The LCC savings for the considered efficiency levels are calculated relative to the case that reflects projected market trends in the absence of new or amended standards. DOE's LCC and PBP analysis is discussed in further detail in section IV.F.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section IV.H, DOE uses the NIA spreadsheet models to project national energy savings.

d. Lessening of Utility or Performance of Products

In establishing product classes, and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) Based on data available to DOE, the standards analyzed in this document would not reduce the utility or performance of the products under consideration in this rulemaking. DOE also determined that analyzed standards would not result in the unavailability performance characteristics of products under consideration that are generally available at the time of this rulemaking. (42 U.S.C. 6295(o)(4))

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a standard. (42 U.S.C. 6295(o)(2)(B)(i)(V)) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(ii)) Because DOE is not amending standards for MHLFs, DOE did not transmit a copy of its proposed determination to the Attorney General.

f. Need for National Energy Conservation

DOE also considers the need for national energy and water conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) The energy savings from the adopted standards are likely to provide improvements to the security and reliability of the Nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the Nation's electricity system.

DOE maintains that environmental and public health benefits associated with the more efficient use of energy are important to take into account when

considering the need for national energy conservation. Because DOE has concluded that amended standards for MHLFs would not be economically justified, DOE did not conduct a utility impact analysis or emissions analysis for this final determination.

g. Other Factors

In determining whether an energy conservation standard is economically justified, DOE may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) To the extent DOE identifies any relevant information regarding economic justification that does not fit into the other categories described previously, DOE could consider such information under ''other factors.''

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii), EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values used to calculate the effect potential amended energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV.F.9 of this final determination.

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this rulemaking with regards to MHLFs. Separate subsections address each component of DOE's analyses and respond to comments received.

DOE used several analytical tools to estimate the impact of the standards considered in this document. The first tool is a spreadsheet that calculates the LCC savings and PBP of potential amended or new energy conservation standards. The national impacts analysis uses a second spreadsheet set that provides shipments projections and calculates national energy savings and net present value of total consumer costs and savings expected to result from potential energy conservation standards. These spreadsheet tools are available on the DOE website for this rulemaking: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=14.*

A. Overall

DOE received several comments regarding its tentative conclusion in the August 2020 NOPD to not amend standards for MHLFs. NEMA agreed with DOE's proposed determination stating that the industry would not be able to recover investments in new standards for MHLFs based on the continued decline of shipments (80 percent reduction in MHLF shipments from 2008 through 2018). (NEMA, No. 12 at p. 2) Additionally, NEMA stated that due to the rapidly declining market, attaining significant energy savings in a reasonable time did not seem possible. (NEMA, No. 12 at p. 4) Signify agreed with DOE's proposed determination that standards for MHLFs do not need to be amended. However, Signify stated that it supported standards for metal halide (''MH'') ballasts designed to operate lamps with wattages between >1,000 W and ≤2,000 W as such standards would incentivize a rational use of energy for high power MH lamp luminaire applications. (Signify, No. 13 at pp. 2, 12)

A private citizen also agreed with DOE's proposed determination, stating that shipments have declined over 90 percent in the last 10–15 years and will continue to do so. The citizen also stated that MH lamps are not used in new buildings or new outdoor lighting. The citizen recommended DOE not have to repeat this analysis in three years unless shipment increased by at least some ''X'' percent during that time. (Anonymous, No. 10, p. 1)

When expressing concerns regarding max-tech levels proposed in the August 2020 NOPD, NEMA recommended DOE publish a supplemental notice to the August 2020 NOPD rather than a final rule to avoid risking future challenges. (NEMA, No. 12 at p. 3) (See section IV.C.4 for the discussion of NEMA's comment regarding max-tech levels.) Additionally, in response to a separate rule requesting comment regarding rulemaking prioritizations, NEMA stated that if DOE were to quickly verify the decline in sale and no notable energy saving opportunities for MHLFs, a negative determination could be made and allow DOE resources to be applied elsewhere with more significant energy savings. (NEMA, No. 15 [8] at p. 4)

The CA IOUs stated that DOE's analysis was incomplete and that it should consider revising its shipments and cost data. The CA IOUs urged DOE to refrain from issuing a final determination until the adjustments to the data have been made and shared with stakeholders. (CA IOUs, No. 14, pp. 2–3) (See section IV.C.6 for discussion of the CA IOU's comments on prices and section IV.G for shipments.)

Concerns raised in comments received on the August 2020 NOPD are addressed in this document and do not result in major changes to the analysis. Hence, DOE is not publishing supplemental notice to the August 2020 NOPD. In this final determination DOE is not amending current standards for MHLFs because more stringent standards would not be cost-effective (and by extension, would not be economically justified). DOE made this determination by conducting an analysis of covered MHLFs including those containing MH ballasts designed to operate lamps with wattages between >1,000 W and ≤2,000 W. As noted in section II.A, DOE is completing this final determination as directed by EPCA to conduct a secondary rulemaking for MHLFs.

B. Market and Technology Assessment

DOE conducted a market and technology assessment in support of this final determination. DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly-available information. The subjects addressed in the market and technology assessment for this rulemaking include (1) a determination of the scope of the rulemaking and product classes, (2) manufacturers and

[8] This comment was received in response to a Request for Comment on the prioritization of rulemakings pursuant to the Department's updated and modernized rulemaking methodology titled, ''Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment'' (Process Rule), Docket ID: EERE–2020–BT–STD–004, available at *www.regulations.gov/document/EERE-2020-BT-STD-0004-0001.*

industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of MHLFs. The key findings of DOE's market assessment are summarized in the following sections. See chapter 3 of the final determination TSD for further discussion of the market and technology assessment.

1. Scope of Coverage

MHLF is defined as a light fixture for general lighting application designed to be operated with a metal halide lamp and a ballast for a metal halide lamp. 42 U.S.C. 6291(64); 10 CFR 431.322. Any equipment meeting the definition of MHLF is included in DOE's scope of coverage, though all equipment within the scope of coverage may not be subject to standards.

Signify stated that it appreciated the clarification in the August 2020 NOPD that DOE has does not have authority to evaluate amended standards for metal halide ballasts sold outside of MHLFs as this is a frequent question asked by its customers. (Signify, No. 13 at p. 13)

2. Test Procedure

The current test procedure for MHLFs appears in 10 CFR 431.324 and specifies the ballast efficiency calculation as lamp output power divided by the ballast input power. With regards to the max-tech levels in the August 2020 NOPD, Signify questioned the certification data for any ballast operating a MH lamp at a frequency higher than 400 hertz (''Hz''). Signify stated that the current DOE test procedure references ANSI C82.6–2015(R2020)[9] which excludes from scope ballasts that operate at higher than 400 Hz for high-intensity discharge (''HID'') lamps. Therefore, energy efficiencies for ballasts operating at frequencies higher than 400 Hz may have been reported to DOE in error. Signify explained that a test setup specific to high-frequency ballasts is needed as these ballasts are more susceptible to high-frequency parasitic elements among wires and means of interconnections and require the appropriate power supply impedance to prevent the injection of high-frequency voltage components. Hence, Signify suggested that DOE not adopt the max-tech efficiency levels for electronic ballasts until the test method is amended to include accurate measurements of high-frequency electronic MH lamp ballasts. (Signify, No. 13 at pp. 9–10)

The 2015 version and the 2015(R2020)[10] version of ANSI C82.6 do state that their procedures apply to low-frequency ballasts (*i.e.,* ballasts that operate at less than 400 Hz). DOE's current test procedure for MHLFs references the 2005 version of ANSI C82.6 which does not explicitly exclude certain ballasts. In 2017, ANSI published ANSI C82.17–2017, ''High Frequency (HF) Electronic Ballasts for Metal Halide Lamps,'' which addressed HF electronic metal halide ballasts with sinusoidal lamp operating current frequencies above 40 kilohertz. ANSI C82.17–2017 also states in section 5.1 that ''all measurements necessary to determine compliance with the ballast performance requirements of this standard shall be made in accordance with ANSI C82.6.'' In the July 2021 NOPR DOE tentatively determined that based on its initial review, the specifications, and instructions in ANSI C82.6 cover the necessary methodology, while being general enough to be used as a guide for taking measurements for HF electronic ballasts. 86 FR 37069, 37078.

3. Equipment Classes

When evaluating and establishing energy conservation standards, DOE may divide covered products into product classes by the type of energy used, or by capacity or other performance-related features that justify a different standard. (42 U.S.C. 6295(q)) In making a determination whether capacity or another performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE deems appropriate. (*Id.*)

In the August 2020 NOPD, DOE reviewed metal halide lamp fixtures and the ballasts contained within them to identify performance-related features that could potentially justify a separate equipment class. DOE proposed to maintain the current equipment classes which are based on input voltage, rated lamp wattage, and designation for indoor versus outdoor application. 85 FR 47472, 47482–47483. DOE received no comments on this topic and maintains the current equipment classes in this final determination.

The equipment classes considered in this final determination are shown in Table IV.1.

TABLE IV.1—EQUIPMENT CLASSES

Designed to be operated with lamps of the following rated lamp wattage	Indoor/outdoor	Input voltage type ‡
≥50 W and ≤100 W	Indoor	Tested at 480 V.
≥50 W and ≤100 W	Indoor	All others.
≥50 W and ≤100 W	Outdoor	Tested at 480 V.
≥50 W and ≤100 W	Outdoor	All others.
>100 W and <150 W *	Indoor	Tested at 480 V.
>100 W and <150 W *	Indoor	All others.
>100 W and <150 W *	Outdoor	Tested at 480 V.
>100 W and <150 W *	Outdoor	All others.
≥150 W ** and ≤250 W	Indoor	Tested at 480 V.
≥150 W ** and ≤250 W	Indoor	All others.
≥150 W ** and ≤250 W	Outdoor	Tested at 480 V.
≥150 W ** and ≤250 W	Outdoor	All others.
>250 W and ≤500 W	Indoor	Tested at 480 V.
>250 W and ≤500 W	Indoor	All others.
>250 W and ≤500 W	Outdoor	Tested at 480 V.
>250 W and ≤500 W	Outdoor	All others.
>500 W and ≤1,000 W	Indoor	Tested at 480 V.
>500 W and ≤1,000 W	Indoor	All others.

[9] American National Standards Institute. *American National Standard for Lamp ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement.* Approved March 20, 2020.

[10] There are no differences between the 2015(R2020) and 2015 versions of ANSI C82.6. The 2015(R2020) version is reaffirmation of the 2015 version.

TABLE IV.1—EQUIPMENT CLASSES—Continued

Designed to be operated with lamps of the following rated lamp wattage	Indoor/outdoor	Input voltage type ‡
>500 W and ≤1,000 W	Outdoor	Tested at 480 V.
>500 W and ≤1,000 W	Outdoor	All others.
>1,000 W and ≤2,000 W	Indoor	Tested at 480 V.
>1,000 W and ≤2,000 W	Indoor	All others.
>1,000 W and ≤2,000 W	Outdoor	Tested at 480 V.
>1,000 W and ≤2,000 W	Outdoor	All others.

* Includes 150 W MHLFs initially exempted by EISA 2007, which are MHLFs rated only for 150 W lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A);); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

** Excludes 150 W MHLFs initially exempted by EISA 2007, which are MHLFs rated only for 150 W lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A);); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

‡ Input voltage for testing would be specified by the test procedures. Ballasts rated to operate lamps less than 150 W would be tested at 120 V, and ballasts rated to operate lamps ≥150 W would be tested at 277 V. Ballasts not designed to operate at either of these voltages would be tested at the highest voltage the ballast is designed to operate.

4. Technology Options

In the technology assessment, DOE identifies technology options that would be expected to improve the efficiency of MHLFs, as measured by the DOE test procedure. The energy conservation standard requirements and DOE test procedure for MHLFs are based on the efficiency of the MH ballast contained within the fixture. Hence DOE identified technology options that would improve the efficiency of MH ballasts. To develop a list of technology options, DOE reviewed manufacturer catalogs, recent trade publications and technical journals, and consulted with technical experts.

A complete list of technology options DOE considered in the August 2020 NOPD appears in Table IV.2. 85 FR 47472, 47484. DOE did not receive comments on technology options considered in the August 2020 NOPD and therefore continues to consider them in this final determination. See chapter 3 of final determination TSD for further information.

TABLE IV.2—TECHNOLOGY OPTIONS

Ballast type	Design option	Description
Magnetic	Improved Core Steel:	
	Grain-Oriented Silicon Steel	Use a higher grade of electrical steel, including grain-oriented silicon steel, to lower core losses.
	Amorphous Steel	Create the core of the inductor from laminated sheets of amorphous steel insulated from each other.
	Improved Steel Laminations	Add steel laminations to lower core losses by using thinner laminations.
	Copper Wiring	Use copper wiring in place of aluminum wiring to lower resistive losses.
	Improved Windings	Use of optimized-gauge copper wire; multiple, smaller coils; shape-optimized coils to reduce winding losses.
	Electronic Ballast	Replace magnetic ballasts with electronic ballasts.
Electronic	Improved Components:	
	Magnetics	Improved Windings: Use of optimized-gauge copper wire; multiple, smaller coils; shape-optimized coils; litz wire to reduce winding losses.
	Diodes	Use diodes with lower losses.
	Capacitors	Use capacitors with a lower effective series resistance and output capacitance.
	Transistors	Use transistors with lower drain-to-source resistance.
	Improved Circuit Design:	
	Integrated Circuits	Substitute discrete components with an integrated circuit.

5. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production and reliable installation and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on product utility or product availability.* If it is determined that a technology would have significant adverse impact on the utility of the product to significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-Pathway Proprietary Technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further due to the potential for monopolistic concerns.

Sections 6(c)(3) and 7(b) of the Process Rule.

In sum, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis. The reasons for eliminating any technology are discussed in the following sections.

DOE evaluated of each the technology options against the screening analysis criteria and determined whether it should be excluded (''screened out'') based on the screening criteria. DOE did not receive comments on technology options screened out in the August 2020 NOPD and therefore screened out the same technology options in this final determination.

a. Screened-Out Technologies

For magnetic ballasts, DOE screened out the technology option of using laminated sheets of amorphous steel. DOE determined that using amorphous steel could have adverse impacts on consumer utility because increasing the size and weight of the ballast may limit the places a customer could use the ballast. 85 FR 47472, 47484.

b. Remaining Technologies

DOE concludes that all of the other identified technologies listed in section IV.B.4 met all five screening criteria to be examined further as design options in DOE's final determination. In summary, DOE did not screen out the following technology options:

- ☐ Magnetic Ballasts
  - ○ Improved Core Steel
  - ○ Copper Wiring
  - ○ Improved Steel Laminations
  - ○ Improved Windings
  - ○ Electronic Ballast
- ☐ Electronic Ballasts
  - ○ Improved Components
  - ○ Improved Circuit Design

85 FR 47472, 47485.

DOE determined that these technology options are technologically feasible because they are being used or have previously been used in commercially-available products or working prototypes. DOE also finds that all of the remaining technology options meet the other screening criteria (*i.e.,* practicable to manufacture, install, and service; do not result in adverse impacts on consumer utility, product availability, health, or safety; and do not utilize proprietary technology). For additional details, see chapter 4 of the final determination TSD.

C. Engineering Analysis

In the engineering analysis, DOE develops cost-efficiency relationships characterizing the incremental costs of achieving increased ballast efficiency. This relationship serves as the basis for cost-benefit calculations for individual consumers and the nation. The methodology for the engineering analysis consists of the following steps: (1) Selecting representative equipment classes; (2) selecting baseline metal halide ballasts; (3) identifying more efficient substitutes; (4) developing efficiency levels; and (5) scaling efficiency levels to non-representative equipment classes. The details of the engineering analysis are discussed in chapter 5 of the final determination TSD.

1. Representative Equipment Classes

DOE selects certain equipment classes as ''representative'' to focus its analysis. DOE chooses equipment classes as representative primarily because of their high market volumes and/or unique characteristics. DOE established 24 equipment classes based on input voltage, rated lamp wattage, and indoor/outdoor designation. DOE did not directly analyze the equipment classes containing only fixtures with ballasts tested at 480 V due to low shipment volumes. DOE selected all other equipment classes as representative, resulting in a total of 12 representative classes covering the full range of lamp wattages, as well as indoor and outdoor designations. 76 FR 47472, 47485–47486.

In the August 2020 NOPD DOE directly analyzed the equipment classes shown in gray in Table IV.3 of this document. 76 FR 47472, 47485–47486. DOE did not receive any comments on the representative product classes presented in the August 2020 NOPD. Therefore, DOE continues to analyze the representative product classes shown in gray in Table IV.3 in this final determination.

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Table IV.3 Representative Equipment Classes

Equipment Class	Indoor/Outdoor	Input Voltage Type
≥50 W and ≤100 W	Indoor	Tested at 480 V
		All others
	Outdoor	Tested at 480 V
		All others
>100 W and <150 W*	Indoor	Tested at 480 V
		All others
	Outdoor	Tested at 480 V
		All others
≥150 W and ≤250 W**	Indoor	Tested at 480 V
		All others
	Outdoor	Tested at 480 V
		All others
>250 W and ≤500 W	Indoor	Tested at 480 V
		All others
	Outdoor	Tested at 480 V
		All others
>500 W and ≤1000 W	Indoor	Tested at 480 V
		All others
	Outdoor	Tested at 480 V
		All others
>1000 W and ≤2000 W	Indoor	Tested at 480 V
		All others
	Outdoor	Tested at 480 V
		All others

*Includes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50°C, as specified by UL 1029–2007.

**Excludes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50°C, as specified by UL 1029–2007.

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Metal halide lamp fixtures are designed to be operated with lamps of certain rated lamp wattages and contain ballasts that can operate lamps at these wattages. To further focus the analysis, DOE selected a representative rated wattage in each equipment class. Each representative wattage was the most common wattage within each equipment class. In the August 2020 NOPD DOE found that common wattages within each equipment class were the same for outdoor and indoor fixtures. Specifically, DOE selected 70 W, 150 W, 250 W, 400 W, 1,000 W and 1,500 W as representative wattages to analyze. 85 FR 47472, 47486–47487.

DOE did not receive any comments on the representative wattages presented in the August 2020 NOPD and therefore continues to analyze the same representative wattages in this final determination. The representative wattages for each equipment class are summarized in Table IV.4 of this document. See chapter 5 of this final determination TSD for further details.

TABLE IV.4—REPRESENTATIVE WATTAGES

Representative equipment class	Representative wattage (W)
≥50 W and ≤100 W	70
>100 W and <150 W*	150
≥150 W and ≤250 W**	250
>250 W and ≤500 W	400
>500 W and ≤1,000 W	1,000
>1,000 W and ≤2,000 W	1,500

*Includes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

** Excludes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

2. Baseline Ballasts

For each representative equipment class, DOE selected baseline ballasts to serve as reference points against which DOE measured changes from potential amended energy conservation standards. Typically, the baseline ballast is the most common, least efficient ballast that meets existing energy conservation standards.

In the August 2020 NOPD, DOE selected as baselines the least efficient ballasts meeting standards that have common attributes for ballasts in each equipment class such as circuit type, input voltage and ballast type. DOE used the efficiency values of ballasts contained in MHLFs certified in DOE's compliance certification database to identify baseline ballasts for all equipment classes except the >1,000 W and ≤2,000 W equipment class. Because fixtures in this equipment class are not currently subject to standards, and therefore do not have DOE certification data, DOE determined baseline ballast efficiency values by using catalog data.

In the August 2020 NOPD, DOE directly analyzed the baseline ballasts shown in Table IV.5 of this document. 85 FR 47472, 47487. DOE did not receive any comments on the baseline ballasts identified in the August 2020 NOPD and therefore continues to analyze the same baseline ballasts in this final determination. See chapter 5 of this final determination TSD for further details.

TABLE IV.5—BASELINE BALLASTS

Representative equipment class	Wattage	Ballast type	Circuit type	Starting method	Input voltage	System input power	Ballast efficiency
≥50 W and ≤100 W	70	Magnetic	HX–HPF	Pulse	Quad	89.5	0.782
>100 W and <150 W*	150	Magnetic	HX–HPF	Pulse	Quad	182.0	0.824
≥150 W and ≤250 W**	250	Magnetic	CWA	Pulse	Quad	281.5	0.888
>250 W and ≤500 W	400	Magnetic	CWA	Pulse	Quad	443.0	0.903
>500 W and ≤1,000 W	1,000	Magnetic	CWA	Pulse	Quad	1,068.4	0.936
>1,000 W and ≤2,000 W	1,500	Magnetic	CWA	Probe	Quad	1,625.0	0.923

* Includes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.
** Excludes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

3. More-Efficient Ballasts

In the August 2020 NOPD, DOE selected more-efficient ballasts as replacements for each of the baseline ballasts by considering commercially available ballasts. DOE selected more-efficient ballasts with similar attributes as the baseline ballast when possible (*e.g.,* circuit type, input voltage). As with the baseline ballasts, DOE used the ballast efficiency values from the compliance certification database to identify more efficient ballasts for all equipment classes except for the >1,000 W and ≤2,000 W equipment class which does not have certification data available. For this equipment class, DOE determined ballast efficiency values by first gathering and analyzing catalog data. DOE then tested the ballasts to verify the ballast efficiency reported by the manufacturer. For instances where the catalog data did not align with the tested data, DOE selected more-efficient ballasts based on the tested ballast efficiency. 85 FR 47472, 47487.

DOE did not receive any comments on the more-efficient ballasts selected in the August 2020 NOPD and therefore continues to analyze the same more-efficient ballasts in this final determination. In the August 2020 NOPD and chapter 5 of the NOPD TSD there were typos in some characteristics specified for the more-efficient ballasts. The system input power for the 70 W EL 2 representative unit stated as 0.814 in the August 2020 NOPD and TSD and should have been specified as 81.4. The system input power for the 250 W EL 1 representative unit stated as 276.5 in the August 2020 NOPD and TSD should have been 278.7. The system input power for the 1,500 W EL 1 representative unit stated as 1,000 W, Pulse start, with a system input power of 1063.8 and ballast efficiency of 0.94 in the August 2020 NOPD should have been a 1,500 W, Probe start with system input of 1,600.9 and ballast efficiency of 0.937. These typos have been corrected in this document and chapter 5 of this final determination TSD. The characteristics of the more-efficient representative units are summarized in Tables IV.6 through IV.11 of this document. See chapter 5 of this final determination TSD for further details.

TABLE IV.6—70 W REPRESENTATIVE UNITS

Equipment class	EL	Technology	Rated wattage	Starting method	Input voltage	System input power	Ballast efficiency
≥50 W and ≤100 W	EL1	More Efficient Magnetic	70	Pulse	Tri	88.3	0.793
	EL2	Standard Electronic	70	Pulse	Quad	81.4	0.860
	EL3	Electronic Max-tech	70	Pulse	Quad	77.7	0.901

TABLE IV.7—150 W REPRESENTATIVE UNITS

Equipment class	EL	Technology	Rated wattage	Starting method	Input voltage	System input power	Ballast efficiency
>100 W and <150 W*	EL1	More Efficient Magnetic	150	Pulse	Quad	178.6	0.84
	EL2	Standard Electronic	150	Pulse	Quad	166.7	0.9
	EL3	Electronic Max-tech	150	Pulse	Quad	162.2	0.925

* Includes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

TABLE IV.8—250 W REPRESENTATIVE UNITS

Equipment class	EL	Technology	Rated wattage	Starting method	Input voltage	System input power	Ballast efficiency
≥150 W and ≤250 W*	EL1	More Efficient Magnetic	250	Pulse	Quad	278.7	0.904
	EL2	Electronic Max Tech	250	Pulse	Tri	266.2	0.939

*Excludes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

TABLE IV.9—400 W REPRESENTATIVE UNITS

Equipment class	EL	Technology	Rated wattage	Starting method	Input voltage	System input power	Ballast efficiency
>250 W and ≤500 W	EL1	More Efficient Magnetic	400	Pulse	Quad	440.5	0.908
	EL2	Electronic Max Tech	400	Pulse	Tri	426.0	0.939

TABLE IV.10—1000 W REPRESENTATIVE UNITS

Equipment class	EL	Technology	Rated wattage	Starting method	Input voltage	System input power	Ballast efficiency
>500 W and ≤1,000 W	EL1	More Efficient Magnetic	1000	Pulse	Quad	1063.8	0.94

TABLE IV.11—1500 W REPRESENTATIVE UNITS

Equipment Class	EL	Technology	Rated Wattage	Starting Method	Input Voltage	System input power	Ballast efficiency
>1,000 W and ≤2,000 W	EL1	More Efficient Magnetic	1500	Probe	Quad	1600.9	0.937

4. Efficiency Levels

Based on the more-efficient ballasts selected for analysis, DOE develops ELs for the representative equipment classes. DOE defines a ''max-tech'' efficiency level to represent the maximum possible efficiency for a given product.

In the August 2020 NOPD DOE identified one magnetic EL in every equipment class. The more-efficient magnetic EL represents a magnetic ballast with a higher grade of steel compared to the baseline. DOE identified a second EL (an electronic EL) for the ≥150 W and ≤250 W and >250 W and ≤500 W equipment classes. The standard electronic level represents a ballast with standard electronic circuitry. DOE identified a third EL (a more efficient electronic EL) in the ≥50 W and ≤ 100 W and >100 W and <150 W equipment classes. The more-efficient electronic EL represents an electronic ballast with an improved circuit design and/or more efficient components compared to the standard electronic level. 85 FR 47472, 47487–47488.

DOE received several comments regarding the ELs proposed in the August 2020 NOPD.

NEMA stated that DOE had not adequately explained the basis for changing efficiency equations from the previous rulemaking. NEMA stated that the modifications to the equations resulted in efficiency levels inconsistent with DOE's intent. (NEMA, No. 12 at p. 2)

Current MHLF standards specify power-law equations for ballasts operating lamps with rated wattages ≥50 W and ≤500 W and linear equations for ballasts operating lamps with rated wattages >500 W and ≤1,000 W. Using MHLF efficiency data DOE determined that the current equation forms remain valid. DOE modified only the coefficients and exponents of the equations to best fit the MHLF efficiency data while forming one continuous equation across equipment classes, where possible. In this final determination, DOE maintains the equations put forth in the August 2020 NOPD but makes minor adjustments, detailed in the paragraphs below, to the proposed coefficients and exponents to allow the most efficient products to meet max tech.

For the ≥50 W and ≤100 W equipment class tested at voltages other than 480 V NEMA stated that EL 1 and EL 2 appeared feasible but would require stretching the technological capability. NEMA stated that EL 3 for this equipment class may be achievable but would require physical size changes that would render the product incompatible with the existing fixture form factor. NEMA stated DOE should modify EL 1 and EL 2 according to current product capabilities and eliminate EL 3 for this equipment class. (NEMA, No. 12 at p. 2) Signify stated that for the ballasts in the ≥50 W and ≤100 W tested at voltages other than 480 V equipment class the minimum efficiency requirement would increase by 0.10 at the proposed EL 3. This would require a ballast to operate a 70 W lamp at an efficiency higher than 0.90. Signify stated that a 0.90 ballast efficiency requirement would be higher than DOE's current efficiency requirement for an external power supply, a device that is simpler with less stages than an electronic ballast. Signify stated it is difficult to explain how a ballast with the same power as an external power supply would have a higher efficiency and still preserve the necessary form factor. (Signify, No. 13 at pp. 8–10)

DOE identified ballasts in DOE's compliance certification database that are in the ≥50 W and ≤100 W tested at voltages other than 480 V equipment class and meet the proposed EL 3 for this equipment class. These ballasts included models that operate 70 W lamps. Because there are products that meet the max tech level, DOE is not adjusting ELs proposed for this equipment class in this final determination.

For the >100 W and <150 W equipment classes for all voltages, NEMA stated that EL 3 was unrealistically high for ballasts tested at 480 V (88.9 percent versus the current 82 percent requirement) and as high as 90.9 percent for ballasts tested at voltages other than 480 V. NEMA stated that based on its review of DOE's

compliance certification database only four products [11] between 140 W and 150 W currently met this level of efficiency. (NEMA, No. 12 at p. 2)

DOE identified ballasts in DOE's compliance certification database that are in the >100 W and <150 W tested at voltages other than 480 V equipment class and meet the proposed EL 3 for this equipment class. Because there are products that meet the max tech level, DOE is not adjusting ELs proposed for this equipment class in this final determination. However, DOE is adjusting the ELs for the >100 W and <150 W tested at 480 V equipment class (see section IV.C.5 for further details) in this final determination.

NEMA stated that for the ≥150 W and ≤250 W equipment classes for all voltages the proposed ELs for 150 to 200 W are close to those in the previous rulemaking and therefore, already screened for technological feasibility. (NEMA, No. 12 at p. 3) DOE ensured that all ELs analyzed represent commercially available products and therefore, are technologically feasible.

NEMA stated that the proposed EL 1 for ballasts operating lamps between 200 W to 250 W appears slightly lower than the current standards, which is not permissible and should be amended. (NEMA, No. 12 at p. 3)

DOE reviewed all ELs developed for this analysis to ensure that they are equal to or more stringent to the existing minimum MHLF ballast efficiency standard (*i.e.,* that backsliding is not occurring). For EL 1 for the ≥150 W and ≤250 W equipment class tested at voltages other than 480 V, DOE is modifying the equation to ensure no backsliding occurs across the entire wattage range. Specifically, in this final determination DOE is modifying the exponent in the equation from 1/(1+0.5017*P^(−0.26)) to 1/(1+0.507*P^(−0.263)).

NEMA also stated that for ballasts operating lamps between 200 W and 250 W, EL 2 appears technologically feasible. Additionally, NEMA stated that based on its review of DOE's compliance certification database only two products operating lamps between 200 W and 250 W, both from a single manufacturer, met EL 3, which means EL 3 is arguably infeasible. (NEMA, No. 12 at p. 3)

DOE identified ballasts in DOE's compliance certification database that are in ≥150 W and ≤250 W tested at voltages other than 480 V equipment class and meet the proposed EL 3 for this equipment class. These ballasts are from multiple manufacturers. Because there are products that meet the max tech level, DOE is not adjusting ELs (aside from EL 1 to prevent backsliding) proposed for this equipment class in this final determination. DOE addresses ELs for the ≥150 W and ≤250 W tested at 480 V equipment class in section IV.C.5.

NEMA stated that the proposed EL 1 for ballasts operating lamps between 200 W and 500 W for all voltages appears slightly lower than the current standards, which is not permissible. (NEMA, No. 12 at p. 3)

For the >250 W and ≤500 W equipment class tested at voltages other than 480 V, NEMA stated that DOE's compliance certification database does not have products meeting EL 2 and EL 3 for higher wattages indicating that they are technologically infeasible. (NEMA, No. 12 at p. 3)

DOE identified ballasts in DOE's compliance certification database that are in the >250 W and ≤500 W equipment class tested at voltages other than 480 V equipment class and meet the proposed EL 3 for this equipment class. These ballasts operate 250 W and 400 W lamps. Because there are products that meet the max tech level, DOE is not adjusting ELs proposed for this equipment class in this final determination. For EL 1 for the ≥250 W and ≤500 W equipment class tested at voltages other than 480 V, DOE is modifying the equation to ensure no backsliding occurs across the entire wattage range. Specifically, in this final determination DOE is modifying the exponent in the equation from 1/(1 + 0.5017*P^(−0.26)) to 1/(1 + 0.507*P^(−0.263)).

For the >500 W and ≤1,000 W equipment class, NEMA stated that the 97 percent efficiency requirement at EL 1 would eliminate nearly all currently certified products making it technologically infeasible. NEMA stated that per DOE's compliance certification database the few ballasts that reach the 93 percent efficiency level would not be able to meet 97 percent efficiency because they operate 1,000 W lamps. (NEMA, No. 12 at p. 3)

The max tech level for the >500 W and ≤1,000 W equipment class tested at voltages other than 480V is based on a 1,000 W representative unit with an efficiency of 0.94. DOE identified ballasts in DOE's compliance certification database that are in the >500 W and ≤1,000 W tested at voltages other than 480 V equipment class and meet the proposed EL 1 (max tech) for this equipment class. Because there are products that meet the max tech level, DOE is not adjusting ELs proposed for this equipment class in this final determination. DOE addresses ELs for the >500 W and ≤1,000 W tested at 480 V equipment class in section IV.C.5.

For the >1,000 W and ≤2,000 W equipment class, Signify stated DOE should set a standard but disagreed with DOE's proposed EL for this equipment class. Signify noted that, per some ballast catalogs, DOE found that ballasts operating 2,000 W lamps are less efficient than those operating 1,000 W. Signify stated that ballast efficiency decreasing as wattage increases is contradictory to ballasts in other equipment classes and it had found no documented scientific or engineering explanation to substantiate such a trend. Signify stated that research indicates that for a magnetic transformer (or magnetic ballast) energy efficiency increases with the transformer power rate. To align with this trend, Signify suggested DOE change its proposed EL 1 equation from −0.000008*P + 0.946 to 0.00001*P + 0.928 for the >1,000 W and ≤2,000 W equipment class. (Signify, No. 13 at pp. 2–5)

NEMA also stated that based on its calculations DOE was proposing a 93 percent efficiency for ballasts operating lamps at 1,000 W and 92 percent efficiency for those operating lamps at 2,000 W and it was unusual for efficiency requirements to decrease as wattage increases. (NEMA, No. 12 at p. 3) NEMA also stated that the proposed levels for the >1,000 W and ≤2,000 W equipment class appear technologically feasible. However, NEMA stated that because these products are not currently subject to standards and thus have no certified products, it cannot comment in detail on potential product availability. (NEMA, No. 12 at p. 3)

In developing the equation for the >1,000 W to ≤2,000 W equipment class DOE prioritized maintaining a continuous equation across product classes. Ballasts in the >1,000 W to ≤2,000 W equipment class are not currently subject to standards and therefore are not certified in DOE's compliance certification database. Based on the limited data available, maintaining a continuous equation resulted in a slight negative slope for the efficiency level equation.

Table IV.12 summarizes the efficiency requirements and associated equations

[11] It was unclear from the comment whether NEMA was referring to four products tested at 480 V or at voltages other than 480 V.

at each EL for the representative equipment classes. See chapter 5 of this final determination TSD for further details.

TABLE IV.12—SUMMARY OF ELS FOR REPRESENTATIVE EQUIPMENT CLASSES

Equipment class	EL	Technology	Minimum efficiency equation for ballasts not tested at 480 V*
≥50 W and ≤100 W	EL1	More Efficient Magnetic	1/(1+1.16*P^(−0.345)).
	EL2	Standard Electronic	1/(1+1*P^(−0.42)).
	EL3	Electronic Max Tech	1/(1+0.4*P^(−0.3)).
>100 W and <150 W	EL1	More Efficient Magnetic	1/(1+1.16*P^(−0.345)).
	EL2	Standard Electronic	1/(1+1*P^(−0.42)).
	EL3	Electronic Max Tech	1/(1+0.4*P^(−0.3)).
≥150 W and ≤250 W**	EL1	More Efficient Magnetic	1/(1+0.507*P^(−0.263)).
	EL2	Electronic Max Tech	1/(1+0.4*P^(−0.3)).
>250 W and ≤500 W**	EL1	More Efficient Magnetic	1/(1+0.507*P^(−0.263)).
	EL2	Electronic Max Tech	1/(1+0.4*P^(−0.3)).
>500 W and ≤1,000 W	EL1	More Efficient Magnetic	0.000057*P+0.881.
>1,000 W and ≤2,000 W	EL1	More Efficient Magnetic	−0.000008*P+0.946.

* P is defined as the rated wattage of the lamp the fixture is designed to operate.
** For this equipment class the EL 2 specified in the August 2020 NOPD was the same as EL 3. For clarity, only an EL 2 is specified in this final determination.

5. Scaling to Other Equipment Classes

In the August 2020 NOPD, DOE did not directly analyze MHLFs with ballasts that would be tested at an input voltage of 480 V. DOE developed a scaling relationship to establish ELs for these equipment classes. Ballasts capable of operating at 120 V or 277 V are predominantly quad-voltage ballasts, therefore, DOE chose to compare quad-voltage ballasts with 480 V ballasts to develop a scaling factor. 85 FR 47472, 47489–47490.

Based on its review of the compliance certification database, DOE determined that the average reduction in ballast efficiency for 480 V ballasts compared to quad ballasts is greater for ballasts designed to operate lamps rated less than 150 W compared to ballasts designed to operate lamps rated greater than or equal to 150 W. DOE developed two separate scaling factors, one for the 50 W–150 W range and the second for the 150 W–1000 W range. In the August 2020 NOPD for 480 V equipment classes in the 50 W–150 W range, DOE found the average reduction in ballast efficiency to be 3.0 percent, and for those in the 150 W–1000 W range, DOE found the average reduction in ballast efficiency to be 1.0 percent. DOE applied these scaling factors to the representative equipment class EL equations to develop corresponding EL equations for ballasts tested at an input voltage of 480 V. Accordingly, for the non-representative equipment classes DOE applied a multiplier of 0.97 for equations in the 50 W–150 W range and of 0.99 for equations in the 150 W–1000 W range. 85 FR 47472, 47489–47490.

DOE received comments on the scaled ELs proposed in the August 2020 NOPD. For ≥50 W and ≤100 W equipment class tested at 480 V, NEMA stated that a valid max tech proposal for magnetic ballasts is achieved with a 2 percent reduction of EL 1. (NEMA, No. 12 at p. 2) For the >100 W and <150 W equipment class tested at 480 V, NEMA stated that based on its review of products in DOE's compliance certification database only EL 1 was technologically feasible. (NEMA, No. 12 at p. 2)

DOE reviewed the 3 percent scaling factor for the equipment classes tested at 480 V in the 50 W–150 W range proposed in the August 2020 NOPD. Specifically, DOE reexamined the efficiencies of certified products in this equipment class to ascertain the reduction in ELs for the corresponding representative equipment class that would allow products to meet max tech levels. Per this review, DOE is revising the scaling factor to result in a 12 percent reduction (*i.e.,* multiplier of 0.88) rather than a 3 percent reduction (*i.e.,* multiplier of 0.97) to allow certified products to meet the max tech level. DOE determined that this adjustment results in EL 1 and EL 2 for the 480 V 50 W–150 W equipment classes requiring a minimum efficiency less stringent than the existing minimum standard. Hence, in this analysis, for equipment classes in the 50 W–150 W range tested at 480 V to prevent backsliding DOE maintained the current standard for EL 1 and EL 2 for this analysis. For EL 3, DOE applied a 0.88 multiplier (as determined above) to the corresponding representative equipment class EL 3 to develop a scaled EL 3 for this analysis.

For the >250 W and ≤500 W equipment class tested at 480 V, NEMA stated that the 1 percent scaling factor still does not allow any products in DOE's compliance certification database to meet the proposed ELs, making them technologically infeasible. (NEMA, No. 12 at p. 3) Signify stated that the proposed EL 1 for the >500 W and ≤1,000 W equipment class tested at 480V did not seem technologically feasible. Signify stated that such an efficiency for a magnetic ballast seemed impractical, particularly when there has been no research or innovation for the product. (Signify, No. 13 at pp. 6–8)

DOE identified ballasts in DOE's compliance certification database that are in the >500 W and ≤1,000 W tested at 480 V equipment class and meet the proposed EL 1 (max tech) for this equipment class. However, DOE did determine adjustments were needed to EL 1 (max tech) for the >250 W and ≤500 W equipment class tested at 480 V to allow for certified products to meet it. Hence, DOE reviewed the 1 percent scaling factor for the equipment classes tested at 480 V in the 150 W–1,000 W range proposed in the August 2020 NOPD. 85 FR 47472, 47489–47490. Per this review, DOE is revising the scaling factor to result in a 4 percent reduction (*i.e.,* multiplier of 0.96) rather than a 1 percent reduction (*i.e.,* multiplier of 0.99) to allow certified products to meet max tech. DOE determined that this adjustment results in EL 1 and EL 2 for equipment classes in the 150 W–1,000 W range requiring a minimum efficiency less stringent than the existing minimum standard. Hence, in this analysis, for equipment classes in the 150 W–1,000 W range tested at 480 V to prevent backsliding DOE maintained the current standard for EL 1 and EL 2 for

this analysis. For EL 3, DOE applied a 0.96 multiplier (as determined above) to the corresponding representative equipment class EL 3 to develop the scaled EL 3 for this analysis.

Additionally, Signify stated the ELs in the August 2020 NOPD resulted in an energy efficiency for a ballast from the >500 W and <1,000 W equipment class tested at 480 V that is higher than ballast efficiency of the equipment class with the same wattage range but tested at other voltages. Signify stated that the opposite was true for all other equipment classes. (Signify, No. 13 at p. 6) Specifically, Signify stated that to meet the proposed EL 1 a ballast operating a 1,000 W lamp tested at 480 V would require an efficiency of 0.971 while the same ballast tested at 277 V would require 0.936. Hence for the >500 W and ≤1,000 W equipment class for ballasts tested at 480 V, Signify suggested DOE not adopt the proposed EL1 and instead maintain the existing standard. (Signify, No. 13 at p. 8)

In the August 2020 NOPD DOE specified the scaled equation for EL 1 of the >500 W and ≤1,000 W equipment class tested at 480 V as 0.99*(0.0001*P+0.881). 85 FR 47472, 47489–47490. The coefficient in this equation was erroneously rounded in Table IV.13 of the August 2020 NOPD and is correctly specified in this final determination as 0.99*(0.000057*P+0.881). With this correction, ballasts in the >500 W and ≤1,000 W equipment class tested at 480 V must meet a lower minimum efficiency than the same ballasts tested at voltages other than 480 V. However, as noted above, to prevent backsliding DOE maintained current standard for EL 1 of the >500 W and ≤1,000 W equipment class tested at 480 V for this analysis.

In the August 2020 NOPD and in this final determination, for ballasts greater than 1,000 W, DOE determined the need for a scaling factor based on manufacturer catalog data. DOE determined that ballasts greater than 1,000 W do not show a difference in efficiency between 480 V and non-480 V ballasts. DOE did not apply a scaling factor to develop efficiency levels for 480 V ballasts in this equipment class, however, DOE continues to consider the 480 V and non-480 V equipment classes separately for MHLFs greater than 1,000 W for the purposes of this analysis. 85 FR 47472, 47489–47490.

Table IV.13 summarizes the efficiency requirements at each EL for the non-representative equipment classes. See chapter 5 of this final determination TSD for further details.

TABLE IV.13—SUMMARY OF ELS FOR NON-REPRESENTATIVE EQUIPMENT CLASSES

Equipment class	EL	Technology	Minimum efficiency equation for ballasts tested at 480 V*
≥50 W and ≤100 W	EL1	Improved magnetic	1/(1+1.24*P^(−0.351)) − 0.02.
	EL2	Standard Electronic	1/(1+1.24*P^(−0.351)) − 0.02.
	EL3	Electronic Max Tech	0.88/(1+0.4*P^(−0.3)).
>100 W and <150 W	EL1	Improved magnetic	1/(1+1.24*P^(−0.351)) − 0.02.
	EL2	Standard Electronic	1/(1+1.24*P^(−0.351)) − 0.02.
	EL3	Electronic Max Tech	0.88/(1+0.4*P^(−0.3)).
≥150 W and ≤250 W**	EL1	Improved magnetic	0.88.
	EL2	Electronic Max Tech	0.96/(1+0.4*P^(−0.3)).
>250 W and ≤500 W**	EL1	Improved magnetic	For >250 and <265 W: 0.880. For ≥265 W and ≤500 W: 1/(1 + 0.876 × P^(−0.351)) − 0.010.
	EL2	Electronic Max Tech	For >250 and <265 W: 0.880. For ≥265 W and ≤500 W: 1/(1 + 0.876 × P^(−0.351)) − 0.010.
>500 W and ≤1,000 W	EL1	Improved magnetic	For >500 W and ≤750 W: 0.900. For >750 W and ≤1,000 W: 0.000104 × P + 0.822.
>1,000 W and ≤2,000 W	EL1	Improved magnetic	−0.000008*P+0.946.

*P is defined as the rated wattage of the lamp the fixture is designed to operate.

**For this equipment class the EL 2 specified in the August 2020 NOPD was the same as EL 3. For clarity, only an EL 2 is specified in this final determination.

6. Manufacturer Selling Price

DOE develops manufacturer selling prices (''MSPs'') for covered equipment and applies markups to create end-user prices to use as inputs to the LCC analysis and NIA. The MSP of a MHLF comprises of the MSP of the fixture components including any necessary additional features and the MSP of the metal halide ballast contained in the fixture. For the August 2020 NOPD, DOE conducted teardown analyses on 31 commercially available MHLFs and the ballasts included in these fixtures. Using the information from these teardowns, DOE summed the direct material, labor, and overhead costs used to manufacture a MHLF or MH ballast, to calculate the manufacturing production cost (''MPC'').[12] DOE then determined the MSPs of fixture components and more-efficient MH ballasts identified for each EL. 85 FR 47472, 47490–47491.

To determine the fixture components MSPs, DOE conducted fixture teardowns to derive MPCs of empty fixtures (*i.e.,* lamp enclosure and optics). The empty fixture does not include the ballast or lamp. DOE then added the other components required by the system (including ballast and any cost adders associated with electronically ballasted systems) and applied appropriate markups to obtain a final MSP for the entire fixture. 85 FR 47472, 47490–47491.

To calculate an empty fixture price, DOE first identified the applications commonly served by the representative wattage in each equipment class based on DOE's compliance certification database. DOE selected the most popular fixture types for both indoor and outdoor applications. The representative fixture types for each equipment class selected in the August 2020 NOPD are shown in Table IV.14. 85 FR 47472, 47490.

[12] When viewed from the company-wide perspective, the sum of all material, labor, and overhead costs equals the company's sales cost, also referred to as the cost of goods sold.

TABLE IV.14—REPRESENTATIVE FIXTURE TYPES

Representative equipment class	Representative wattage	Representative fixture types	
		Indoor	Outdoor
≥50 W and ≤100 W	70 W	Downlight	Bollard, Flood, Post Top, Wallpack.
>100 W and <150 W*	150 W	Downlight	Area, Flood, Post Top, Wallpack.
≥150 W and ≤250 W**	250 W	High-Bay	Area, Flood, Post Top, Cobrahead.
>250 W and ≤500 W	400 W	High-Bay	Area, Flood, Post Top, Cobrahead.
>500 W and ≤1,000 W	1,000 W	High-Bay	Area, Flood, Sports.
>1,000 W and ≤2,000 W	1,500 W	Sports	Sports.

* Includes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

** Excludes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

DOE then used teardown information for 31 fixtures that spanned the representative wattages and the applications identified for each representative wattage. The MPC of the empty fixture for each representative wattage was calculated by weighting the empty fixture cost for each application by the popularity of each application. DOE determined the weightings based on the number of fixtures for each application at each representative wattage in DOE's certification database. 85 FR 47472, 47490–47491.

The empty fixture MPCs remained the same at each magnetic efficiency level but incremental costs were added when the fixture contained an electronic ballast. Specifically, in the August 2020 NOPD, DOE applied cost adders to fixtures that use electronic ballasts for (1) transient protection, (2) thermal management, and (3) 120 V auxiliary power functionality. These costs varied based on whether the fixture application was indoor, indoor industrial, or outdoor. 85 FR 47472, 47491.

In the August 2020 NOPD DOE conducted market research to determine the prices of each cost adder. DOE determined the price of voltage transient protection to be $9.03. DOE determined that the increase in the empty fixture cost to be 20 percent for adding thermal management to a fixture. DOE determined the average market price of the 120 V auxiliary tap to be $7.38. DOE added these costs to the empty fixture MPC for outdoor and indoor industrial fixtures at ELs requiring an electronic ballast. Because the auxiliary tap is needed in only 10 percent of the ballasts in indoor fixtures, DOE added $0.74 to the indoor empty fixture MPC for ELs requiring an electronic ballast. 85 FR 47472, 47491.

In the August 2020 NOPD, DOE applied a fixture manufacturer markup of 1.58 to the empty fixture MPC to determine the MSP of the fixture at each EL. DOE maintained the manufacturer markup developed in the 2014 MHLF final rule. In that rule, DOE determined the fixture manufacturer markup to be 1.58 based on financial information from manufacturers' SEC 10–K reports, as well as feedback from manufacturer interviews. 85 FR 47472, 47491.

For the August 2020 NOPD, to determine the MPCs of the metal halide ballasts identified in this analysis, DOE used data from the teardown analysis which included cost data for magnetic ballasts at the baseline in each equipment class. To determine the ballast MPC at the higher efficiency levels, DOE developed a ratio between the average retail price of ballasts at the efficiency level under consideration and ballasts at the baseline. DOE collected retail prices from electrical distributors (*e.g.,* Grainger, Graybar) as well as internet retailers to determine average retail prices for ballasts. For ELs without retail prices available, DOE used a ratio between the same efficiency levels in a different wattage class or interpolated based on efficiency and ballast MPC. 85 FR 47472, 47491.

In the August 2020 NOPD, DOE applied a ballast manufacturer markup of 1.47 to the empty fixture MPC to determine the MSP of the fixture at each EL. DOE maintained the manufacturer markup developed in the 2014 MHLF final rule. In that rule, DOE determined the ballast manufacturer markup to be 1.47 based on financial information from manufacturers' SEC 10–K reports, as well as feedback from manufacturer interviews. 79 FR 7746, 7783

The CA IOUs stated that DOE used cost assumptions for lamps, ballasts, and housing from the previous rulemaking which was conducted six years ago and did not provide empirical data to support that the assumptions were still valid given the evolving lighting market. (CA IOUs, No. 14, p. 2)

As noted, DOE developed fixture and ballast prices based on teardowns and retail price collections conducted for this analysis. Additionally, DOE conducted market research for this rulemaking to confirm the cost adder estimates used in the 2014 MHLF final rule. DOE determined that there are likely minimal changes to the financial structure of fixture or ballast manufacturers and therefore, the respective markups from the 2014 MHLF final rule remain valid.

DOE is maintaining the results of MSPs determined in the August 2020 NOPD for this final determination. The total empty fixture MSPs, replacement ballast MSPs, and fixture with ballast MSPs are detailed in chapter 5 of the final determination TSD.

D. Markups Analysis

The markups analysis develops appropriate markups (*e.g.,* manufacturer markups, retailer markups, distributor markups, contractor markups) in the distribution chain and sales taxes to convert the MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis and in the MIA. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin. DOE used the same distribution channels and wholesaler and contractor markups as in the August 2020 NOPD, following the 2014 MHLF final rule, for this final determination.

1. Distribution Channels

Before it could develop markups, DOE needed to identify distribution channels (*i.e.,* how the equipment is distributed from the manufacturer to the end-user) for the MHLF designs addressed in this rulemaking. In an electrical wholesaler distribution channel, DOE assumed the fixture manufacturer sells the fixture to an electrical wholesaler (*i.e.,* distributor), who in turn sells it to a

contractor, who sells it to the end-user. In a contractor distribution channel, DOE assumed the fixture manufacturer sells the fixture directly to a contractor, who sells it to the end-user. In a utility distribution channel, DOE assumed the fixture manufacturer sells the fixture directly to the end-user (*i.e.,* electrical utility). Indoor fixtures are all assumed to go through the electrical wholesaler distribution channel. Outdoor fixtures are assumed to go through all three distribution channels as follows: 60 percent electrical wholesaler, 20 percent contractor, and 20 percent utility.

2. Estimation of Markups

To estimate wholesaler and utility markups, DOE used financial data from 10–K reports of publicly owned electrical wholesalers and utilities. DOE's markup analysis developed both baseline and incremental markups to transform the fixture MSP into an end-user equipment price. DOE used the baseline markups to determine the price of baseline designs. Incremental markups are coefficients that relate the change in the MSP of higher-efficiency designs to the change in the wholesaler and utility sales prices, excluding sales tax. These markups refer to higher-efficiency designs sold under market conditions with new and amended energy conservation standards.

In the August 2020 NOPD, DOE used the same wholesaler and contractor markups as the 2014 MHLF final rule and assumed a wholesaler baseline markup of 1.23 and a contractor markup of 1.13, yielding a total wholesaler distribution channel baseline markup of 1.49. The lower wholesaler incremental markup of 1.05 yields a lower total incremental markup through this distribution channel of 1.27. DOE also assumed a utility markup of 1.00 for the utility distribution channel in which the manufacturer sells a fixture directly to the end-user. DOE again assumed a contractor markup of 1.13 for the utility distribution channel in which a manufacturer sells a fixture to a contractor who in turn sells it to the end-user yielding an overall markup of 1.21 for this channel. 85 FR 47472, 47492. DOE used these same markups for this final determination analysis.

The sales tax represents state and local sales taxes applied to the end-user equipment price. DOE obtained state and local tax data from the Sales Tax Clearinghouse.[13] These data represent weighted averages that include state, county, and city rates. DOE then calculated population-weighted average tax values for each census division and large state, and then derived U.S. average tax values using a population-weighted average of the census division and large state values. For this final determination, this approach provided a national average tax rate of 7.3 percent.

3. Summary of Markups

Table IV.15 summarizes the markups at each stage in the distribution channels and the overall baseline and incremental markups, and sales taxes, for each of the three identified channels.

TABLE IV.15—SUMMARY OF FIXTURE DISTRIBUTION CHANNEL MARKUPS

	Wholesaler distribution		Utility distribution			
	Baseline	Incremental	Via wholesaler and contractor		Direct to end user	
			Baseline	Incremental	Baseline	Incremental
Electrical Wholesaler (Distributor)	1.23	1.05	N/A	N/A	N/A	N/A
Utility	N/A	N/A	1.00	1.00	1.00	1.00
Contractor or Installer	1.13	1.13	1.13	1.13	N/A	N/A
Sales Tax	1.07		1.07		1.07	
Overall	1.49	1.27	1.21	1.21	1.07	1.07

Using these markups, DOE generated fixture end-user prices for each EL it considered, assuming that each level represents a new minimum efficiency standard.

Chapter 6 of the final determination TSD provides details on DOE's development of markups for MHLFs.

E. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of MHLFs at different efficiencies in the commercial, industrial, and outdoor stationary sectors, and to assess the energy savings potential of increased MHLF efficiency. The energy use analysis estimates the range of energy use of MHLFs in the field (*i.e.,* as they are actually used by customers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in operating costs that could result from adoption of amended or new standards.

To develop annual energy use estimates, DOE multiplied the lamp-and-ballast system input power (in watts) by annual usage (in hours per year). DOE characterized representative lamp-and-ballast systems in the engineering analysis, which provided measured input power ratings. To characterize the country's average usage of fixtures for a typical year, DOE developed annual operating hour distributions by sector, using data published in the 2015 U.S. Lighting Market Characterization (''LMC'').[14] For the ≥50 W and ≤100 W to >500 W and ≤1,000 W equipment classes, DOE obtained weighted-average annual operating hours for the commercial, industrial, and outdoor stationary sectors of approximately 2,300 hours, 5,100 hours, and 5,000 hours, respectively. For the 1,500 W equipment class, DOE assigned annual operating hours of approximately 770 hours for all lamps according to the 2015 LMC estimate of 2.1 hours per day for sports field lighting, consistent with the methodology from the August 2020 NOPD analysis. 85 FR 47472, 47492.

Chapter 7 of the final determination TSD provides details on DOE's energy use analysis for MHLFs.

F. Life-Cycle Cost and Payback Period Analysis

DOE conducted LCC and PBP analyses to evaluate the economic impacts on individual customers of

[13] Sales Tax Clearinghouse, Inc. *The Sales Tax Clearinghouse.* (Last accessed June 16, 2021.) *https://thestc.com/STRates.stm.*

[14] Navigant Consulting, Inc. *2015 U.S. Lighting Market Characterization.* 2017. U.S. Department of Energy: Washington, DC. Report No. DOE/EE–1719. (Last accessed February 3, 2020.) *https://energy.gov/eere/ssl/downloads/2015-us-lighting-market-characterization.*

potential energy conservation standards for MHLFs. The effect of new or amended energy conservation standards on individual customers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure customer impacts:

□ The LCC is the total customer expense of equipment over the life of that equipment, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the equipment.

□ The PBP is the estimated amount of time (in years) it takes customers to recover the increased purchase cost (including installation) of a more-efficient equipment through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

For any given efficiency level, DOE measured the change in LCC relative to the LCC in the no-new-standards case, which reflects the estimated efficiency distribution of MHLFs in the absence of new or amended energy conservation standards. In contrast, the PBP for a given efficiency level is measured relative to the baseline equipment.

For each considered efficiency level in each equipment class, DOE calculated the LCC and PBP for a nationally representative set of building types. As stated previously, DOE developed customer samples from the 2015 LMC. For each sample customer, DOE determined the energy consumption for the MHLF and the appropriate electricity price. By developing a representative sample of building types, the analysis captured the variability in energy consumption and energy prices associated with the use of MHLFs.

Inputs to the calculation of total installed cost include the cost of the equipment—which includes MPCs, manufacturer markups, retailer and distributor markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, equipment lifetimes, and discount rates. DOE created distributions of values for operating hours, equipment lifetime, discount rates, electricity prices, and sales taxes, with probabilities attached to each value, to account for their uncertainty and variability. For example, DOE created a probability distribution of annual energy consumption in its energy use analysis, based in part on a range of annual operating hours. The operating hour distributions capture variations across building types, lighting applications, and metal halide systems for three sectors (commercial, industrial, and outdoor stationary). In contrast, fixture MSPs were specific to the representative designs evaluated in DOE's engineering analysis, and price markups were based on limited, publicly available financial data. Consequently, DOE used discrete values instead of distributions for these inputs.

The computer model DOE uses to calculate the LCC and PBP, which incorporates Crystal Ball™ (a commercially available software program), relies on a Monte Carlo simulation to incorporate uncertainty and variability into the analysis. The Monte Carlo simulations randomly sample input values from the probability distributions and MHLF user samples. The model calculated the LCC and PBP for equipment at each efficiency level for 10,000 customers per simulation run. The analytical results include a distribution of 10,000 data points showing the range of LCC savings for a given efficiency level relative to the no-new-standards case efficiency distribution. In performing an iteration of the Monte Carlo simulation for a given consumer, product efficiency is chosen based on its probability. If the chosen product efficiency is greater than or equal to the efficiency of the standard level under consideration, the LCC and PBP calculation reveals that a consumer is not impacted by the standard level. By accounting for consumers who already purchase more-efficient products, DOE avoids overstating the potential benefits from increasing product efficiency.

DOE calculated the LCC and PBP for all customers of MHLFs as if each were to purchase new equipment in the expected year of required compliance with new or amended standards. Any amended standards would apply to MHLFs manufactured three years after the date on which any new or amended standard is published. (42 U.S.C. 6295(hh)(3)(B)) At this time, DOE estimates publication of a final determination in the latter half of 2021. Therefore, for purposes of its analysis, DOE used 2025 as the first year of compliance with any amended standards for MHLFs.

Table IV.16 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations. The subsections that follow provide further discussion. Details of the spreadsheet model, and of all the inputs to the LCC and PBP analyses, are contained in chapter 8 of the final determination TSD and its appendices.

TABLE IV.16—SUMMARY OF INPUTS AND METHODS FOR THE LCC AND PBP ANALYSIS *

Inputs	Source/method
Equipment Cost	Derived by multiplying MSPs by distribution channel markups (taken from the 2014 MHLF final rule) and sales tax.
Installation Costs	Used the same installation costs as in the 2014 MHLF final rule, but inflated to 2020$. The 2014 MHLF final rule costs were calculated using estimated labor times and applicable labor rates from ''RS Means Electrical Cost Data'' (2013), Sweets Electrical Cost Guide 2013, and the U.S. Bureau of Labor Statistics.
Annual Energy Use	The total annual energy use multiplied by the operating hours per year, which were determined separately for indoor and outdoor fixtures. Average number of hours based on the 2015 LMC.
Energy Prices	*Electricity:* Based on Edison Electric Institute data for 2019. *Variability:* Regional energy prices determined for 13 census divisions and large states.
Energy Price Trends	Based on *AEO 2021* price projections.
Replacement Costs	Used the same labor and material costs for lamp and ballast replacements as in the 2014 MHLF final rule, but inflated to 2020$.
Equipment Lifetime	*Ballasts:* Assumed an average of 50,000 hours for magnetic ballasts and 40,000 hours for electronic ballasts. *Fixtures:* Assumed an average of 20 years for indoor fixtures and 25 years for outdoor fixtures.

TABLE IV.16—SUMMARY OF INPUTS AND METHODS FOR THE LCC AND PBP ANALYSIS *—Continued

Inputs	Source/method
Discount Rates	Developed a distribution of discount rates for the commercial, industrial, and outdoor stationary sectors.
Compliance Date	2025.

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the final determination TSD.

1. Equipment Cost

To calculate customer equipment costs, DOE multiplied the MSPs developed in the engineering analysis by the markups described previously (along with sales taxes). DOE used different markups for baseline equipment and higher-efficiency equipment, because DOE applies an incremental markup to the increase in MSP associated with higher-efficiency equipment. See section IV.D for further details.

2. Installation Cost

Installation cost is the cost to install the fixture such as the labor, overhead, and any miscellaneous materials and parts needed. DOE used the installation costs from the 2014 MHLF final rule, but inflated to 2020$ using the GDP price deflator.[15]

3. Annual Energy Consumption

For each sampled customer, DOE determined the energy consumption for an MHLF at different efficiency levels using the approach described previously in section IV.E of this document. For this final determination, DOE based the annual energy use inputs on sectoral operating hour distributions (commercial, industrial, and outdoor stationary sectors), with the exception of a discrete value (approximately 770 hours per year) for the 1,500 W equipment class that is primarily limited to sports lighting. DOE used operating hour (and, by extension, energy use) distributions to better characterize the potential range of operating conditions faced by MHLF customers.

4. Energy Prices

Because marginal electricity price more accurately captures the incremental savings associated with a change in energy use from higher efficiency, it provides a better representation of incremental change in consumer costs than average electricity prices. Therefore, DOE applied average electricity prices for the energy use of the product purchased in the no-new-standards case, and marginal electricity prices for the incremental change in energy use associated with the other efficiency levels considered in this final determination.

DOE derived annual electricity prices in 2019 for each census division using data from the Edison Electric Institute (EEI) Typical Bills and Average Rates reports.[16] Marginal prices depend on both the change in electricity consumption and the change in monthly peak-coincident demand. DOE used the EEI data to estimate both marginal energy charges and marginal demand charges.

DOE calculated weighted-average values for average and marginal price for the 13 census divisions and large states for the commercial, industrial, and outdoor stationary sectors.

To estimate energy prices in future years, DOE multiplied the average regional energy prices by a projection of annual change in national-average commercial and industrial energy prices in the Reference case of *Annual Energy Outlook 2021 (AEO 2021).* [17] *AEO 2021* has an end year of 2050. DOE assumed regional electricity prices after 2050 are constant at their 2050 price.

5. Replacement Costs

Replacement costs include the labor and materials costs associated with replacing a ballast or lamp at the end of their lifetimes and are annualized across the years preceding and including the actual year in which equipment is replaced. The costs are taken from the 2014 MHLF final rule but inflated to 2020$ using the GDP price deflator. For the LCC and PBP analysis, the analysis period corresponds with the fixture lifetime that is assumed to be longer than that of either the lamp or the ballast. For this reason, ballast and lamp prices and labor costs associated with lamp or ballast replacements are included in the calculation of operating costs.

The CA IOUs suggested that DOE update the MHLF cost data for lamps, ballasts, and housings, rather than using the costs from the 2014 MHLF final rule. (CA IOUs, No. 14 at p. 2) DOE notes that replacement costs for ballasts come directly from this final determination engineering analysis (see section IV.C). However, DOE has continued to use the replacement lamp costs from the 2014 MHLF final rule (but inflated to 2020$). The CA IOUs acknowledged that MHLFs are a legacy lighting technology, and NEMA stated that there has been an 80 percent decline in the MHLFs market from 2008–2018. (CA IOUs, No. 14 at pp. 1–2; NEMA, No. 12 at p. 2) Given this recent substantial decline in the MHLFs market, it is unlikely that prices would have changed appreciably due to price learning since the 2014 MHLF final rule analysis was conducted. Therefore, DOE has only applied inflation to the MHLF replacement lamp prices since the 2014 MHLF final rule analysis.

6. Equipment Lifetime

DOE defined equipment lifetime as the age when a fixture, ballast, or lamp is retired from service. For fixtures in all equipment classes, DOE assumed average lifetimes for indoor and outdoor fixtures of 20 and 25 years, respectively. DOE also assumed that magnetic ballasts had a rated lifetime of 50,000 hours and electronic ballasts had a rated lifetime of 40,000 hours. DOE used manufacturer catalog data to obtain rated lifetime estimates (in hours) for lamps in each equipment class. DOE accounted for uncertainty in the fixture, ballast, and lamp lifetimes by applying Weibull survival distributions to the components' rated lifetimes. Furthermore, DOE included a residual value calculation for lamps and ballasts to account for the residual monetary value associated with the remaining life in the lamp and ballast at the end of the fixture lifetime. As stated in the 2020 NOPD, DOE based all assumptions for estimating equipment lifetime from the 2014 MHLF final rule. 85 FR 47472, 47494.

7. Discount Rates

The discount rate is the rate at which future expenditures are discounted to

[15] U.S. Bureau of Economic Analysis (BEA). *Table 1.1.9. Implicit Price Deflators for Gross Domestic Product.* U.S. Department of Commerce: Washington, DC. *www.bea.gov/iTable/.*

[16] Edison Electric Institute. *Typical Bills and Average Rates Report.* 2019. Winter 2019, Summer 2019: Washington, DC.

[17] U.S. Energy Information Administration. *Annual Energy Outlook 2021 with Projections to 2050.* 2021. Washington, DC. (Last accessed March 18, 2021.) *www.eia.gov/outlooks/aeo/.*

estimate their present value. In this final determination, DOE estimated separate discount rates for commercial, industrial, and outdoor stationary applications. DOE used discount rate data from a 2019 Lawrence Berkeley National Laboratory report.[18] The average discount rates, weighted by the shares of each rate value in the sectoral distributions, are 8.3 percent for commercial end-users, 8.8 percent for industrial end-users, and 3.2 percent for outdoor stationary end-users. For more information regarding discount rates, see chapter 8 of the final determination TSD.

8. Energy Efficiency Distribution in the No-New-Standards Case

DOE developed a no-new-standards case efficiency distribution using model count data from the compliance certification database collected on May 5, 2021. The compliance certification database does not contain models in the >1,000 W and ≤2,000 W equipment class; therefore, DOE assumed 56 percent of the market is at the baseline and 44 percent of the market is at EL 1, based on MHLF catalog data. The complete efficiency distribution for 2025 is shown in Table IV.17.

TABLE IV.17—MHLF EFFICIENCY DISTRIBUTION BY EQUIPMENT CLASS FOR 2025

Efficiency level	Equipment class *					
	≥50 W and ≤100 W (%)	>100 W and <150 W (%)	≥150 W and ≤250 W (%)	>250 W and ≤500 W (%)	>500 W and ≤1,000 W (%)	>1000 W and ≤2,000 W (%)
0	82.0	16.4	53.6	95.6	97.1	56.0
1	1.2	32.9	40.1	1.1	2.9	44.0
2	9.5	0.0	6.3	3.3	.....	.....
3	7.4	50.7	.....	.....	.....	.....

* Columns may not sum to 100% due to rounding.

See chapter 8 of the final determination TSD for further information on the derivation of the efficiency distributions.

9. Payback Period Analysis

The payback period is the amount of time it takes the consumer to recover the additional installed cost of more-efficient products, compared to baseline products, through energy cost savings. Payback periods are expressed in years. Payback periods that exceed the life of the product mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation for each efficiency level are the change in total installed cost of the product and the change in the first-year annual operating expenditures relative to the baseline. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not needed.

As noted previously, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii)) For each considered efficiency level, DOE determined the value of the first year's energy savings by calculating the energy savings in accordance with the applicable DOE test procedure, and multiplying those savings by the average energy price projection for the year in which compliance with the amended standards would be required.

G. Shipments Analysis

DOE uses projections of annual equipment shipments to calculate the national impacts of potential amended or new energy conservation standards on energy use and NPV.[19] The shipments model takes an accounting approach, tracking market shares of each equipment class and the vintage of units in the stock. Stock accounting uses equipment shipments as inputs to estimate the age distribution of in-service equipment stocks for all years. The age distribution of in-service equipment stocks is a key input to calculations of both the NES and NPV, because operating costs for any year depend on the age distribution of the stock.

The stock turnover model calculates demand for new MHLFs based on the expected demand for replacement MHLFs and the decrease in MHLF demand due to the adoption of out-of-scope LED alternatives. The model is initialized using a time series of historical shipments data compiled from the 2014 MHLF final rule and data from NEMA. The historical shipments for 2008 from the 2014 MHLF final rule were projected to 2018 using NEMA sales indices from 2008 to 2018. 79 FR 7746, 7788–89. DOE used NEMA provided sales indices for the second quarter of 2020 for metal halide lamps to project the historical shipments forward to 2020.[20] The updated projection from the NEMA data gives a faster decline of historical shipments compared to the projection used in the MHLF NOPD. 85 FR 47472, 47495.

NEMA commented in their response to the MHLF NOPD that the market for MHLFs has continued to show a steady decline since the July 2019 RFI in favor of LED Technology. (NEMA, No. 12 at p. 2) With the diminishing shipments there is no reasonable possibility of industry recovering investments in new conservation standards of MHLFs. As in the previous rulemaking, DOE continued to assume that an increasing fraction of the MHLF market will move to out-of-scope LED alternatives over the course of the shipments analysis period. 85 FR 47472, 47495. DOE modelled the incursion of LED equipment in the form of a Bass diffusion curve.[21] The parameters for the Bass diffusion curve are based on fitting a Bass diffusion curve to market share data for general service LED lamps based on data

[18] Fujita, K.S. *Commercial, Industrial, and Institutional Discount Rate Estimation for Efficiency Standards Analysis: Sector-Level Data 1998–2018. 2019.* Lawrence Berkeley National Laboratory: Berkeley, CA. (Last accessed January 15, 2020.) *https://eta.lbl.gov/publications/commercial-industrial-institutional.*

[19] DOE uses data on manufacturer shipments as a proxy for national sales, as aggregate data on sales are lacking. In general, one would expect a close correspondence between shipments and sales.

[20] HID Lamp Sales Indices. National Electrical Manufacturing Association. *www.nema.org/analytics/Indices/view/Fourth-Quarter-2019-HID-Lamp-Indexes-Decrease-Compared-to-Previous-Quarter-and-Year.* (Last accessed on May 5, 2021.)

[21] Bass, F.M. A New Product Growth Model for Consumer Durables. *Management Science.* 1969. 15(5): pp. 215–227.

published by NEMA. This same approach was used in the final determination for general service incandescent lamps (GSILs); see chapter 9 of that final determination TSD.[22] 84 FR 71626 (December 27, 2019).

The CA IOUs commented on the MHLF NOPD that DOE's current A-Line based shipment curves approach to modelling shipments for MHLF products should be replaced by a diffusion curve based on linear fluorescent shipments. (CA IOUs, No. 14 at p. 2) However, DOE found that a Bass diffusion curve based on market share data for general service LED lamps provided a better fit to the historic MHLF shipments data from NEMA than a Bass diffusion curve based on linear fluorescent shipments, and NEMA expressed support for the shipment declines projected in the NOPD. (NEMA, No. 12 at p. 2) Additionally, the lighting power allowance from the 2019 update to ASHRAE 90.1, noted during the MHLF NOPD public meeting, suggests a rapid transition to LED technology. (EEI, Public Meeting Transcript, No. 11 at p. 47) As a result, DOE continued to base the Bass diffusion model on market share data for general service LED lamps for this final determination.

Another key input to the national impacts analysis is the distribution of MHLF shipments by EL in the no-new standards case and the standards cases. DOE apportioned the total shipments of MHLFs to each EL in the no-new-standards case using data downloaded from the compliance certification database [23] and data provided by NEMA in comments to the July 2019 RFI. (NEMA, No. 3 at pp. 11–14). Equipment listed in the CCMS database were categorized by equipment class, efficiency level, and ballast type. The counts for each category were scaled based on ballast type by the NEMA market shares for magnetic and electronic ballasts reported in 2018.

For the standards cases, DOE used a ''roll-up'' approach to estimate market share for each EL for the year that standards are assumed to become effective (2025). For each standards case, the market shares of ELs in the no-new-standards case that do not meet the standard under consideration ''roll up'' to meet the new standard level, and the market share of equipment above the standard remains unchanged.

For both the no-new-standards and standards cases, DOE assumed no efficiency trend over the analysis period. For a given case, market shares were held fixed to their 2025 distribution.

DOE typically includes the impact of price learning in its analysis. In a standard price learning model,[24] the price of a given technology is related to its cumulative production, as represented by total cumulative shipments. DOE assumed MHLFs have reached a stable price point due to the high volume of total cumulative shipments and would not undergo price learning in this final determination analysis.

H. National Impact Analysis

The NIA assesses the NES and the NPV from a national perspective of total customer costs and savings that would be expected to result from new or amended standards at specific efficiency levels.[25] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual equipment shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, equipment costs, and NPV of customer benefits over the lifetime of MHLFs sold from 2025 through 2054.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections. The no-new-standards case characterizes energy use and customer costs for each equipment class in the absence of new or amended energy conservation standards. DOE compares the no-new-standards case with projections characterizing the market for each equipment class if DOE adopted new or amended standards at specific energy efficiency levels (*i.e.,* the TSLs or standards cases) for that class. For the standards cases, DOE considers how a given standard would likely affect the market shares of equipment with efficiencies greater than the standard.

DOE uses a spreadsheet model to calculate the energy savings and the national customer costs and savings from each TSL. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs.

Table IV.18 summarizes the inputs and methods DOE used for the NIA analysis for this final determination. Discussion of these inputs and methods follows the table. See chapter 10 of the final determination TSD for further details.

TABLE IV.18—SUMMARY OF INPUTS AND METHODS FOR THE NATIONAL IMPACT ANALYSIS

Inputs	Method
Shipments	Annual shipments from shipments model for each considered TSL.
First Full Year of Standard Compliance	2025.
No-new-standards Case Efficiency Trend	No trend assumed.
Standards Case Efficiency Trend	No trend assumed.
Annual Energy Consumption per Unit	Calculated for each efficiency level based on inputs from the energy use analysis.
Total Installed Cost per Unit	MHLF prices and installation costs from the LCC analysis.
Repair and Maintenance Cost per Unit	Cost to replace lamp and ballast over the lifetime of the fixture.
Residual Value per Unit	The monetary value of remaining lamp and ballast lifetime at the end of the fixture lifetime.
Electricity Prices	Estimated marginal electricity prices from the LCC analysis.
Electricity Price Trends	*AEO 2021* forecasts (to 2050) and extrapolation thereafter.
Energy Site-to-Primary and FFC Conversion	A time-series conversion factor based on *AEO 2021.*
Discount Rate	3 percent and 7 percent.
Present Year	2021.

[22] Chapter 9 of the GSIL final determination TSD is available at *www.regulations.gov/document?D=EERE-2019-BT-STD-0022-0116.*

[23] See *www.regulations.doe.gov/certification-data/products.html* (Last accessed on May 5, 2021).

[24] Taylor, M. and S.K. Fujita. *Accounting for Technological Change in Regulatory Impact Analyses: The Learning Curve Technique.* 2013. Lawrence Berkeley National Laboratory: Berkeley, CA. Report No. LBNL–6195E. (Last accessed January 7, 2020.) *https://eta.lbl.gov/publications/accounting-technological-change.*

[25] The NIA accounts for impacts in the 50 states and U.S. territories.

1. National Energy Savings

The national energy savings analysis involves a comparison of national energy consumption of the considered equipment between each potential TSL and the case with no new or amended energy conservation standards. DOE calculated the national energy consumption by multiplying the number of units (stock) of each equipment type (by vintage or age) by the unit energy consumption (also by vintage). DOE calculated annual NES based on the difference in national energy consumption for the no-new standards case and for each higher efficiency standard case. DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy (*i.e.,* the energy consumed by power plants to generate site electricity) using annual conversion factors derived from *AEO 2021.* Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

DOE generally accounts for the direct rebound effect in its NES analyses. Direct rebound reflects the idea that as appliances become more efficient, customers use more of their service because their operating cost is reduced. In the case of lighting, the rebound effect could be manifested in increased hours of use or in increased lighting density (lumens per square foot). In response to the July 2019 RFI, NEMA commented that a rebound rate of 0 is appropriate. (NEMA, No. 3 at p. 9) DOE assumed no rebound effect for MHLFs in this final determination.

In 2011, in response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Sciences, DOE announced its intention to use FFC measures of energy use and greenhouse gas and other emissions to the extent that emissions analyses are conducted. 76 FR 51281 (Aug. 18, 2011). After evaluating the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in which DOE explained its determination that Energy Information Administration's (EIA's) National Energy Modeling System (''NEMS'') is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (Aug. 17, 2012). NEMS is a public domain, multi-sector, partial equilibrium model of the U.S. energy sector [26] that EIA uses to prepare its *Annual Energy Outlook.* The FFC factors incorporate losses in production and delivery in the case of natural gas (including fugitive emissions) and additional energy used to produce and deliver the various fuels used by power plants. The approach used for deriving FFC measures of energy use and emissions is described in appendix 10B of the final determination TSD.

2. Net Present Value Analysis

The inputs for determining the NPV of the total costs and benefits experienced by customers are (1) total annual installed cost, (2) total annual operating costs (energy costs and repair and maintenance costs), and (3) a discount factor to calculate the present value of costs and savings. DOE calculates net savings each year as the difference between the no-new-standards case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculates operating cost savings over the lifetime of equipment shipped during the analysis period.

Energy cost savings, which are part of operating cost savings, are calculated using the estimated energy savings in each year and the projected price of the appropriate form of energy. To estimate energy prices in future years, DOE multiplied the average national marginal electricity prices by the forecast of annual national-average commercial or industrial electricity price changes in the Reference case from *AEO 2021,* which has an end year of 2050. To estimate price trends after 2050, DOE used the average annual rate of change in prices from 2041 to 2050.

DOE includes the cost of replacing failed lamps and ballasts over the course of the lifetime of the fixture. DOE assumed that lamps and ballasts were replaced at their rated lifetime. When replacing a ballast, DOE assumed the lamp was also replaced at the same time, independent of the timing of the previous lamp replacement. For more details see chapter 10 of the final determination TSD.

DOE also estimates the residual monetary value remaining in the lamp and ballast at the end of the fixture lifetime and applies it as a credit to operating costs (*i.e.,* the residual value is deducted from operating costs). See chapter 10 of the final determination TSD for more details on DOE's calculation of the residual value.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. For this final determination, DOE estimated the NPV of customer benefits using both a 3-percent and a 7-percent real discount rate. DOE uses these discount rates in accordance with guidance provided by the Office of Management and Budget (''OMB'') to Federal agencies on the development of regulatory analysis.[27] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a customer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

V. Analytical Results and Conclusions

The following section addresses the results from DOE's analyses with respect to the considered energy conservation standards for MHLFs. It addresses the TSLs examined by DOE and the projected impacts of each of these levels. Additional details regarding DOE's analyses are contained in the final determination TSD supporting this document.

A. Trial Standard Levels

DOE analyzed the benefits and burdens of three TSLs for MHLFs. TSL 1 is composed of EL 1 for all equipment classes. TSL 2 is composed of the efficiency levels corresponding to the least efficient electronic ballast level for each equipment class, if any efficiency levels corresponding to an electronic ballast exist. TSL 3 is composed of the max-tech level for each equipment class. Table V.1 presents the TSLs and the corresponding efficiency levels that DOE has identified for potential amended energy conservation standards for MHLFs.

[26] For more information on NEMS, refer to *The National Energy Modeling System: An Overview 2009,* DOE/EIA–0581(2009), October 2009. Available at *www.eia.gov/forecasts/aeo/index.cfm.*

[27] United States Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. Section E. Available at *www.whitehouse.gov/omb/memoranda/m03–21.html.*

TABLE V.1—TRIAL STANDARD LEVELS FOR MHLFS

	≥50 W and ≤100 W	>100 W and <150 W	≥150 W and ≤250 W	>250 W and ≤500 W	>500 W and ≤1,000 W	>1,000 W and ≤2,000 W
TSL 0	0	0	0	0	0	0
TSL 1	1	1	1	1	1	1
TSL 2	2	2	2	2	1	1
TSL 3	3	3	2	2	1	1

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Customers

DOE analyzed the economic impacts on MHLF customers by looking at the effects that potential amended standards at each TSL would have on the LCC and PBP. These analyses are discussed in the following sections.

a. Life-Cycle Cost and Payback Period

In general, higher-efficiency products affect consumers in two ways: (1) Purchase price increases and (2) annual operating costs decrease.[28] Inputs used for calculating the LCC and PBP include total installed costs (*i.e.,* product price plus installation costs), and operating costs (*i.e.,* annual energy use, energy prices, energy price trends, and replacement costs). The LCC calculation also uses product lifetime and a discount rate. Chapter 8 of the final determination TSD provides detailed information on the LCC and PBP analyses.

Table V.2 through Table V.13 show the LCC and PBP results for the ELs and TSLs considered for each equipment class, with indoor and outdoor installations aggregated together using equipment shipments in the analysis period start year (2025). The results provided here will differ from the LCC and PBP results from the NOPD due to updated data used for this final determination. Results for each equipment class are shown in two tables. In the first table, the simple payback is measured relative to the baseline product. For ELs having a higher first year's operating cost than that of the baseline, the payback period is ''Never,'' because the additional installed cost relative to the baseline is not recouped. In the second table, impacts are measured relative to the efficiency distribution in the no-new-standards case in the compliance year (see section IV.F.8 of this document). Because some customers purchase products with higher efficiency in the no-new-standards case, the average savings are less than the difference between the average LCC of the baseline product and the average LCC at each TSL. The savings refer only to customers who are affected by a standard at a given TSL. Those who already purchase equipment with efficiency at or above a given TSL are not affected. Customers for whom the LCC increases at a given TSL experience a net cost.

TABLE V.2—AVERAGE LCC AND PBP RESULTS FOR THE ≥50 W AND ≤100 W EQUIPMENT CLASS

Efficiency level	Average costs (2020$)				Simple payback (years)	Average fixture lifetime (years)
	Installed cost	First year's operating cost	Lifetime operating cost	LCC		
0	889.82	131.20	1,731.71	2,621.53	.....	24.2
1	903.12	131.14	1,729.46	2,632.58	239.0	24.2
2	935.77	131.96	1,750.88	2,686.65	Never	24.2
3	953.36	131.27	1,739.77	2,693.13	Never	24.2

Note: The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.3—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR THE ≥50 W AND >100 W EQUIPMENT CLASS

TSL	Efficiency level	Life-cycle cost savings	
		Average LCC savings* (2020$)	Percent of consumers that experience net cost
1	1	(11.05)	82.1
2	2	(64.72)	62.0
3	3	(64.68)	72.0

* The savings represent the average LCC for affected consumers.

[28] While it is generally true that higher-efficiency equipment has lower operating costs, MHLF operating costs in this analysis also incorporate the costs of lamp and ballast replacements. Due to these replacement costs, higher operating costs can be experienced at efficiency levels above the baseline.

TABLE V.4—AVERAGE LCC AND PBP RESULTS FOR THE >100 W AND <150 W EQUIPMENT CLASS

Efficiency level	Average costs (2020$)				Simple payback (years)	Average fixture lifetime (years)
	Installed cost	First year's operating cost	Lifetime operating cost	LCC		
0	846.76	154.76	1,915.54	2,762.30	.....	23.5
1	860.27	153.78	1,902.10	2,762.37	13.8	23.5
2	898.69	152.03	1,891.30	2,789.99	19.0	23.5
3	1,015.69	155.72	1,926.47	2,942.16	Never	23.5

Note: The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.5—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR THE >100 W AND <150 W EQUIPMENT CLASS

TSL	Efficiency level	Life-cycle cost savings	
		Average LCC savings * (2020$)	Percent of consumers that experience net cost
1	1	(0.22)	10.3
2	2	(27.02)	24.1
3	3	(179.26)	46.5

* The savings represent the average LCC for affected consumers.

TABLE V.6—AVERAGE LCC AND PBP RESULTS FOR THE ≥150 W AND ≤250 W EQUIPMENT CLASS

Efficiency level	Average costs (2020$)				Simple payback (years)	Average fixture lifetime (years)
	Installed cost	First year's operating cost	Lifetime operating cost	LCC		
0	994.60	190.93	2,336.03	3,330.62	.....	23.5
1	1,018.48	190.63	2,329.74	3,348.22	80.2	23.5
2	1,172.73	188.56	2,294.58	3,467.31	75.4	23.5

Note: The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.7—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR THE ≥150 W AND >250 W EQUIPMENT CLASS

TSL	Efficiency level	Life-cycle cost savings	
		Average LCC savings * (2020$)	Percent of consumers that experience net cost
1	1	(17.56)	53.5
2	2	(129.14)	88.4
3	2	(129.14)	88.4

* The savings represent the average LCC for affected consumers.

TABLE V.8—AVERAGE LCC AND PBP RESULTS FOR THE >250 W AND ≤500 W EQUIPMENT CLASS

Efficiency level	Average costs (2020$)				Simple payback (years)	Average fixture lifetime (years)
	Installed cost	First year's operating cost	Lifetime operating cost	LCC		
0	1,121.20	249.34	3,016.36	4,137.56	.....	23.5
1	1,142.97	249.17	3,011.71	4,154.69	127.3	23.5

TABLE V.8—AVERAGE LCC AND PBP RESULTS FOR THE >250 W AND ≤500 W EQUIPMENT CLASS—Continued

Efficiency level	Average costs (2020$)				Simple payback (years)	Average fixture lifetime (years)
	Installed cost	First year's operating cost	Lifetime operating cost	LCC		
2	1,378.00	258.46	3,123.86	4,501.86	Never	23.5

Note: The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.9—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR THE >250 W AND >500 W EQUIPMENT CLASS

TSL	Efficiency level	Life-cycle cost savings	
		Average LCC savings * (2020$)	Percent of consumers that experience net cost
1	1	(17.14)	95.2
2	2	(364.34)	95.9
3	2	(364.34)	95.9

* The savings represent the average LCC for affected consumers.

TABLE V.10—AVERAGE LCC AND PBP RESULTS FOR THE >500 W AND ≤1,000 W EQUIPMENT CLASS

Efficiency level	Average costs (2020)$				Simple payback (years)	Average fixture lifetime (years)
	Installed cost	First year's operating cost	Lifetime operating cost	LCC		
0	1,396.65	582.23	7,221.65	8,618.30	.....	23.7
1	1,429.96	581.32	7,207.07	8,637.03	36.4	23.7

Note: The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.11—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR THE >500 W AND ≤1,000 W EQUIPMENT CLASS

TSL	Efficiency level	Life-cycle cost savings	
		Average LCC Savings * (2020$)	Percent of consumers that experience net cost
1	1	(18.72)	91.9
2	1	(18.72)	91.9
3	1	(18.72)	91.9

* The savings represent the average LCC for affected consumers.

TABLE V.12—AVERAGE LCC AND PBP RESULTS FOR THE >1,000 W AND ≤2,000 W EQUIPMENT CLASS

Efficiency level	Average costs (2020$)				Simple payback (years)	Average fixture lifetime (years)
	Installed cost	First year's operating cost	Lifetime operating cost	LCC		
0	1,489.80	188.40	2,387.30	3,877.10	.....	23.7
1	1,522.96	186.62	2,364.56	3,887.52	18.6	23.7

Note: The results for each EL are calculated assuming that all customers use equipment at that efficiency level. The PBP is measured relative to the baseline equipment.

TABLE V.13—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR THE >1,000 W AND ≤2,000 W EQUIPMENT CLASS

TSL	Efficiency level	Life-cycle cost savings	
		Average LCC savings* (2020$)	Percent of consumers that experience net cost
1	1	(10.47)	48.5
2	1	(10.47)	48.5
3	1	(10.47)	48.5

* The savings represent the average LCC for affected consumers.

b. Rebuttable Presumption Payback

As discussed in section IV.F.9, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. In calculating a rebuttable presumption payback period for each of the considered ELs, DOE used discrete values, and, as required by EPCA, based the energy use calculation on the DOE test procedures for MHLFs. In contrast, the PBPs presented in section V.B.1.a were calculated using distributions that reflect the range of energy use in the field.

Table V.14 presents the rebuttable-presumption payback periods for the considered ELs for MHLFs. While DOE examined the rebuttable-presumption criterion, it considered whether the standard levels considered for this rule are economically justified through a more detailed analysis of the economic impacts of those levels, pursuant to 42 U.S.C. 6295(o)(2)(B)(i), that considers the full range of impacts to the consumer, manufacturer, Nation, and environment. The results of that analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification.

TABLE V.14—REBUTTABLE-PRESUMPTION PAYBACK PERIODS

EL	Rebuttable presumption payback period (years)					
	≥50 W and ≤100 W	>100 W and <150 W*	≥150 W and ≤250 W**	>250 W and ≤500 W	>500 W and ≤1,000 W	>1,000 W and ≤2,000 W
1	2,150.5	14.3	102.9	195.5	38.1	18.6
2	21.4	10.0	90.2	56.3	.....	.....
3	21.9	87.6	.....	.....	.....	.....

* Includes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

** Excludes 150 W fixtures initially exempted by EISA 2007, which are fixtures rated only for 150 watt lamps; rated for use in wet locations, as specified by the NFPA 70–2002, section 410.4(A); and containing a ballast that is rated to operate at ambient air temperatures above 50 °C, as specified by UL 1029–2007.

Table V.14 reports very large rebuttable-presumption payback periods for some equipment class-efficiency level combinations. These payback periods are the result of very small operating cost savings under the rebuttable-presumption criterion compared to the increased installed cost of moving from EL 0 to the EL under consideration.

2. National Impact Analysis

This section presents DOE's estimates of the national energy savings and the NPV of consumer benefits that would result from each of the TSLs considered as potential amended standards.

a. Significance of Energy Savings

To estimate the energy savings attributable to potential amended standards for MHLFs DOE compared their energy consumption under the no-new-standards case to their anticipated energy consumption under each TSL. The savings are measured over the entire lifetime of products purchased in the 30-year period that begins in the first full year of anticipated compliance with amended standards 2025–2054. Table V.15 presents DOE's projections of the national energy savings for each TSL considered for MHLFs. The savings were calculated using the approach described in section IV.H.1 of this document.

TABLE V.15—CUMULATIVE NATIONAL ENERGY SAVINGS FOR MHLFS; 30 YEARS OF SHIPMENTS

[2025–2054]

Equipment class	Trial standard level		
	1	2	3
Site Energy Savings (quads):			
≥50 W and ≤100 W	0.000006	0.00004	0.00006

TABLE V.15—CUMULATIVE NATIONAL ENERGY SAVINGS FOR MHLFS; 30 YEARS OF SHIPMENTS—Continued
[2025–2054]

Equipment class	Trial standard level		
	1	2	3
>100 W and <150 W	0.000001	0.00001	0.00001
≥150 W and ≤250 W	0.000008	0.00007	0.00007
>250 W and ≤500 W	0.00002	0.0001	0.0001
>500 W and ≤1,000 W	0.00001	0.00001	0.00001
>1,000 W and ≤2,000 W	0.0000003	0.0000003	0.0000003
Total *	0.00004	0.0002	0.0003
Primary Energy Savings (quads):			
≥50 W and ≤100 W	0.00002	0.0001	0.0002
>100 W and <150 W	0.000003	0.00003	0.00004
≥150 W and ≤250 W	0.00002	0.0002	0.0002
>250 W and ≤500 W	0.00004	0.0003	0.0003
>500 W and ≤1,000 W	0.00003	0.00003	0.00003
>1,000 W and ≤2,000 W	0.0000007	0.0000007	0.0000007
Total *	0.0001	0.0006	0.0007
FFC Energy Savings (quads):			
≥50 W and ≤100 W	0.00002	0.0001	0.0002
>100 W and <150 W	0.000003	0.00003	0.00004
≥150 W and ≤250 W	0.00002	0.0002	0.0002
>250 W and ≤500 W	0.00004	0.0003	0.0003
>500 W and ≤1,000 W	0.00003	0.00003	0.00003
>1,000 W and ≤2,000 W	0.0000008	0.0000008	0.0000008
Total *	0.0001	0.0007	0.0007

OMB Circular A–4 [29] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using 9 years, rather than 30 years, of product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[30] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to MHLFs. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES sensitivity analysis results based on a 9-year analytical period are presented in Table V.16. The impacts are counted over the lifetime of MHLFs purchased in 2025–2033.

TABLE V.16—CUMULATIVE NATIONAL ENERGY SAVINGS FOR MHLFS; 9 YEARS OF SHIPMENTS
[2025–2033]

Equipment class	Trial standard level		
	1	2	3
Site Energy Savings (quads):			
≥50 W and ≤100 W	0.000006	0.00004	0.00006
>100 W and <150 W	0.000001	0.00001	0.00001
≥150 W and ≤250 W	0.000008	0.00007	0.00007
>250 W and ≤500 W	0.00002	0.0001	0.0001
>500 W and ≤1,000 W	0.00001	0.00001	0.00001
>1,000 W and ≤2,000 W	0.0000003	0.0000003	0.0000003
Total *	0.00004	0.0002	0.0003
Primary Energy Savings (quads):			

[29] U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. *www.whitehouse.gov/omb/circulars_a004_a-4/.* (last accessed June 24, 2021).

[30] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6 year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some products, the compliance period is 5 years rather than 3 years.

TABLE V.16—CUMULATIVE NATIONAL ENERGY SAVINGS FOR MHLFS; 9 YEARS OF SHIPMENTS—Continued
[2025–2033]

Equipment class	Trial standard level		
	1	2	3
≥50 W and ≤100 W	0.00002	0.0001	0.0002
>100 W and <150 W	0.000003	0.00003	0.00004
≥150 W and ≤250 W	0.00002	0.0002	0.0002
>250 W and ≤500 W	0.00004	0.0003	0.0003
>500 W and ≤1,000 W	0.00003	0.00003	0.00003
>1,000 W and ≤2,000 W	0.0000007	0.0000007	0.0000007
Total *	0.0001	0.0006	0.0007
FFC Energy Savings (quads):			
≥50 W and ≤100 W	0.00002	0.0001	0.0002
>100 W and <150 W	0.000003	0.00003	0.00004
≥150 W and ≤250 W	0.00002	0.0002	0.0002
>250 W and ≤500 W	0.00004	0.0003	0.0003
>500 W and ≤1,000 W	0.00003	0.00003	0.00003
>1,000 W and ≤2,000 W	0.0000008	0.0000008	0.0000008
Total *	0.0001	0.0007	0.0007

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the TSLs considered for MHLFs. In accordance with OMB's guidelines on regulatory analysis,[31] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. Table V.17 shows the consumer NPV results with impacts counted over the lifetime of products purchased in 2025–2054.

TABLE V.17—CUMULATIVE NET PRESENT VALUE OF CUSTOMER BENEFITS FOR MHLFS; 30 YEARS OF SHIPMENTS
[2025–2054]

Equipment class	Trial standard level		
	1	2	3
3 percent (millions 2018$):			
≥50 W and ≤100 W	−0.12	−2.39	−2.44
>100 W and <150 W	0.0027	−0.32	−0.66
≥150 W and ≤250 W	−0.11	−1.67	−1.67
>250 W and ≤500 W	−0.25	−3.27	−3.27
>500 W and ≤1,000 W	−0.077	−0.077	−0.077
>1,000 W and ≤2,000 W	−0.00038	−0.00038	−0.00038
Total *	−0.56	−7.72	−8.12
7 percent (millions 2018$):			
≥50 W and ≤100 W	−0.10	−1.28	−1.35
>100 W and <150 W	−0.00059	−0.17	−0.41
≥150 W and ≤250 W	−0.10	−1.38	−1.38
>250 W and ≤500 W	−0.21	−2.86	−2.86
>500 W and ≤1000 W	−0.080	−0.080	−0.080
>1,000 W and ≤2,000 W	−0.0014	−0.0014	−0.0014
Total *	−0.49	−5.78	−6.10

* Total may not equal sum due to rounding.

The NPV results based on the aforementioned 9-year analytical period are presented in Table V.18. The impacts are counted over the lifetime of products purchased in 2025–2054. As mentioned previously, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology or decision criteria.

[31] U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. *https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/* (last accessed June 28, 2021).

TABLE V.18—CUMULATIVE NET PRESENT VALUE OF CUSTOMER BENEFITS FOR MHLFS; 9 YEARS OF SHIPMENTS
[2025–2033]

Equipment class	Trial standard level		
	1	2	3
3 percent (millions 2020$):			
≥50 W and ≤100 W	−0.12	−2.39	−2.44
>100 W and <150 W	0.0027	−0.32	−0.66
≥150 W and ≤250 W	−0.11	−1.67	−1.67
>250 W and ≤500 W	−0.25	−3.27	−3.27
>500 W and ≤1,000 W	−0.077	−0.077	−0.077
>1,000 W and ≤2,000 W	−0.00038	−0.00038	−0.00038
Total *	−0.56	−7.72	−8.12
7 percent (millions 2020$):			
≥50 W and ≤100 W	−0.10	−1.28	−1.35
>100 W and <150 W	−0.00059	−0.17	−0.41
≥150 W and ≤250 W	−0.10	−1.38	−1.38
>250 W and ≤500 W	−0.21	−2.86	−2.86
>500 W and ≤1,000 W	−0.080	−0.080	−0.080
>1,000 W and ≤2,000 W	−0.0014	−0.0014	−0.0014
Total *	−0.49	−5.78	−6.10

* Total may not equal sum due to rounding.

The previous results reflect the use of a default trend to estimate the change in price for MHLFs over the analysis period (see section IV.H.2 of this document). DOE also conducted a sensitivity analysis that considered one scenario with a lower rate of price decline than the reference case and one scenario with a higher rate of price decline than the reference case. The results of these alternative cases are presented in appendix 10C of the final determination TSD. In the high-price-decline case, the NPV of consumer benefits is higher than in the default case. In the low-price-decline case, the NPV of consumer benefits is lower than in the default case.

C. Final Determination

For this final determination, DOE analyzed whether amended standards for MHLFs would be technologically feasible and cost effective. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) EPCA mandates that DOE consider whether amended energy conservation standards for MHLFs would be technologically feasible. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(B)) DOE has determined that there are technology options that would improve the efficiency of MHLFs. These technology options are being used in commercially available MHLFs and therefore are technologically feasible. (See section IV.B for further information.) Hence, DOE has determined that amended energy conservation standards for MHLFs are technologically feasible.

EPCA requires DOE to consider whether energy conservation standards for MHLFs would be cost effective through an evaluation of the savings in operating costs throughout the estimated average life of the covered product/equipment compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products/equipment which are/is likely to result from the imposition of an amended standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A), 42 U.S.C. 6295(n)(2)(C), and 42 U.S.C. 6295(o)(2)(B)(i)(II)) As presented in the prior section, the average customer purchasing a representative MHLF would experience an increase in LCC at each evaluated standards case as compared to the no-new-standards case. The simple PBP for the average MHLF customer at most ELs is projected to be generally longer than the mean lifetime of the equipment, which further indicates that the increase in installed cost for more efficient MHLFs is not recouped by their associated operating cost savings. The NPV benefits at these TSLs are also negative for all equipment classes at 3-percent and 7-percent discount rates. Based on the previous considerations, DOE has determined that more stringent amended energy conservation standards for MHLFs cannot satisfy the relevant statutory requirements because such standards would not be cost effective as required under EPCA. (*See* 42 U.S.C. 6295(n)(2); 42 U.S.C. 6295(o)(2)(B)(II); 42 U.S.C. 6316(a))

Having determined that amended energy conservation standards for MHLFs would not be cost-effective, DOE did not further evaluate the significance of the amount of energy conservation under the considered amended standards because it has determined that the potential standards would not be cost-effective (and by extension, would not be economically justified) as required under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)(A); 42 U.S.C. 6295(n)(2); 42 U.S.C. 6295(o)(2)(B)).

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

This final determination has been determined to be not significant for purposes of Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). As a result, OMB did not review this final determination.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') and a final regulatory flexibility analysis (''FRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities

in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this final determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. DOE has concluded that amended energy conservation standards for metal halide lamp fixtures would not be cost effective (and by extension not economically justified). Because DOE is not amending the current energy conservation standards for MHLFs, DOE certifies that this final determination will not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared an FRFA for this final determination. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

Manufacturers of covered products must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. This final determination, which concludes that amended energy conservation standards for MHLFs would not be cost effective (and by extension, not economically justified) as required under the relevant statute, imposes no new information or recordkeeping requirements. Accordingly, clearance from the OMB is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (''NEPA''), DOE has analyzed this final determination in accordance with NEPA and DOE's implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion A4 because it is an interpretation or ruling in regards to an existing regulations and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an environmental assessment or an environmental impact statement.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. As this final determination does not amend the standards for MHLFs, there is no impact on the policymaking discretion of the States. Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan

for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf*.

This final determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final determination would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this final determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf*. DOE has reviewed this final determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Because this final determination does not amend energy conservation standards for MHLFs, it is not a significant energy action, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this final determination.

L. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' 70 FR 2664, 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.[32] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. DOE has determined that the peer-reviewed analytical process continues to reflect current practice, and the Department followed that process for developing its determination in the case of the present rulemaking.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this final determination prior to its effective date. The report will state that it has been determined that the final determination is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final determination.

Signing Authority

This document of the Department of Energy was signed on October 19, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, 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**.

[32] The 2007 ''Energy Conservation Standards Rulemaking Peer Review Report'' is available at: *www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0* (June 18, 2021).

Signed in Washington, DC, on October 20, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–23183 Filed 10–22–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0520; Airspace Docket No. 21–ASO–17]

RIN 2120–AA66

Amendment and Establishment of Class D and E Airspace; Concord, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace, establishes Class E airspace designated as an extension to a Class D surface area, and amends Class E airspace extending upward from 700 feet above the surface at Concord-Padgett Regional Airport, Concord, NC. The FAA is taking this action as a result of the Charlotte Class B Biennial Review. This action also updates the airport's name to Concord-Padgett Regional Airport (formerly Concord Regional Airport). In addition, this action updates the geographic coordinates of the airport to coincide with the FAA's database. This action also makes an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D airspace. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) in the area.

DATES: Effective 0901 UTC, January 27, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 35237, July 2, 2021) for Docket No. FAA–2021–0520 to amend Class D airspace, establish Class E airspace designated as an extension to a Class D surface area, and amend Class E airspace extending upward from 700 feet above the surface at Concord-Padgett Regional Airport, Concord, NC. In addition, the FAA proposed to update the geographic coordinates of the airport to coincide with the FAA's database, and make an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal description of associated Class D airspace.

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

Class D and Class E airspace designations are published in Paragraphs 5000, 6004, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by amending the Class D airspace and Class E airspace extending upward from 700 feet above the surface at Concord-Padgett Regional Airport, Concord, NC, by updating the airport's name to Concord-Padgett Regional Airport, (formerly Concord Regional Airport), and updating the geographical coordinates to coincide with the FAA's database. In addition, this action amends Class E airspace extending upward from 700 feet above the surface at Concord-Padgett Regional Airport, Concord, NC, by increasing the radius to 8.8 miles (formerly 6.5 miles). This action also establishes Class E airspace designated as an extension to a Class D surface area airspace for Concord-Padgett Regional Airport within 1 mile each side of the 010° bearing from the Concord-Padgett Regional Airport, extending from the 4.0-mile radius to 6.3 miles northeast of the airport, and within 1 mile each side of the 190° bearing from the airport, extending from the 4.0-mile radius to 6.3 miles southwest from the airport. In addition, the FAA replaces the outdated term Airport/Facility Directory with the term Chart Supplement in the associated Class D airspace in the legal descriptions for Concord-Padgett Regional Airport.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO NC D Concord, NC [Amended]

Concord-Padgett Regional Airport, NC
(Lat. 35°23′16″ N, long. 80°42′33″ W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4-mile radius of Concord-Padgett Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASO NC E4 Concord, NC [New]

Concord-Padgett Regional Airport, NC
(Lat. 35°23′16″ N, long. 80°42′33″ W)

That airspace extending upward from the surface within 1 mile each side of the 010° bearing from the Concord-Padgett Regional Airport, extending from the 4.0-mile radius to 6.3 miles northeast of the airport, and within 1 mile each side of the 190° bearing from the airport, extending from the 4.0-mile radius to 6.3 miles southwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASO NC E5 Concord, NC [Amended]

Concord-Padgett Regional Airport, NC
(Lat. 35°23′16″ N, long. 80°42′33″ W)

That airspace extending upward from 700 feet above the surface within an 8.8-mile radius of the Concord-Padgett Regional Airport.

Issued in College Park, Georgia, on October 15, 2021.

Andreese C. Davis,

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

[FR Doc. 2021–22948 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0537; Airspace Docket No. 21–ASO–21]

RIN 2120–AA66

Amendment of Class E Airspace; Mooresville, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface for Lake Norman Airpark, Mooresville, NC, by removing Lowe's Mooresville Heliport from the description as the heliport has closed, and airspace is no longer required. This action enhances the safety and management of controlled airspace within the national airspace system. Also, during the airspace review, the FAA determined a radius increase was required at Lake Norman Airpark. In addition, the FAA is removing unnecessary verbiage that references Class E airspace in Statesville, NC and Concord, NC. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, January 27, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 41412, August 2, 2021) for Docket No. FAA–2021–0537 to amend Class E airspace extending upward from 700 feet above the surface

at Lake Norman Airpark, Mooresville, NC.

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

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface at Lake Norman Airpark, Mooresville, NC, by removing Lowe's Mooresville Heliport from the description, as the heliport has closed, and airspace is no longer required. Also, the radius of the Lake Norman Airpark is increased to 9.3 miles (previously 6.3 Miles). In addition, the FAA is removing the unnecessary verbiage in the description referencing Class E airspace in Statesville, NC, and Concord, NC.

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

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

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

* * * * *

ASO NC E5 Mooresville, NC [Amended]

Lake Norman Airpark, NC
(Lat. 35°36′50″ N, long. 80°53′58″ W)

That airspace extending upward from 700 feet above the surface within a 9.3-radius of Lake Norman Airpark.

Issued in College Park, Georgia, on October 15, 2021.

Andreese C. Davis,

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

[FR Doc. 2021–22947 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 150

[212A2100DD/AAKC001030/A0A501010.999900]

RIN 1076–AF56

Indian Land Title and Records; Correction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error in the preamble to the final rule that revised Bureau of Indian Affairs (BIA) regulations governing the Land Title and Records Office (LTRO) to reflect modernization of the LTRO. The correction clarifies that the LTRO provides documents to the agency, rather than to itself.

DATES: Effective October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov*.

SUPPLEMENTARY INFORMATION:

Correction

In rule document 2021–17377 at 86 FR 45631 in the issue of August 16, 2021, on page 45637, in the first column, the third full paragraph is corrected to read as follows:

Response: The agency who is the originating office is responsible for curing any omission or error. When LTRO discovers a defect, LTRO sends the documents electronically in real time to the agency for correction. Once LTRO receives the corrected document, the timeframes applicable to recording of any document applies.

The original publication contained a typographical error stating that LTRO would send the documents electronically in real time to the LTRO for correction.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2021–23063 Filed 10–22–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2021–0749]

RIN 1625–AA08

Special Local Regulation; Oceanside Harbor, Oceanside, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation on the waters offshore Oceanside and within Oceanside Harbor, California, during the Ironman 70.3 Oceanside marine event. This action is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels of the triathlon, and general users of the waterway. This rule would prohibit persons and vessels from entering into, transiting through, anchoring, blocking, or loitering within the event area unless authorized by the Captain of the Port San Diego or a designated representative.

DATES: This rule is effective from 5:30 a.m. to 10:30 a.m., on October 30, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0749 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish this special local regulation by October 30, 2021. The Coast Guard was given short notice from the event sponsor that the date of the the event would differ from the existing annual marine event as outlined in 33 CFR 100.1101, Table 1 to § 100.1101, Item No. 2. Therefore, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. This regulation is necessary to ensure the safety of life on the navigable waters offshore Oceanside and within Oceanside Harbor during the marine event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to ensure the safety of life on the navigable waters offshore Oceanside and within Oceanside Harbor during the marine event on October 30, 2021.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1236). The Captain of the Port Sector San Diego (COTP) has determined that a large amount of swimmers offshore Oceanside and within Oceanside Harbor associated with the Ironman 70.3 Oceanside marine event on October 30, 2021, poses a potential safety concern. This rule is needed to protect persons, vessels, and the marine environment in the navigable waters offshore Oceanside and within Oceanside Harbor while the event is occurring.

IV. Discussion of the Rule

This rule establishes a special local regulation from 5:30 a.m. to 10:30 a.m. on October 30, 2021. This special local regulation will cover all navigable waters, from surface to bottom, on a predetermined course offshore Oceanside and within Oceanside Harbor, California, beginning at the starting point of the event at Oceanside Harbor Beach, proceeding southwest to the first turn marker, continuing northwest past the jetty, proceeding northeast through the harbor channel, then southeast into Oceanside Harbor before concluding at the finish line within Oceanside Harbor. The duration of the temporary special local regulation is intended to ensure the safety of vessels, event participants, and these navigable waters during the scheduled marine event. No vessel or person would be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. The regulatory text appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. The affected portion of the navigable waterway offshore Oceanside and in Oceanside Harbor will be of very limited duration, during morning hours when vessel traffic is historically low and is necessary for safety of life to participants in the event. Moreover, the Coast Guard would make a post in the Local Notice to Mariners with details on the regulated area, as well as, issue a Safety Marine Information Broadcast over Channel 22A.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary special local regulation that will limit access to Oceanside Harbor and certain areas offshore Oceanside for 5 hours, from 5:30 a.m. until 10:30 a.m. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T11–0076 to read as follows:

§ 100.T11–0076 Ironman 70.3 Oceanside, Oceanside, California.

(a) *Regulated area.* The regulations in this section apply to the following area: All navigable waters, from surface to bottom, on a pre-determined course offshore Oceanside and within Oceanside Harbor, beginning at the starting point of the event at Oceanside Harbor Beach, proceeding southwest to the first turn marker, continuing northwest past the jetty, proceeding northeast through the harbor channel, then southeast into Oceanside Harbor before concluding at the finish line within Oceanside Harbor.

(b) *Definitions.* As used in this section—

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Diego (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participants in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port San Diego or their designated representative.

(2) Vessels requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 21A or by telephone at 619–278–7033.

(3) The COTP will provide notice of the regulated area through advanced notice via Local Notice to Mariners and Safety Marine Information Broadcasts on Channel 22A.

(d) *Enforcement period.* This section will be enforced from 5:30 a.m. until 10:30 a.m., on October 30, 2021.

Dated: October 19, 2021.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2021–23171 Filed 10–22–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0955]

RIN 1625–AA09

Drawbridge Operation Regulation: New River, Fort Lauderdale, FL

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the Florida East Coast (FEC) Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale, Florida. This change will allow the drawbridge to operate on a more predictable schedule. This action should better serve the reasonable needs of both vessel and rail traffic.

DATES: This rule is effective November 24, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov.* Type USCG–2019–0955 in the ''SEARCH'' box and click ''SEARCH''. In the Document Type column, select ''Supporting & Related Material''.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Jennifer Zercher, Bridge Management Specialist, Seventh Coast Guard District, telephone 305–415–6740, email *Jennifer.N.Zercher@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of proposed rulemaking
SNPRM Supplemental notice of proposed rulemaking
§ Section
FL Florida
FRA Federal Rail Administration
FECR Florida East Coast Railway
FEC Florida East Coast
MIASF Marine Industries Association of South Florida
U.S.C. United States Code

II. Background Information and Regulatory History

On January 23, 2020, the Coast Guard published a Test Deviation, with a request for comments, entitled ''Drawbridge Operation Regulation; New River, Fort Lauderdale, FL'' in the **Federal Register** (85 FR 3852), to test a proposed operating schedule for the FEC New River Railroad Bridge. During the comment period that ended March 30, 2020, we received seven comments and those comments were addressed in the NPRM.

On July 13, 2020, the Coast Guard published a notice of proposed rulemaking entitled ''Drawbridge Operation Regulation; New River, Fort Lauderdale, FL'' in the **Federal Register** (85 FR 41932). During the comment period that ended August 12, 2020, we received two comments and those comments were addressed in the SNPRM.

On June 29, 2021, the Coast Guard published a supplemental notice of proposed rulemaking entitled ''Drawbridge Operation Regulation; New River, Fort Lauderdale, FL'' in the **Federal Register** (86 FR 34172). During the comment period that ended July 29, 2021, we received four comments and those comments are addressed in Section IV of this final rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The Florida East Coast (FEC) Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale, Florida, is a single-leaf bascule railroad bridge with a four-foot vertical clearance at mean high water in the closed position. The operating schedule for the bridge set forth in 33 CFR 117.313(c).

Traffic on the waterway includes both commercial and recreational vessels. Brightline, with support from the bridge owner, Florida East Coast Railway (FECR), requested a change to the drawbridge operating schedule. Due to the increase in rail traffic, the current operating schedule no longer balances the needs of vessel and rail traffic.

IV. Discussion of Comments, Changes and the Final Rule

Four comments were received. One commenter requested to know if the rulemaking on the operation of the bridge is tied to the train schedule for a fixed amount of crossings over the river. The rule does not consider the train schedules. The bridge is required to be maintained in the fully open-to-navigation position for vessels at all times, except during periods when it is closed for the passage of rail traffic, inspections and to perform periodic maintenance that has been authorized by the Coast Guard.

The second commenter is in support of the proposed rule but had recommendations regarding the technical language. The Coast Guard considered the recommendation to change paragraph (c)(3)(ii) to read ''. . . on a quarterly basis or as otherwise required by this paragraph.'' because the commenter felt it conflicted with paragraph (c)(7). The Coast Guard feels there is no conflict and it is unnecessary to add the additional language to paragraph (c)(3)(ii). However, after reviewing paragraph (c)(7), we will change ''subsection'' to ''paragraph'' in paragraph (c)(7)(i). The second recommendation was to include ''the performance of periodic maintenance'' in paragraph (c)(5). This paragraph states when the bridge owner shall contact the Coast Guard Captain of the Port Miami in the event of an operational failure or other emergencies impacting drawbridge operations. The commenter stated that if the periodic maintenance lasted longer than 60 minutes a violation of paragraph (c)(2) would occur. The performance of periodic maintenance is authorized by the Coast Guard in accordance with subpart A of 33 CFR part 117. When periodic maintenance is authorized, it is considered a temporary change to the drawbridge operating schedule, therefore, a violation of paragraph (c)(2) would not occur.

The third and fourth commenters provided joint comments. Both commenters support the proposed rule with the exception of the addition of ''periodic maintenance'' and the removal of ''minor repairs''. They believe the term ''periodic maintenance'' introduces new ambiguity and the Coast Guard should consider alternate language provided in their comments. The commenters feel this regulation has developed into a unique regulatory regime and does not allow for routine and necessary operations of a railroad bridge, including inspections and minor repairs. The language in paragraph (c)(1) is regulatory language used in other railroad bridge operating schedules throughout the United States, and requires drawbridges be maintained in the fully open position at all times, except for rail traffic, inspections, and maintenance. The Coast Guard authorizes temporary deviations to drawbridge operating schedules in accordance with subpart A of 33 CFR part 117. These authorizations include but are not limited to periodic maintenance, minor repairs, and events not affecting the operation of the drawbridge but may require it to remain closed to navigation outside of its published drawbridge operating schedule. The Coast Guard feels the language proposed in the SNPRM in paragraph (c)(1) is the proper regulatory

language for this drawbridge operating regulation. It follows other drawbridge operating regulations for railroad drawbridges throughout the United States.

V. Regulatory Analyses

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

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, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can continue to transit the bridge when trains are not crossing, at designated times throughout the day and vessels that are capable of transiting under the bridge, without an opening, to do so at any time. Vessels in distress and public vessels of the United States must be allowed to pass at any time or as soon as the train has cleared the bridge.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has 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 promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 117.313 by revising paragraph (c) to read as follows:

§ 117.313 New River.

* * * * *

(c) The draw of the Florida East Coast (FEC) Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale shall operate as follows:

(1) The drawbridge shall be maintained in the fully open-to-navigation position for vessels at all times, except during periods when it is

closed for the passage of rail traffic, inspections, and to perform periodic maintenance authorized in accordance with subpart A of this part.

(2) The drawbridge shall not be closed to navigation for more than 60 consecutive minutes.

(3) Notwithstanding paragraph (c)(1) of this section, the drawbridge shall open and remain open to navigation for a fixed 10-minute period each hour from 5 a.m. to 11:59 p.m., except that the drawbridge shall be open at the following times which shall serve as the hourly fixed 10-minute period:

TABLE 1 TO PARAGRAPH (c)(3)

7:00 a.m. until 7:10 a.m.
9:00 a.m. until 9:10 a.m.
4:00 p.m. until 4:10 p.m.
6:00 p.m. until 6:10 p.m.
10:00 p.m. until 10:10 p.m.

(i) Additionally, in each hour from 12:00 p.m. to 2:59 p.m., the drawbridge shall open and remain open to navigation for an additional 10-minute period.

(ii) The 10-minute opening periods shall be published on a quarterly basis by the drawbridge owner and reflected on the drawbridge owner's website and mobile application.

(4) The drawbridge shall have a drawbridge tender onsite at all times who is capable of physically tending and operating the drawbridge by local control, if necessary, or when ordered by the Coast Guard.

(i) The drawbridge tender shall provide estimated times of drawbridge openings and closures, upon request.

(ii) Operational information will be provided 24 hours a day on VHF–FM channels 9 and 16 or by telephone at (305) 889–5572. Signs shall be posted visible to marine traffic and displaying VHF radio contact information, website and application information, and the telephone number for the bridge tender.

(5) In the event of a drawbridge operational failure, or other emergency circumstances impacting normal drawbridge operations, the drawbridge owner shall immediately notify the Coast Guard Captain of the Port Miami and provide an estimated time of repair and return to normal operations.

(6) A drawbridge log shall be maintained including drawbridge opening and closing times. The drawbridge log should include reasons for those drawbridge closings that interfere with scheduled openings in this section. This drawbridge log shall be maintained by the drawbridge owner and upon request, be provided to the Coast Guard.

(7) A website and mobile application shall be maintained by the drawbridge owner and publish:

(i) Drawbridge opening times required by this paragraph (c);

(ii) Timely updates to schedules; including but not limited to impacts due to emergency circumstances, repairs, and inspections;

(iii) At least 24-hour advance notice for each schedule in order to facilitate planning by maritime operators; and

(iv) To the extent reasonably practicable, at least 60-minutes advance notice of schedule changes or delays.

(8) The drawbridge shall display the following lights:

(i) When the drawbridge is in the fully open position, green lights shall be displayed to indicate that vessels may pass.

(ii) When rail traffic approaches the block signal, the lights shall go to flashing red, then the drawbridge lowers and locks, and the lights shall remain flashing red.

(iii) After the rail traffic has cleared the drawbridge, the drawbridge shall open and the lights return to green.

* * * * *

Dated: October 15, 2021.

Brendan C. McPherson,

Rear Admiral, U.S. Coast Guard, Commander, Coast Guard Seventh District.

[FR Doc. 2021–23201 Filed 10–22–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0769]

RIN 1625–AA00

Safety Zone; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters in the vicinity of the General Dynamics NASSCO shipyard in San Diego Bay, San Diego, CA, during the launch of the USNS Harvey Milk. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the launching and subsequent berthing of the USNS Harvey Milk. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port San Diego.

DATES: This rule is effective from 9 a.m. through 10:30 a.m., on November 6, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0769 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to publish an NPRM because the Coast Guard must establish this safety zone by November 6, 2021. This urgent safety zone is required to protect the maritime public and the surrounding waterways from hazards associated with the launching of the USNS Harvey Milk. The Coast Guard lacks sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because this rule is needed to protect mariners, commercial and recreational waterway users, and the USNS Harvey Milk from dangers associated with the

launching and berthing of the USNS Harvey Milk on November 6, 2021.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Diego (COTP) has determined that potential hazards associated with launching of the USNS Harvey Milk on November 6, 2021 will be a safety concern for anyone in the vicinity of the General Dynamics NASSCO shipyard, San Diego Bay, San Diego, CA. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the USNS Harvey Milk is being launched and towed to a nearby berth.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 a.m. until 10:30 a.m., on November 6, 2021. The safety zone will cover all navigable waters of the San Diego Bay, CA created by connecting the following points: Beginning at 32°41.39′ N, 117°08.66′ W (Point A); thence running southwesterly to 32°41.24′ N, 117°09.05′ W (Point B); thence running southeasterly to 32°41.05′ N, 117°08.73′ W (Point C); thence running northeasterly to 32°41.20′ N, 117°08.34′ W (Point D); thence running northwesterly to the beginning point. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the USNS Harvey Milk is being launched, then towed to berth. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location and limited duration of the safety zone. This safety zone impacts a small designated area of the San Diego Bay for a very limited period during the weekend when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less than two hours that will prohibit entry within certain navigable waters of San Diego Bay, San Diego, CA in the vicinity of the General Dynamics NASSCO shipyard. It is categorically excluded from further

review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–0077 to read as follows:

§ 165.T11–0077 Safety Zone; San Diego Bay, San Diego, CA.

(a) *Location.* The following area is a safety zone: All waters of San Diego Bay, from surface to bottom, encompassed by a line connecting the following points beginning at 32°41.39′ N, 117°08.66′ W (Point A); thence running southwesterly to 32°41.24′ N, 117°09.05′ W (Point B); thence running southeasterly to 32°41.05′ N, 117°08.73′ W (Point C); thence running northeasterly to 32°41.20′ N, 117°08.34′ W (NAD 83) (Point D); thence running northwesterly to the beginning point.

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 9 a.m. through 10:30 a.m., on November 6, 2021.

Dated: October 19, 2021.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port Sector San Diego.

[FR Doc. 2021–23172 Filed 10–22–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0525]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Offshore Barbers Point, Oahu, HI—Salvage Operations

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters of the Southwest shores of Oahu, Hawaii, near Barbers Point. The temporary safety zone encompasses all waters extending 1 nautical mile in all directions from position 21°16′40″ N, 158°01′28″ W. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with ongoing operations to salvage a downed aircraft in this area. Entry of vessels or persons in this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Honolulu.

DATES: This rule is effective without actual notice from October 25, 2021, through November 6, 2021, at midnight. For the purposes of enforcement, actual notice will be used from October 9, 2021, at 12:01 a.m. until October 25, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0525 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Joshua Williams, Waterways Management Division, U.S. Coast Guard Sector Honolulu at (808) 541–2359 or *Joshua.b.williams@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On July 2, 2021, Transair 810, a cargo plane, crashed off the Southwest shores of Oahu, Hawaii, near Barbers Point.

On July 2, 2021, the Coast Guard issued a temporary rule to establish a safety zone extending 3 nautical miles in all directions from position 21°16′36″ N, 158°01′42″ W to protect personnel, vessels, and the marine environment from potential hazards associated with ongoing operations to salvage a downed aircraft in the area. That rule expired at 12:00 a.m. on July 30, 2021. The Coast Guard is issuing this rule so that salvage operations can continue.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to facilitate an emergency salvage operation. Due to the limited capabilities nationally and limited resources locally, the logistics and planning of such a salvage operations does not allow for public comment, and therefore publishing a NPRM is impracticable and contrary to public interest.

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

respond to the potential safety, navigational and environmental hazards associated with emergency salvage of Transair 810.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). On July 2, 2021, the Coast Guard was informed of a cargo plane crash off the Southwest shores of Oahu, Hawaii, near Barbers Point. The Coast Guard COTP Sector Honolulu has determined that the potential hazards associated with the salvage operations constitute a safety concern for anyone within the designated safety zone. This rule is necessary to protect personnel, vessels, and the marine environment within the navigable waters of the safety zone during ongoing salvage operations.

IV. Discussion of the Rule

This rule is effective from October 9, 2021, at 12:01 a.m. through November 6, 2021, at midnight, or until salvage operations are complete, whichever is earlier. If the safety zone is terminated prior to 12:00 a.m. on November 6, 2021, the Coast Guard will provide notice via a broadcast notice to mariners. The temporary safety zone encompasses all waters extending 1 nautical mile in all directions around the location of ongoing salvage operations at position 21°16′40″ N, 158°01′28″ W. This zone extends from the surface of the water to the ocean floor. The zone is intended to protect personnel, vessels, and the marine environment in these navigable waters from potential hazards associated with the salvage operations of one downed aircraft in this area. No vessel or person will be permitted to enter the safety zone absent the express authorization of the COTP or their designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration, of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of the navigable waters off the Southwest shores of Oahu, Hawaii, near Barbers Point where vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. This safety zone is limited in size and duration, and mariners may request to enter the zone by contacting the COTP.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 28 days, or until salvage

operations are complete, that will prohibit entry within 1 nautical mile of vessels and machinery being used by personnel to effect the salvage of Transair 810. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–0525 to read as follows:

§ 165.T14–0525 Safety Zone; Pacific Ocean, Offshore Barbers Point, Oahu HI—Salvage Operations.

(a) *Location.* The following area is a safety zone: All waters extending 1 nautical miles in all directions around the location of ongoing salvage operations at position 21°16′40″ N, 158°01′28″ W. This zone extends from the surface of the water to the ocean floor. These coordinates are based on the 1984 World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port (COTP) Honolulu to assist in enforcing the safety zone described in paragraph (a) of this section.

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

(2) To seek permission to enter, contact the COTP at the Command Center telephone number (808) 842–2600 and (808) 842–2601, fax (808) 842–2642 or on VHF channel 16 (156.8 Mhz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

Dated: October 8, 2021.

A.L. Kirksey,

Commander, U.S. Coast Guard, Alternate Captain of the Port Honolulu.

[FR Doc. 2021–23179 Filed 10–22–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0798]

RIN 1625–AA00

Safety Zone; Hydroplane and Raceboat Museum Test Area, Lake Washington, WA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters within 4000 yards of a line drawn from Stan Sayres Memorial Hydroplane Pits downward to the Adams Street Boat Ramp on Lake Washington. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards in the vicinity of the Stan Sayres Memorial Park and Boat Launch and Adams Street Boat Ramp associated with test trials of a hydroplane race boat. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Puget Sound or their Designated Representative.

DATES: This rule is effective from 10 a.m. through 2 p.m. on November 9, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Rob Nakama, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206–217–6089, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Puget Sound
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard received notification of the test trials on October 12, 2021, and must take immediate action to protect the public from potential hazards by the operation of the hydroplane. It is impracticable to publish an NPRM because we must establish this safety zone by November 9, 2021.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because of the safety hazards potentially associated with the test trial of a high speed watercraft. Immediate action is needed to to protect vessels, personnel, and the marine environment from potential hazards associated with the hydroplane's operation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Puget Sound (COTP) has determined that potential hazards exist with the test trials of a high speed watercraft on Lake Washington. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone from potential hazards posed by the hydroplane's operation.

IV. Discussion of the Rule

This rule establishes a safety zone from 10 a.m. through 2 p.m. on

November 9, 2021. The safety zone will cover all navigable waters within 4000 yards of a line drawn from 47°34′31″ N, 122°16′34″ W, thence to position 47°34′02″ N, 122°15′44″ W, 150 yards offshore of the Stan Sayres Memorial Hydroplane Pits downward to 150 yards off the Adams Street Boat Ramp which will be marked with buoys, located on Lake Washington. These coordinates are based on World Geodetic System (WGS 84). The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the Hydroplane and Raceboat Museum conducts its test trials. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Puget Sound (COTP) in the enforcement of the regulations in this section. To seek permission to enter, contact the COTP or the COTP's representative by calling the Sector Puget Sound Command Center at 206–217–6002. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the fact that the safety zone created by this rule is limited in size and duration. Vessel traffic will be able to safely transit around this safety zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 4 hours that will prohibit entry within the marked area off the Stan Sayres Memorial Hydroplane Pits and Adams Street Boat Ramp, located on Lake Washington. It is categorically excluded from further review under paragraph L60(c) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0798 to read as follows:

§ 165.T13–0798 Safety Zone; Hydroplane and Raceboat Museum Test Area, Lake Washington, WA.

(a) *Location.* The following area is a safety zone: All navigable waters within 4000 yards of a line drawn from 47°34′31″ N, 122°16′34′ W, thence to position 47°34′02″ N, 122°15′44′ W, located on Lake Washington in the vicinity of the Stan Sayres Memorial Park and Boat Launch and the Adams Street Boat Ramp. These coordinates are based on World Geodetic System (WGS 84).

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

Dated: October 19, 2021.

P.M. Hilbert,

Captain, U.S. Coast Guard, Captain of the Port Sector Puget Sound.

[FR Doc. 2021–23238 Filed 10–22–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2020–0649; FRL–8788–02–R10]

Air Plan Approval; AK; Juneau, Mendenhall Valley Second 10-Year PM_{10} Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Juneau, Mendenhall Valley, Alaska (AK) limited maintenance plan (LMP) submitted on November 10, 2020, by the Alaska Department of Environmental Conservation (ADEC or ''the State''). This plan addresses the second 10-year maintenance period after redesignation for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The plan relies upon control measures contained in the first 10-year maintenance plan and the determination that the Mendenhall Valley area currently monitors PM_{10} levels well below the PM_{10} National Ambient Air Quality Standard (NAAQS or ''the standard''). The EPA is approving Alaska's LMP as meeting Clean Air Act (CAA) requirements.

DATES: This final rule is effective November 24, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2020–0649. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

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

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

I. Background

On November 10, 2020, ADEC submitted to the EPA a second 10-year PM_{10} LMP for Juneau, Mendenhall Valley for approval. The SIP revision, State effective November 7, 2020, fulfills the second 10-year planning requirement of CAA section 175A(b) to ensure PM_{10} NAAQS compliance through 2033. The Mendenhall Valley area has been meeting the PM_{10} standard for multiple years and was redesignated to attainment on July 8, 2013, with an approved 10-year PM_{10} maintenance plan. The area currently monitors PM_{10} levels well below the PM_{10} NAAQS.

We proposed to approve the Juneau, Mendenhall Valley second 10-year LMP on August 11, 2021 (86 FR 43984). The reasons for our approval are included in that proposal and will not be restated here. The public comment period for our proposed action closed on September 10, 2021. We received no public comments. Therefore, we are finalizing our rulemaking as proposed.

II. Final Action

In this final action, the EPA is approving the State's second 10-year LMP for the Juneau, Mendenhall Valley area, submitted on November 10, 2020, as satisfying the requirements of section 175A of the CAA.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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. The 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: October 18, 2021.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart C—Alaska

■ 2. In § 52.70, the table in paragraph (e) is amended by:

■ a. Adding entry ''II.III.D.3.b. Mendenhall Valley Second 10-year PM_{10} Limited Maintenance Plan'' after the entry ''II.III.D.3.a Mendenhall Valley PM_{10} Limited Maintenance Plan''; and

■ b. Revising the entry ''III.III.D.3. Control Plan for the Mendenhall Valley of Juneau''.

The addition and revision read as follows:

§ 52.70 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
State of Alaska Air Quality Control Plan: Volume II. Analysis of Problems, Control Actions				
* * *	* * *	* * *	* * *	* * *
Section III. Areawide Pollutant Control Program				
* * *	* * *	* * *	* * *	* * *
II.III.D.3.b. Mendenhall Valley Second 10-year PM_{10} Limited Maintenance Plan.	Mendenhall Valley	11/10/2020	10//25/2021, [INSERT **Federal Register** CITATION].	
* * *	* * *	* * *	* * *	* * *
State of Alaska Air Quality Control Plan: Volume III. Appendices				
* * *	* * *	* * *	* * *	* * *
Section III. Areawide Pollutant Control Program				
* * *	* * *	* * *	* * *	* * *
III.III.D.3. Control Plan for the Mendenhall Valley of Juneau.	Mendenhall Valley	11/10/2020	10//25/2021, [INSERT **Federal Register** CITATION].	

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
*	*	*	*	*	*	*

[FR Doc. 2021–23040 Filed 10–22–21; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1157

RIN 3135–AA35

Procedures for Guidance Documents

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

ACTION: Final rule; removal of regulations.

SUMMARY: This document rescinds the National Endowment for the Arts' rule relating to the issuance of guidance documents.

DATES: This rule is effective on October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Daniel Fishman, Assistant General Counsel, National Endowment for the Arts, 400 7th Street SW, Washington, DC 20506; *fishmand@arts.gov;* 202–682–5418. Please reference RIN 3135–AA35 in your correspondence.

SUPPLEMENTARY INFORMATION:

1. Background

On August 28, 2020, the National Endowment for the Arts (NEA) published an interim final rule governing the issuance of guidance documents entitled ''Processes and Procedures for Issuing Guidance Documents'' (85 FR 53186). The rule implemented the directives set forth in Executive Order (E.O.) 13891 of October 9, 2019 (Promoting the Rule of Law Through Improved Agency Guidance Documents).

E.O. 13992 of January 20, 2021 (Revocation of Certain Executive Orders Concerning Federal Regulation), revokes E.O. 13891 and directs the heads of agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof implementing or enforcing E.O. 13891, as appropriate and consistent with applicable law, including the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* In accordance with E.O. 13992, the NEA is issuing this rule, which rescinds the rule published at 85 FR 53186.

2. Compliance

Administrative Procedure Act

This rule incorporates requirements of E.O. 13992 and the NEA's existing internal policy and procedures into the CFR. Therefore, in accordance with 5 U.S.C. 553, there is good cause for this rule of Agency organization, procedure, or practice, to be enacted without notice and comment. See 5 U.S.C. 553(b)(A).

Executive Order 12866

This rule is an internal rule of agency procedure and is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), the NEA certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, state, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

Paperwork Reduction Act

The rule does not contain any information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 e*t seq.*).

Executive Order 13132, Federalism

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rule does not have any federalism implications, as described above.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply. However, for each final guidance document issued pursuant to these regulations and adopted by the NEA, it will submit appropriate reports to Congress and the Government Accountability Office (GAO) and comply with the procedures specified by 5 U.S.C. 801.

List of Subjects in 45 CFR Part 1157

Administrative practice and procedure.

PART 1157—[REMOVED AND RESERVED]

■ For reasons set forth in the preamble, and under the authority of 20 U.S.C. 959, the NEA removes and reserves 45 CFR part 1157.

Dated: October 19, 2021.

Meghan Jugder,

Support Services Specialist, Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2021–23135 Filed 10–22–21; 8:45 am]

BILLING CODE 7537–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[ET Docket No. 19–138, FCC 20–164; FR ID 53921]

Use of the 5.850–5.925 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the new information collection associated with the Commission's *Use of the 5.850–5.9259 GHz Band,* First Report, Further Notice of Proposed Rulemaking, and Order of Proposed Modification, FCC 20–164. This document is consistent with the *Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the rule.

DATES: The amendment to § 90.372 published at 86 FR 23281, May 3, 2021, is effective October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Jamie Coleman, Office of Engineering and Technology Bureau, at (202) 418–0530, or email: *Jamie.Coleman@fcc.gov.*

For additional information concerning the Paperwork Reduction Act information collection requirements, contact Nicole Ongele at (202) 418–2991 or *nicole.ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on October 4, 2021, OMB approved, for a period of three years, the new information collection requirement relating to the DSRCS Notification Requirement rule contained in the Commission's *Use of the 5.850–5.9259 GHz Band,* First Report and Order, Further Notice of Proposed Rulemaking, and Order of Proposed Modification, FCC 20–164 (86 FR 23281, May 3, 2021). The OMB Control Number is 3060–1293. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060–1293, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on October 4, 2021, for the information collection requirement contained in the Commission's new rule in 47 CFR part 90.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1293.

The foregoing is required by the Paperwork Reduction Act of 1995, Public Law 10413, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1293.

OMB Approval Date: October 4, 2021.

OMB Expiration Date: October 31, 2024.

Title: 47 CFR Section 90.372, Dedicated Short-Range Communication (DSRC) Notification Requirement.

Form Number: N/A.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government.

Number of Respondents and Responses: 125 respondents; 125 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: Recordkeeping requirement; on occasion and one-time reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 309 and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 309 and 316.

Total Annual Burden: 250 hours.

Total Annual Cost: $62,500.

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On November 20, 2020, the Federal Communications Commission released a First Report and Order, Further Notice of Proposed Rulemaking (FNPRM), and Order of Proposed Modification, *Use of the 5.850–5.925 GHz Band,* ET Docket No. 19–138. Among other things, the Commission repurposed 45 megahertz of the 5.850–5.925 GHz band (the 5.9 GHz band), specifically the spectrum from 5.850–5.895 GHz, to allow for the expansion of unlicensed operations into the sub-band. At the same time, the Commission recognized that the 5.9 GHz band plays an important role in supporting intelligent transportation system (ITS) operations, and therefore continued to dedicate 30 megahertz of the 5.9 GHz band, specifically the sub-band from 5.895–5.925 GHz, for use by the ITS radio service. In addition, to promote the most efficient and effective use of the remaining ITS spectrum, the Commission will require ITS operations in the 5.895–5.925 GHz sub-band to transition from the current technology, Dedicated Short-Range Communications (DSRC), to the emerging Cellular Vehicle-to-Everything (C–V2X)-based technology by the end of a transition period to be decided following action on the FNPRM (86 FR 23323, May 3, 2021).

The provisions in 47 CFR 90.372 require DSRC licensees to notify the Commission that they have ceased operations in the 5.850–5.895 GHz sub-band.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2021–23148 Filed 10–22–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 211019–0211]

RIN 0648–BK52

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Extension of Emergency Action To Temporarily Remove 2021 Seasonal Processing Limitations for Pacific Whiting Motherships and Catcher-Processors

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

ACTION: Temporary rule; emergency action extended.

SUMMARY: This temporary rule extends emergency measures that allow at-sea Pacific whiting processing vessels to operate as both a mothership and a catcher-processor during the 2021 Pacific whiting fishery. These emergency measures were originally authorized until November 10, 2021. This temporary rule extends the emergency measures through December

31, 2021. This action is necessary to ensure catcher vessels in the at-sea whiting sector are able to fully harvest sector allocations. Emergency measures under this extended temporary rule will allow catcher-processors to operate as motherships and replace mothership processing vessels that are unable to operate in the at-sea whiting sector during the ongoing COVID–19 pandemic and resulting high economic uncertainty in 2021.

DATES: The expiration date of the emergency rule published May 14, 2021 (86 FR 26439), is extended to December 31, 2021. The amendments in this temporary rule are effective October 25, 2021.

ADDRESSES:

Electronic Access

Background information and analytical documents are available at the NMFS West Coast Region website at: *https://www.fisheries.noaa.gov/species/west-coast-groundfish.html* and at the Pacific Fishery Management Council's website at *https://www.pcouncil.org/groundfish/fishery-management-plan/groundfish-amendments-in-development/.*

FOR FURTHER INFORMATION CONTACT: Lynn Massey, phone: 562–436–2462, or email: *lynn.massey@noaa.gov.*

SUPPLEMENTARY INFORMATION: The regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) prohibit processing vessels in the at-sea Pacific whiting fishery from operating as both a mothership (MS) and catcher processor (C/P) during the same calendar year. C/P vessels conduct both harvesting and processing catch at-sea, while MS vessels solely process catch delivered by other vessels (referred to as catcher vessels). By design, some MS vessels are built solely to process catch delivered by other vessels while at-sea, whereas C/P vessels are capable of harvesting catch and receiving deliveries from catcher vessels. Because of this, some processing vessels are able to switch between the C/P and MS sectors, while other vessels are not. To help ensure market stability in the separate sectors, current regulations do not allow processing vessels to switch between the MS and C/P sectors in a single calendar year. Under existing restrictions, a decision to operate a processing vessel as a C/P in response to the ongoing pandemic would preclude the same vessel from operating as an MS for the remainder of the 2021 fishing year, and vice versa. Catcher vessels in the at-sea whiting sector rely on MS vessels to accept delivery of their catch and, as a result, the amount of whiting these vessels can harvest is limited by the availability of at-sea processing vessels in the MS sector. Losing an MS processing vessel would prevent catcher vessels from harvesting their 2021 Pacific whiting allocations. The remaining processing vessels participating in the MS sector would not possess the capacity to receive deliveries from all catcher vessels for the 2021 Pacific whiting season.

In 2020, NMFS issued an emergency rule (85 FR 37027, June 19, 2020) to allow vessels to operate as an MS and a C/P in the same year in response to industry requests and a Pacific Fishery Management Council (Council) recommendation. During the 2020 whiting season, several at-sea processing vessels experienced COVID–19 outbreaks, forcing them to halt operations to prevent spreading infection to additional vessels and shorebased facilities. COVID–19 outbreaks and resulting shutdowns increased operational costs and caused foregone opportunities in the at-sea whiting fishery. In 2020, five MS permits were used to process MS allocations. The 2020 emergency action (85 FR 37027, June 19, 2020) provided temporary operational flexibility for the at-sea sector for 180 days and expired on December 16, 2020. However, it was unforeseen when the Council made its recommendation in 2020 how long the COVID–19 pandemic would last, how COVID–19 disease variants would emerge, and when vaccination efforts would be complete.

During the March 2021 Council meeting, industry members from the MS sector submitted a letter to the Council requesting action to continue addressing this issue. In their letter, industry members estimated that the loss of one MS processing vessel would leave approximately 24 percent of the MS sector allocation unharvested. The Council Groundfish Advisory Panel (GAP) supported the industry statement and estimated economic impacts that would result from lost at-sea processing capacity. The Council's Groundfish Management Team (GMT) provided additional analysis showing that compared to 2016–2019 fishing years, the proportion of whiting harvested in 2020 decreased by 13 percent in the MS sector and 2 percent in the C/P sector. The GMT's analysis showed that these decreases likely reflected COVID–19 impacts, including a lack of processing vessels available to catcher vessels due to attempts to minimize the spread of COVID–19. Due to the continued risk to at-sea whiting vessels and loss of processing capacity should a COVID–19 outbreak occur onboard a processing vessel, the Council GAP and GMT advisory bodies recommended the Council take emergency action to allow available vessels to operate as both types of processing vessels for the 2021 fishing year to mitigate potential economic hardship.

On March 9, 2021, the Council voted to request that NMFS initiate an emergency action to temporarily allow any eligible MS and C/P to operate as both types of processing vessel during the 2021 Pacific whiting season. This action was not an extension of the 2020 emergency rule (85 FR 37027, June 19, 2020), but rather a new emergency rule for the 2021 Pacific whiting fishing year. Accordingly, on May 14, 2021, NMFS published a temporary emergency rule (86 FR 26439) granting the Council's recommendation. NMFS held a public comment period on the May 2021 Emergency rule (86 FR 26439) for 30 days from May 14, 2021, to June 14, 2021, and received no comments. Under the May 2021 temporary emergency rule, vessels were not required to declare which sector they would operate in for the year at the beginning of the season. This temporary emergency action also allowed at-sea Pacific whiting processing vessels to switch operations for 180 days after publication (*i.e.,* until November 10, 2021). Because there is still continual risk to at-sea whiting vessels and loss of processing capacity due to the ongoing COVID–19 pandemic, NMFS is extending the emergency measures in the May 2021 emergency rule until December 31, 2021, when the 2021 Pacific whiting fishery closes. This extension will allow the fishery to fully utilize the flexibilities created through the emergency rule and mitigate additional economic harm from the COVID–19 pandemic.

Justification for Emergency Action

Because there is still continual risk to at-sea whiting vessels and loss of processing capacity due to the ongoing COVID–19 pandemic, NMFS is now extending these emergency measures as authorized under section 305(c)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). For additional explanation on the rationale and effects of this emergency rule extension, see the original emergency rule published on May 14, 2021 (86 FR 26439).

Extended Emergency Measures

NMFS is extending the original emergency regulations in the May 14, 2021 rule (86 FR 26439). This emergency action extension removes

restrictions prohibiting an at-sea Pacific whiting processing vessel from operating as an MS or C/P in the same calendar year for the remainder of the 2021 Pacific whiting fishing year, effective October 25, 2021. This action temporarily (until December 31, 2021) allows a processing vessel to operate as both an MS and C/P in the same calendar year, but not on the same trip. This action does not modify or change any other aspects of the at-sea Pacific whiting fishery. Owners of processing vessels that intend to operate as both an MS and a C/P during the 2021 Pacific whiting season must follow this procedure:

(1) Submit a request to register for both processing permits. The vessel may be registered under both an MS permit and a C/P endorsed permit simultaneously for the duration of the emergency rule. The owner of a processing vessel currently registered under a C/P endorsed permit may also operate as an MS by submitting a request to NMFS Permits to register the processing vessel under a valid MS permit per regulations in 50 CFR 660.25(b). The owner of a processing vessel currently registered under an MS permit may also operate as a C/P by submitting a request to NMFS Permits to register the processing vessel under a valid C/P endorsed permit per regulations in 50 CFR 660.25(b).

(2) Submit a notification of a material change to coop agreement within 7 days. To operate in the MS fishery (*i.e.,* receive deliveries of catch from MS catcher vessel and process MS sector allocations at-sea) the vessel must be included in the MS coop agreement. To operate in the C/P fishery (*i.e.,* catch and process C/P sector allocations at-sea) the vessel must be included in the C/P coop agreement. Including a new vessel in either the MS or C/P coop agreement constitutes a material change to the coop agreement. Within 7 calendar days of the new processing vessel operating for the first time in either the 2021 MS coop fishery or the 2021 C/P coop fishery, the respective coop manager must notify NMFS in writing of such change to the coop agreement as required in regulations at 50 CFR 660.150(d)(1)(iii)(B)(*4*) and 50 CFR 660.160(d)(1)(iii)(B)(*4*).

(3) Submit a revised coop agreement within 30 days of material change to the coop agreement. Within 30 days of a new vessel participating in a coop fishery, the MS or C/P coop manager must submit a revised coop agreement to NMFS that lists all vessels and/or processing vessels operating in the respective coop and includes the new processing vessel, along with a letter describing the change to the coop agreement, as required in regulations at 50 CFR 660.150(d)(1)(iii)(B)(*4*) and 50 CFR 660.160(d)(1)(iii)(B)(*4*).

(4) Change vessel declaration before each fishing trip. For each trip, the vessel must update its vessel monitoring system (VMS) declaration to reflect its activity for that trip prior to departure as specified in existing groundfish regulations at 50 CFR 660.13(d)(4)(iv)(A). The declaration is binding for the duration of the trip and may not be changed until completion of the trip. A processing vessel must submit one of the following declarations: (a) Limited entry midwater trawl, Pacific whiting catcher/processor sector; or (b) Limited entry midwater trawl, Pacific whiting mothership sector (mothership).

(5) Economic Data Collection (EDC) Program. A separate EDC form is required for the owner, lessee, charterer of a mothership vessel registered to an MS permit as well as owner, lessee, charterer of a catcher processor vessel registered to a C/P-endorsed limited entry permit. If a vessel holds both types of permits in one calendar year, two EDC forms must be submitted as specified at 50 CFR 660.114.

(6) Expiration of Emergency Measures. Vessels that have operated as both an MS and C/P in 2021 would be required to cease operations after December 31, 2021.

Classification

NMFS is issuing an extension of this emergency rule pursuant to section 305(3)(c) of the Magnuson-Stevens Act. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause under 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA) that it is unnecessary, impracticable, and contrary to the public interest to provide for any additional prior notice and opportunity for the public to comment. As more fully explained above, the reasons justifying promulgation of this rule on an emergency basis, coupled with the fact that the public has had the opportunity to comment on the original emergency rule, make solicitation of additional comment unnecessary, impractical and contrary to the public interest. This action is needed immediately to enable necessary operational flexibility to harvest the United States' allocation of whiting. NMFS is implementing this extension of an emergency action to continue to reduce the impact of potential health issues caused by COVID–19 outbreaks that may impact harvesting and processing. For the reasons stated above, the AA also finds good cause to waive the 30-day delay in effective date of this temporary rule under 5 U.S.C. 553(d)(3).

This action is being taken pursuant to the emergency provision of Magnuson-Stevens Act and is exempt from Office of Management and Budget (OMB) review.

This temporary rule references a collection-of-information requirement that is subject to review and approval by OMB under the Paperwork Reduction Act. This requirement was approved by OMB under Control Number 0648–0573. This temporary rule does not modify this collection-of-information requirement. The Regulatory Flexibility Act does not apply to this emergency rule because prior notice and opportunity for public comment is not required.

Recordkeeping and Reporting Requirements

The extension of this emergency action includes record keeping and reporting requirements previously approved by the Office of Management and Budget (OMB) under OMB Control Number 0648–0573: Expanded Vessel Monitoring System (VMS) Requirements for the Pacific Groundfish Fishery. Prior to leaving port, an at-sea Pacific whiting processing vessel must declare whether it will be operating in the MS sector or the C/P sector for each trip. Vessels in fisheries off West Coast states must declare through VMS the gear type and sector in which they will participate, including the limited entry midwater trawl and Pacific whiting MS and C/P sectors, as specified in existing groundfish regulations at 50 CFR 660.13(d)(4)(iv)(A). The number of declaration reports the vessel operator is required to submit to NMFS would not change under this action. In addition, this action does not change existing recordkeeping and reporting requirements. Therefore, no entity would be subject to new reporting requirements under this emergency action.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: October 19, 2021.

Samuel D. Rauch, III

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.25, revise paragraph (b)(4)(vii)(D) to read as follows:

§ 660.25 Permits.

* * * * *

(b) * * *

(4) * * *

(vii) * * *

(D) *Emergency rule extending season flexibility on at-sea processing restrictions.* Effective October 25, 2021 until December 31, 2021, notwithstanding any other section of this part, vessels may be registered to both a limited entry MS permit and limited entry trawl permit with a C/P endorsement during the same calendar year. Vessels registered to both an MS permit and a C/P endorsed permit may operate in both the at-sea MS sector and C/P sector during the same calendar year, but not on the same trip. Prior to leaving port, a vessel registered under both an MS permit and a C/P endorsed permit must declare through VMS the sector in which it will participate for the duration of the trip, as specified at § 660.13(d)(4)(iv)(A).

* * * * *

■ 3. In § 660.112, revise paragraphs (d)(3)(i) and (e)(3)(i) to read as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(d) * * *

(3) * * *

(i) Effective October 25, 2021 until December 31, 2021, notwithstanding any other section of this part, a vessel that was used to fish in the C/P fishery may be used to receive and process catch as mothership in the same calendar year, but not on the same fishing trip.

* * * * *

(e) * * *

(3) * * *

(i) Effective October 25, 2021 until December 31, 2021, notwithstanding any other section of this part, catcher-processor vessels and motherships are exempt from the prohibition in this paragraph (e)(3).

* * * * *

■ 4. In § 660.150, revise paragraphs (b)(1)(i)(D), (b)(2)(ii)(B)(*1*), (f)(1)(iii), and (f)(2)(i)(A) to read as follows:

§ 660.150 Mothership (MS) Coop Program.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(D) Under emergency measures effective October 25, 2021 until December 31, 2021, notwithstanding any other section of this part, a vessel may operate as both an MS and a C/P during the 2021 Pacific whiting primary season, but not on the same fishing trip.

* * * * *

(2) * * *

(ii) * * *

(B) * * *

(*1*) Under emergency measures effective October 25, 2021 until December 31, 2021, notwithstanding any other section of this part, a vessel may operate as both an MS and C/P during the 2021 Pacific whiting primary season, but not on the same fishing trip. A vessel registered in the same calendar year to operate under both a limited entry MS permit and limited entry permit with a C/P endorsement must declare prior to leaving port the sector in which it will participate for the duration of the trip, as per declaration requirements specified at § 660.13(d)(4)(iv)(A).

* * * * *

(f) * * *

(1) * * *

(iii) *Emergency rule extending seasonal flexibility on at-sea processor restrictions.* Effective October 25, 2021 until December 31, 2021, notwithstanding any other section of this part, vessels may operate as both an MS and a C/P during the 2021 Pacific whiting primary season, but not on the same fishing trip.

(2) * * *

(i) * * *

(A) *Emergency rule extending seasonal flexibility on at-sea processing restrictions.* Effective October 25, 2021 until December 31, 2021, a vessel registered to an MS permit is exempt from the declaration in this paragraph (f)(2)(i) and may also operate as a C/P during the 2021 Pacific whiting primary season, even if the permit owner previously declared to operate solely as a mothership.

* * * * *

■ 5. In § 660.160, revise paragraphs (b)(1)(i)(D), (b)(1)(ii)(A)(*1*), (e)(1)(iii)(A), and (e)(2)(i)(A) to read as follows:

§ 660.160 Catcher/processor (C/P) Coop Program.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(D) Effective October 25, 2021 until December 31, 2021, notwithstanding any other section of this part, a vessel may operate as both an MS and a C/P during the 2021 Pacific whiting primary fishing season, but not on the same fishing trip.

(ii) * * *

(A) * * *

(*1*) Under emergency measures effective October 25, 2021 until December 31, 2021, a vessel may operate as both a mothership and C/P during the 2021 Pacific whiting primary season, but not on the same fishing trip. A vessel registered in the same calendar year to operate under both a limited entry MS permit and limited entry permit with a C/P endorsement must declare prior to leaving port the sector in which it will participate for the duration of the trip, as per declaration requirements specified at § 660.13(d)(4)(iv)(A).

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(A) *Emergency rule extending seasonal flexibility on at-sea processor restrictions.* Effective October 25, 2021 until December 31, 2021, notwithstanding any other section of this part, vessels may operate as both an MS and a C/P during the 2021 Pacific whiting primary season, but not on the same fishing trip.

* * * * *

(2) * * *

(i) * * *

(A) *Emergency rule extending seasonal flexibility on at-sea processing restrictions.* Effective October 25, 2021 until December 31, 2021, a vessel registered to a C/P endorsed permit is exempt from the declaration in this paragraph (e)(2)(i) and may also operate as an MS during the 2021 Pacific whiting primary season, even if the permit owner previously declared to operate solely as a C/P.

* * * * *

[FR Doc. 2021–23165 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 203
Monday, October 25, 2021

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0859; Airspace Docket No. 19–AAL–57]

RIN 2120–AA66

Proposed Establishment of United States Area Navigation (RNAV) Route T–390; St. Paul Island, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish United States Area Navigation (RNAV) route T–390 in the vicinity of St. Paul Island, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before December 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0859; Airspace Docket No. 19–AAL–57 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

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 the 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 expand the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground based navigation.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0859; Airspace Docket No. 19–AAL–57) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0859; Airspace Docket No. 19–AAL–57.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://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 **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub. L., 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of a larger and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air Traffic Service route structure using satellite based navigation Development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground based airway navigation.'' As part of this project, the FAA evaluated the existing Colored Airway structure for: (a) Direct replacement (*i.e.,* overlay) with a T-route that offers a similar or lower Minimum En route Altitude (MEA) or Global Navigation Satellite System Minimum En route Altitude (GNSS MEA); (b) the replacement of the colored airway with a T-route in an optimized but similar geographic area, while retaining similar or lower MEA; or (c) removal with no route structure (T-route) restored in that area because the value was determined to be insignificant.

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to establish RNAV route T–390 to offer alternate routing for Colored Federal airway R–99. The proposed route would provide lower GNSS MEAs while ensuring continuous two-way VHF communications for the entirety of the route. Additionally, the proposed route would provide an RNAV waypoints (WP) ZEKTI for Iliamna, AK, (ILI); WANKI for St Paul Island, AK, (SPY); ALUET for Dutch Harbor, AK, (DUT) NDB in anticipation of the future decommissioning schedule.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV route T–390 in the vicinity of St. Paul Island, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–390: The FAA proposes to establish T–390 from the WANKI, AK, WP, to the ZEKTI, AK, WP located over ILI.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document would be published subsequently in FAA Order JO 7400.11F.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 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 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–390 WANKI, AK TO ZEKTI, AK [NEW]

WANKI, AK	WP	(Lat. 57°09′25.22″ N, long. 170°13′58.79″ W)
DIBWO, AK	WP	(Lat. 56°19′43.49″ N, long. 169°13′13.14″ W)
ALEUT, AK	WP	(Lat. 54°14′16.58″ N, long. 166°32′51.82″ W)
ZEBUV, AK	WP	(Lat. 54°18′15.84″ N, long. 165°56′54.35″ W)
TESPE, AK	WP	(Lat. 54°55′58.89″ N, long. 164°46′55.85″ W)
KING SALMON, AK (AKN)	VORTAC	(Lat. 58°43′28.97″ N, long. 156°45′08.45″ W)
ZEKTI, AK	WP	(Lat. 59°44′53.02″ N, long. 154°54′34.73″ W)

* * * * *

Issued in Washington, DC, on October 14, 2021.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–22981 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0860; Airspace Docket No. 19–AAL–54]

RIN 2120–AA66

Proposed Establishment of United States Area Navigation (RNAV) Route T–385; Kodiak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish United States Area Navigation (RNAV) route T–385 in the vicinity of Kodiak, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before December 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0860; Airspace Docket No. 19–AAL–54 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

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 the 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 expand the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground based navigation.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0860; Airspace Docket No. 19–AAL–54) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0860; Airspace Docket No. 19–AAL–54.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://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 **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub. L. 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of a larger and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air

Traffic Service route structure using satellite based navigation development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground based airway navigation.'' As part of this project, the FAA evaluated the existing Colored Airway structure for: (a) Direct replacement (*i.e.,* overlay) with a T-route that offers a similar or lower Minimum En route Altitude (MEA) or Global Navigation Satellite System Minimum En route Altitude (GNSS MEA); (b) the replacement of the colored airway with a T-route in an optimized but similar geographic area, while retaining similar or lower MEA; or (c) removal with no route structure (T-route) restored in that area because the value was determined to be insignificant.

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to establish RNAV route T–385 to offer alternate routing for Colored Federal airway B–12. The proposed route would provide lower GNSS MEAs while ensuring continuous two-way VHF communications for the entirety of the route. Additionally, the proposed route would provide an RNAV waypoint (WP) ZEKTI for Iliamna (ILI), AK, NDB in anticipation of the future decommissioning schedule.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV route T–385 in the vicinity of Kodiak, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–385: The FAA proposes to establish T–385 from the Kodiak, AK, (ODK) VHF Omnidirectional Radar/Distance Measuring Equipment (VOR/DME) to the ZEKTI, AK, WP located over ILI.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV listed in this document would be published subsequently in FAA Order JO 7400.11F.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 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 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–385 KODIAK, AK TO ZEKTI, AK [NEW]

KODIAK, AK (ODK)	VOR/DME	(Lat. 57°46′30.13″ N, long. 152°20′23.42″ W)
WUMVI, AK	WP	(Lat. 59°01′11.75″ N, long. 153°07′28.42″ W)
GAMIC, AK	WP	(Lat. 59°22′48.60″ N, long. 154°28′36.95″ W)
ZEKTI, AK	WP	(Lat. 59°44′53.02″ N, long. 154°54′34.73″ W)

* * * * *

Issued in Washington, DC, on October 14, 2021.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–22984 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0857; Airspace Docket No. 19–AAL–51]

RIN 2120–AA66

Proposed Establishment of United States Area Navigation (RNAV) Route T–382; Hooper Bay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish United States Area Navigation (RNAV) route T–382 in the vicinity of Hooper Bay, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before December 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140,

Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0857; Airspace Docket No. 19–AAL–51 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

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 the 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 expand the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground based navigation.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0857; Airspace Docket No. 19–AAL–51) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0857; Airspace Docket No. 19–AAL–51.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://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 **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub. L. 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of a larger and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air Traffic Service route structure using satellite based navigation Development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground based airway navigation.'' As part of this project, the FAA evaluated the existing Colored Airway structure for: (a) Direct replacement (*i.e.,* overlay) with a T-route that offers a similar or lower Minimum En route Altitude (MEA) or Global Navigation Satellite System Minimum En route Altitude (GNSS MEA); (b) the replacement of the colored airway with a T-route in an optimized but similar geographic area, while retaining similar or lower MEA; or (c) removal with no route structure (T-route) restored in that area because the value was determined to be insignificant.

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to establish RNAV route T–382 to offer alternate routing while providing a lower MEA over more favorable terrain for Colored Federal airway G–15 and Alaskan VHF Omnidirectional Radar (VOR) Federal airways V–496 and V–510 from Hooper Bay, AK, (HPB) VOR/Distance Measuring Equipment (VOR/DME) to McGrath, AK, (MCG) VOR and Tactical Air Navigational System (VORTAC). The proposed route would provide

instrument approach connectivity for Scammon Bay Airport (PACM) while also including new RNAV waypoints JOPES over St Mary (SMA), AK and WEREL over Anvik (ANV), AK, NDBs in anticipation of their pending decommissioning.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV route T–382 in the vicinity of Big Lake, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–381: The FAA proposes to establish T–382 from the Hooper Bay, AK, (HPB) VOR/DME to the McGrath, AK, (MCG) VORTAC.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV listed in this document would be published subsequently in FAA Order JO 7400.11F.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 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 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–381 Hooper Bay, AK to McGrath, AK [New]

HOOPER BAY, AK (HPB)	VOR/DME	(Lat. 61°30′51.65″ N, long. 166°08′04.13″ W)
JOPES, AK	WP	(Lat. 62°03′33.80″ N, long. 163°16′54.82″ W)
FELSA, AK	WP	(Lat. 62°26′52.62″ N, long. 161°35′12.99″ W)
WEREL, AK	WP	(Lat. 62°38′29.25″ N, long. 160°11′07.20″ W)
OTTAC, AK	WP	(Lat. 63°02′12.19″ N, long. 158°08′46.85″ W)
CHEFF, AK	WP	(Lat. 63°04′15.06″ N, long. 157°20′39.55″ W)
MC GRATH, AK (MCG)	VORTAC	(Lat. 62°57′03.72″ N, long. 155°36′40.97″ W)

* * * * *

Issued in Washington, DC, on October 14, 2021.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–22982 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0589; Airspace Docket No. 21–ASO–23]

RIN 2120–AA66

Proposed Amendment and Establishment of Class D and Class E Airspace; Columbus, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, Class E surface area, and Class E airspace extending upward from 700 feet above the surface for Columbus Airport and Lawson Army Air Field (AAF), Fort Benning, Columbus, GA. This action would merge Columbus Airport and Lawson AAF (Fort Benning) Class D airspace and Class E surface area airspace into one header under FAA Order JO 7400.11 and removes the header Columbus Lawson AAF under FAA Order JO 7400.11. The Columbus Airport's Class D airspace would be amended by updating the name of Columbus Airport, formerly Columbus Metropolitan Airport, and updating the name of Lawson Army Airfield (Fort Benning), formerly Columbus Lawson AAF; the Lawson AAF (Fort Benning) Class D would be amended by establishing an extension to the southeast. This action would establish Class E airspace designated as an extension to a Class D surface area for Columbus Airport, Columbus, GA. The Columbus Airport Class E surface area extension would be eliminated, and Lawson AAF (Fort Benning) Class E surface area would be amended by establishing an extension to the southeast. Columbus Class E airspace extending upward from 700 feet above the surface and Lawson AAF (Fort Benning) Class E airspace extending upward from 700 feet above the surface would be amended by increasing the radii and removing the Lawson Very High Frequency Omnidirectional Range with Distance Measuring Equipment (VOR/DME) and Lawson Localizer (LOC) from the description. This action would also make an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and Class E surface area. In addition, this action would also

update the geographic coordinates of the Lawson AAF (Fort Benning) to coincide with the FAA's database. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before December 9, 2021.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2021–0589; Airspace Docket No. 21–ASO–23, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F Airspace Designations and Reporting Points and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: John Goodson, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–5966.

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 Class D airspace, Class E airspace, and establish Class E airspace in Columbus, GA, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2021–0589 and Airspace Docket No. 21–ASO–23) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0589; Airspace Docket No. 21–ASO–23.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://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 address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class D, Class E surface area, and Class E airspace extending upward from 700 feet above the surface at Columbus Airport, Columbus, GA and Lawson AAF (Fort Benning), Columbus, GA. This action would merge Columbus Airport and Lawson AAF (Fort Benning) Class D airspace and Class E surface area airspace into one header under FAA Order JO 7400.11, and removes the header Columbus Lawson AAF under FAA Order JO 7400.11. This action would also establish Class E airspace designated as an extension to a Class D surface area at Columbus Airport, Columbus, GA. The Columbus Airport Class D would be amended by eliminating the extension to the southwest and updating the name to Columbus Airport (previously Columbus Metropolitan Airport). This action would also make the editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal description.

The Lawson AAF (Fort Benning) Class D would be amended by establishing an extension within 1.0 mile each side of the 145° bearing from the AAF extending from the 5.2-mile radius to 6.8 miles southeast of the AAF, and updating the name to Lawson AAF (Fort Benning), previously Columbus Lawson AAF. This action would also make the editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal description. In addition, this action would also update the geographic coordinates to coincide with the FAA's database.

The Columbus Airport Class E surface area would be amended by eliminating

the extension to the southwest. This action would also make the editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal description.

The Lawson AAF (Fort Benning) Class E surface area would be amended by establishing an extension within 1.0 mile each side of the 145° bearing from the AAF extending from the 5.2-mile radius to 6.8 miles southeast of the AAF. This action would also make an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal description. In addition, this action would also update the geographic coordinates to coincide with the FAA's database.

The Columbus, GA Class E airspace designated as an extension to a Class D surface area at for Columbus Airport would be established by adding thatairspace extending upward from the surface within 1 mile each side of the 234° bearing from the airport extending from the 4.4-mile radius to 7.1miles southwest of the airport.

The Columbus, GA Class E airspace extending upward from 700 feet above the surface would be amended by increasing the radius of Columbus Airport to 9.6 miles, previously 6.8 miles, and eliminating the extension to the southeast.

The Lawson AAF (Fort Benning) Class E airspace radius would increase to 9.3 miles, (previously 7.6 miles), eliminating the Lawson VOR/DME and Lawson LOC from the description, adding the airspace within 3.8 miles each side of Lawson AAF (Fort Benning) 341° bearing from the AAF extending from the 9.3-mile radius to 15.2 miles northwest of the AAF, and 4.1 miles each side of the Lawson AAF (Fort Benning) 145° bearing from the AAF extending from the 9.3-mile radius to 10.6 miles southeast of the AAF.

Class D and E airspace designations are published in Paragraphs 5000, 6002, 6004, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'', prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO GA D Columbus, GA [Amended]

Columbus Airport
(Lat 32°30′59″ N, long. 84°56′20″ W)
Lawson AAF (Fort Benning), GA
(Lat. 32°19′54″ N, long. 84°59′14″ W)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.4-mile radius of the Columbus Airport; and that airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Lawson Army Airfield (AAF) and that airspace within 1 mile each side of the 145° bearing from the AAF extending from the 5.2-mile radius to 6.8 miles southeast of the AAF. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Airspace.

* * * * *

ASO GA E2 Columbus, GA [Amended]

Columbus Airport
(Lat 32°30′59″ N, long. 84°56′20″ W)
Lawson AAF (Fort Benning), GA
(Lat. 32°19′54″ N, long. 84°59′14″ W)

That airspace extending upward from the surface within a 4.4-mile radius of Columbus Airport; and that airspace within a 5.2-mile radius ofLawson AAF (Fort Benning) and that airspace within 1 mile each side of the 145° bearing from the AAF extending from the 5.2-mile radius to 6.8miles southeast of the AAF. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen.The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASO GA E4 Columbus, GA [New]

Columbus Airport, GA
(Lat 32°30′59″ N, long. 84°56′20″ W)

That airspace extending upward from the surface within 1 mile each side of the 234° bearing from the airport extending from the 4.4-mile radius to 7.1 miles southwest of the airport.

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

* * * * *

ASO GA E5 Columbus, GA [Amended]

Columbus Airport, GA
(Lat 32°30′59″ N, long. 84°56′20″ W)
Lawson AAF (Fort Benning), GA
(Lat. 32°19′54″ N, long. 84°59′14″ W)

That airspace extending upward from 700 feet above the surface within a 9.6-mile radius of Columbus Airport; and within a 9.3-mile radius of Lawson AAF (Fort Benning), and within 3.8 miles each side of Lawson AAF (Fort Benning) 341° bearing from the AAF extending from the 9.3-mile radius to 15.2 miles northwest of the AAF, and 4.1 miles each side of the Lawson AAF (Fort Benning) 145° bearing from the AAF extending from the 9.3-mile radius to 10.6 miles southeast of the AAF.

Issued in College Park, Georgia, on October 14, 2021.

Andreese C. Davis,

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

[FR Doc. 2021–22790 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0858; Airspace Docket No. 19–AAL–53]

RIN 2120–AA66

Proposed Establishment of United States Area Navigation (RNAV) Route T–384; Eagle, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish United States Area Navigation (RNAV) route T–384 in the vicinity of Eagle, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before December 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0858; Airspace Docket No. 19–AAL–53 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

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 the 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 expand the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground based navigation.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0858; Airspace Docket No. 19–AAL–53) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0858; Airspace Docket No. 19–AAL–53.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://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 **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub. L., 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of a larger and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air Traffic Service route structure using satellite based navigation Development

of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground based airway navigation.'' As part of this project, the FAA evaluated the existing Colored Airway structure for: (a) Direct replacement (*i.e.,* overlay) with a T-route that offers a similar or lower Minimum En route Altitude (MEA) or Global Navigation Satellite System Minimum En route Altitude (GNSS MEA); (b) the replacement of the colored airway with a T-route in an optimized but similar geographic area, while retaining similar or lower MEA; or (c) removal with no route structure (T-route) restored in that area because the value was determined to be insignificant.

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to establish RNAV route T–384 to offer routing in an area where published airways do not exist. The proposed route GNSS MEAs will ensure terrain/obstacle clearance with continuous two-way VHF communications while also providing instrument approach connectivity and access to Eagle Airport (PAEG).

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV route T–384 in the vicinity of Eagle, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–384: The FAA proposes to establish T–384 from the HEXAX, AK, waypoint (WP) located south of Yukon River, AK to the BAMVE, AK, WP located northwest of Eagle, AK.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV listed in this document would be published subsequently in FAA Order JO 7400.11F.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 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 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–384 HEXAX, AK TO BAMVE, AK [NEW]

HEXAX, AK	WP	(Lat. 65°59′40.49″ N, long. 145°23′01.26″ W)
WEXIK, AK	WP	(Lat. 65°49′39.86″ N, long. 144°04′50.79″ W)
HOPOP, AK	WP	(Lat. 65°33′59.95″ N, long. 143°57′29.48″ W)
JNANA, AK	WP	(Lat. 65°21′48.28″ N, long. 143°22′26.75″ W)
DINLE, AK	WP	(Lat. 65°20′35.12″ N, long. 142°41′33.57″ W)
ZESIK, AK	WP	(Lat. 65°08′53.43″ N, long. 142°29′32.06″ W)
BAMVE, AK	WP	(Lat. 64°56′02.43″ N, long. 141°49′17.81″ W)

* * * * *

Issued in Washington, DC, on October 14, 2021.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–22985 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0863; Airspace Docket No. 21–AAL–21]

RIN 2120–AA66

Proposed Establishment of United States Area Navigation (RNAV) Route T–396; Nome, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish United States Area Navigation (RNAV) route T–396 in the vicinity of Nome, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before December 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140,

Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0863; Airspace Docket No. 21–AAL–21 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

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 the 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 expand the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground based navigation.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0863; Airspace Docket No. 21–AAL–21) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0863; Airspace Docket No. 21–AAL–21.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://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 **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub. L., 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of a larger and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air Traffic Service route structure using satellite based navigation development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground based airway navigation.'' As part of this project, the FAA evaluated the existing Colored Airway structure for: (a) Direct replacement (*i.e.,* overlay) with a T-route that offers a similar or lower Minimum En route Altitude (MEA) or Global Navigation Satellite System Minimum En route Altitude (GNSS MEA); (b) the replacement of the colored airway with a T-route in an optimized but similar geographic area, while retaining similar or lower MEA; or (c) removal with no route structure (T-route) restored in that area because the value was determined to be insignificant.

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to establish RNAV route T–396 to offer alternate routing for Colored Federal airway G–7 and VHF omnidirectional range (VOR) Federal airway V–452 between Nome, AK, (OME) and Galena, AK, (GAL). The pending decommissioning of the Moses Point, AK, (MOS) VOR will force cancellation of V–452 between OME and GAL, leaving G–7 as the only IFR route to navigate between the two. The proposed route would provide an RNAV

alternative HALUS, to navigate over MOS, Fort Davis, AK, and Norton Bay, AK, (OAY) NDB.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV route T–396 in the vicinity of Nome, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–396: The FAA proposes to establish T–396 from the Nome, AK, (OME) VOR/distance measuring system (VOR/DME) and the Galena, AK, (GAL) VOR/DME.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document would be published subsequently in FAA Order JO 7400.11F.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 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 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–396 NOME, AK TO GALENA, AK [NEW]

NOME, AK (OME)	VOR/DME	(Lat. 64°29′06.39″ N, long. 165°15′11.43″ W)
HALUS, AK	WP	(Lat. 64°41′43.90″ N, long. 162°03′49.36″ W)
GALENA, AK (GAL)	VOR/DME	(Lat. 64°44′17.26″ N, long. 156°46′37.69″ W)

* * * * *

Issued in Washington, DC, on October 14, 2021.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–22987 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0856; Airspace Docket No. 19–AAL–50]

RIN 2120–AA66

Proposed Establishment of United States Area Navigation (RNAV) Route T–381; Big Lake, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish United States Area Navigation (RNAV) route T–381 in the vicinity of Big Lake, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before December 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0856; Airspace Docket No. 19–AAL–50 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would expand the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground based navigation.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0856; Airspace Docket No. 19–AAL–50) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0856; Airspace Docket No. 19–AAL–50.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://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 **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

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Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub L., 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of a larger and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air Traffic Service route structure using satellite based navigation Development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground based airway navigation.'' As part of this project, the FAA evaluated the existing Colored Airway structure for: (a) Direct replacement (*i.e.,* overlay) with a T-route that offers a similar or lower Minimum En route Altitude (MEA) or Global Navigation Satellite System Minimum En route Altitude (GNSS MEA); (b) the replacement of the colored airway with a T-route in an optimized but similar geographic area, while retaining similar or lower MEA; or (c) removal with no route structure (T-route) restored in that area because the value was determined to be insignificant.

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to establish RNAV route T–381 to offer alternate routing providing a lower MEA over more favorable terrain for RNAV route T–227 and Alaskan VHF Omnidirectional Radar (VOR) Federal airway V–438 from Big Lake, AK, (BGQ) to Fairbanks, AK, (FAI). Additionally, with the pending decommissioning of Yukon River, AK, (FTO) NDB, T–381 would provide an alternative to Colored Federal airway B–26 and V–438 from FAI to FTO.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV route T–381 in the vicinity of Big Lake, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–381: The FAA proposes to establish T–381 from the Big Lake, AK, (BGQ) VOR and Tactical Air Navigational System (VORTAC) to the Fort Yukon, AK, (FYU) VORTAC.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV listed in this document would be published subsequently in FAA Order JO 7400.11F.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

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

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

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§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–381 BIG LAKE, AK TO FORT YUKON, AK [NEW]

BIG LAKE, AK (BGQ)	VORTAC	(Lat. 61°34′09.96″ N, long. 149°58′01.77″ W)
TALKEETNA, AK (TKA)	VOR/DME	(Lat. 62°17′54.16″ N, long. 150°06′18.90″ W)
HUMUB, AK	WP	(Lat. 62°25′20.31″ N, long. 150°13′49.23″ W)
WEGNO, AK	WP	(Lat. 62°35′21.42″ N, long. 150°18′30.73″ W)
ZALVI, AK	WP	(Lat. 62°43′18.92″ N, long. 150°12′13.59″ W)
ZEKLI, AK	WP	(Lat. 62°52′38.17″ N, long. 149°51′37.24″ W)
CEKED, AK	WP	(Lat. 63°00′54.03″ N, long. 149°40′57.24″ W)
EBIME, AK	WP	(Lat. 63°14′22.89″ N, long. 149°27′15.61″ W)
JOTSO, AK	WP	(Lat. 63°25′34.70″ N, long. 148°47′49.87″ W)
PAWKY, AK	WP	(Lat. 63°36′22.32″ N, long. 148°42′19.33″ W)
WIVEN, AK	WP	(Lat. 63°49′38.20″ N, long. 148°51′51.74″ W)
GLOWS, AK	WP	(Lat. 64°26′15.88″ N, long. 148°15′17.88″ W)
PERZO, AK	WP	(Lat. 64°40′22.99″ N, long. 148°07′20.15″ W)
FAIRBANKS, AK (FAI)	VORTAC	(Lat. 64°48′00.25″ N, long. 148°00′43.11″ W)
FORT YUKON, AK (FYU)	VORTAC	(Lat. 66°34′27.31″ N, long. 145°16′35.97″ W)

* * * * *

Issued in Washington, DC, on October 14, 2021.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–22901 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2021–0181]

RIN 1625–AA09

Drawbridge Operation Regulation; Old River, Between Victoria Island and Byron Tract, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the California Department of Transportation (Route 4) highway bridge, across Old River, mile 14.8, between Victoria Island and Byron Tract, California. This action is proposed due to the infrequent amount of vessels requiring drawbridge openings on the waterway and will reduce unnecessary staffing of the drawbridge during periods of navigational inactivity while continuing to meet the reasonable needs of navigation. The proposed rulemaking would require vessels to provide a four-hour advance notification for a bridge opening. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before December 27, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2021–0181 using Federal e-Rulemaking Portal at *https://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *Carl.T.Hausner@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CADFW California Department of Fish and Wildlife
Caltrans California Department of Transportation
CFR Code of Federal Regulations
CCCO Contra Costa County Office of the Sheriff
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

Old River is a tidal distributary of the San Joaquin River that flows for about 40 miles and is navigable in its entirety. It is located in the southern portion of the San Joaquin River Delta. There are approximately 10 marinas on Old River and nearby waterways with two marinas upriver from the bridge. From 2011 through June 2020, the swing span opened for vessels 474 times, an average of 4.27 openings per month. Most openings have been for vessels operated by the CADFW (58%), followed by recreational vessels (22%), towboat-vessel assistance (9%), and tug and barge units (6%). Law enforcement and search and rescue vessels also used the waterway. The Caltrans (Route 4) highway bridge across Old River, mile 14.8, between Victoria Island and Byron Tract, is a swing span drawbridge. It provides a horizontal clearance of 98 feet and a vertical clearance of 12.7 feet above mean high water in the closed position with unlimited vertical clearance when fully opened. The Caltrans (Route 4) highway bridge is currently governed by 33 CFR 117.183, which requires the draw to open on signal from May 1 through October 31 from 6 a.m. to 10 p.m., and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times, the

draw opens on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge across the Sacramento River, mile 12.8.

Due to infrequent calls for drawbridge openings, Caltrans has requested a four-hour notification year-round for drawbridge openings at this location. A four-hour notification will allow Caltrans to use personnel more efficiently and reduce unnecessary staffing of the drawbridge during periods of navigational inactivity while continuing to meet the reasonable needs of navigation on the waterway.

In order to gather public comments to the proposed operating schedule change, a test deviation was conducted from May 10, 2021 through August 7, 2021. The notice of this test deviation was published in the **Federal Register** (83 FR 23278) on May 3, 2021. The purpose of the test deviation was to evaluate the possible impacts to navigation with the bridge operating under a 4-hour advance notice for openings. During the test deviation period CCCO submitted a comment, stating their office responds to calls for service, including emergency situations, south of the Caltrans (Route 4) highway bridge on Old River. Most of their patrol vessels exceed the bridge vertical clearance at mean high water, and cannot transit through the bridge in the closed position. CCCO concluded that a 4-hour advance notice for bridge openings would limit their ability to respond quickly to emergencies, thus jeopardizing public safety. In response, the Coast Guard cited 33 CFR 117.31(b) ''Drawbridge operations for emergency vessels,'' which states the drawtender shall take all reasonable measures to have the draw opened, regardless of the operating schedule of the draw, for passage of Federal, State, and local government vessels used for public safety. Drawtender logs, during the test deviation, recorded four CADFW vessels requested openings in May, eight CADFW vessels requested openings in June, four CADFW vessels and one survey vessel requested openings in July and two CADFW vessels requested openings in August. No recreational or commercial vessels requested an opening of the swing span during the 90 day test deviation.

III. Discussion of Proposed Rule

The Coast Guard proposes to change the operating schedule that governs the California Department of Transportation (Route 4) highway bridge, across Old River, mile 14.8, between Victoria Island and Byron Tract, California.

This proposed rule would implement regulations for the bridge to open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge across the Sacramento River, mile 12.8.

This proposed rule change would meet the reasonable needs of navigation on this portion of Old River.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no 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 proposed 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 proposed 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has 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 proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. 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. Your comment can help shape the outcome of this rulemaking. 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.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 0170.1.

■ 2. Revise § 117.183 to read as follows:

§ 117.183 Old River

The draw of the California Department of Transportation (Route 4) highway bridge, mile 14.8 between Victoria Island and Byron Tract, shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge across the Sacramento River, mile 12.8.

Dated: October 18, 2021.

Brian K. Penoyer,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 2021–23060 Filed 10–22–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 328

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 120

[FRL–6027.4–04–OW]

Notification of Regional Roundtable Discussions Regarding ''Waters of the United States''

AGENCY: Department of the Army, Corps of Engineers, Department of Defense; and Environmental Protection Agency (EPA).

ACTION: Notice of events; request for nominations.

SUMMARY: On June 9, 2021, the U.S. Environmental Protection Agency (EPA) and the U.S. Department of the Army (hereafter, ''the agencies'') announced their intent to revise the definition of ''waters of the United States'' under the Clean Water Act through two rulemakings—first, a foundational rule that will propose to restore longstanding protections, and a second rulemaking process that builds on that regulatory foundation. On July 30, 2021, the agencies announced stakeholder engagement opportunities, including the agencies' intent to host ten regionally focused roundtables. EPA and Army are announcing a process for stakeholders to submit nomination letters to the agencies to potentially be selected for one of these ten geographically focused roundtables. Each roundtable should include diverse perspectives and highlight the experience of individual participants with the definition of ''waters of the United States.'' The agencies intend to livestream each roundtable to make them available for public viewing.

DATES: Nomination letters for the roundtables must be received on or before 11:59 p.m. Eastern Daylight Time on November 3, 2021. EPA anticipates that roundtables will be held in December 2021 and potentially January 2022. Specific dates will be coordinated with selected nominees based on availability. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information.

FOR FURTHER INFORMATION CONTACT: Kate Balasa, Office of Water, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (312) 886–6027; email address: *WOTUS-outreach@epa.gov*, or Stacey Jensen, Office of the Assistant Secretary of the Army for Civil Works, Department of the Army, 108 Army Pentagon, Washington, DC 20310–0104; telephone number: (703) 459–6026; email address: *usarmy.pentagon.hqda-asa-cw.mbx.asa-cw-reporting@mail.mil.*

SUPPLEMENTARY INFORMATION:

I. General Information

In the last six years, the agencies have implemented three different definitions of ''waters of the United States''—the pre-2015 regulatory regime, the 2015 Clean Water Rule, and the 2020 Navigable Waters Protection Rule (NWPR). The agencies' experience

implementing these previous definitions of ''waters of the United States'' (WOTUS) has highlighted the regional variability of water resources and the importance of close engagement with stakeholders to understand key implementation issues under varying definitions of WOTUS.

On June 9, 2021, EPA and the U.S. Department of the Army (hereafter, ''the agencies'') announced their intent to revise the definition of WOTUS under the Clean Water Act through two rulemakings—first, a foundational rule that will propose to restore longstanding protections, and a second rulemaking process that builds on that regulatory foundation. On July 30, 2021, the agencies announced stakeholder engagement opportunities, including the agencies' intent to host ten regionally focused roundtables. EPA and Army are announcing a process for stakeholders to submit nomination letters to the agencies to potentially be selected for one of these ten geographically focused roundtables.

The intent for each regional roundtable is to engage individuals representing diverse perspectives in meaningful dialogue on the definition of WOTUS. The roundtables will provide opportunities to discuss geographic similarities and differences, particular water resources that are characteristic of or unique to each region, and site-specific feedback about implementation of WOTUS.

The goals of the regional roundtables are to obtain robust and diverse public input on WOTUS. The agencies are seeking input on a durable definition of WOTUS, not limited to the scope of the regulatory processes announced on June 9, 2021. EPA and Army are seeking to understand perspectives:

- Highlighting how different regions are affected by the various WOTUS definitions (*i.e.,* the pre-2015 regulatory regime, the 2015 Clean Water Rule, and the 2020 Navigable Waters Protection Rule).
- Learning about stakeholder experiences, challenges, and opportunities under different regulatory regimes.
- Facilitating engagement across diverse perspectives to inform the development of a durable and workable definition of WOTUS.

The agencies are committed to learning from the past regulatory approaches—the pre-2015 regulations and guidance, the 2015 Clean Water Rule, and the 2020 Navigable Waters Protection Rule—while engaging with stakeholders to develop an enduring definition of WOTUS.

The roundtables will take place in December 2021 and potentially January 2022. These stakeholder engagements are complementary of previous and future opportunities for public input, including:

- A notice of public meeting dates and solicitation of written pre-proposal feedback from August 4, 2021 to September 3, 2021;
- Public meetings that were held on August 18, August 23, August 25, August 26, August 31, and September 2, 2021;
- State meetings and engagement with Tribes and Alaska Native Villages; and
- Future public comment periods on upcoming regulatory actions.

II. Public Participation

A. Submitting a Nomination To Be Selected for Stakeholder/Community Roundtable

The agencies intend to host ten virtual roundtables during which stakeholders can participate in a discussion on ''waters of the United States'' and provide their unique perspectives to EPA and the Army. These regionally focused roundtables will allow stakeholders with a range of perspectives to engage and discuss their experiences with definitions of WOTUS, including challenges and opportunities within their geographic areas. The roundtables will also provide an opportunity for the participants to discuss geographic similarities and differences, particular water resources that are characteristic of or unique to each region, and site-specific feedback about implementation.

For the purposes of these roundtable discussions, geographic regions are identified as follows:

- Northeast (ME, MA, RI, CT, NH, VT, NY, PA, NJ, DE, MD)
- Southeast (WV, VA, KY, TN, NC, SC, GA, AL, MS, AR, LA, FL)
- Midwest (OH, IN, MI, IL, MO, WI, MN, IA, KS, NE, SD, ND)
- West (WY, MT, ID, WA, OR, NV, CA, AK, HI)
- Southwest (TX, OK, NM, AZ, UT, CO)

The agencies are inviting stakeholders to organize interested parties and regional participants that comprise up to 15 representatives for these roundtables. Each nomination for a roundtable must include a proposed slate of participants representing perspectives of: Agriculture; conservation groups; developers; drinking water/wastewater management; environmental organizations; environmental justice communities; industry; and other key interests in that region.

The agencies request that organizers that would like to be considered for a roundtable submit their self-nomination letter via email to *WOTUS-outreach@epa.gov* no later than November 3, 2021. Nomination letters should include the following information:

- Organizer primary point of contact and contact information (name, title, affiliation, email, phone number);
- Name, affiliation, email, phone number, and address information of proposed participants for the roundtable;
- Confirmation that the number of stakeholders, including the organizer and participants, does not exceed 15 individuals;
- The region the roundtable is representing, with a paragraph description of the region;
- The perspectives that are represented in the roundtable;
- A brief description of key topics related to WOTUS implementation in the region. For consideration, the agencies have described topics in the August 4, 2021 **Federal Register** publication (86 FR 41911) that we believe are key to understanding regional variability.

After reviewing the nomination letters, EPA and Army will select ten of the self-nominated groups to participate in a regional roundtable discussion on WOTUS, hosted by the agencies. Please note that because of current CDC recommendations, as well as state and local orders for social distancing to limit the spread of COVID–19, EPA cannot hold in-person public meetings at this time. The agencies will host these roundtables virtually. The agencies anticipate coordinating with elected officials that represent the location of selected roundtables. The agencies also intend to livestream each roundtable to make them available for public viewing.

Jaime A. Pinkham,

Acting Assistant Secretary of the Army (Civil Works), Department of the Army.

Radhika Fox,

Assistant Administrator, Environmental Protection Agency.

[FR Doc. 2021–23039 Filed 10–22–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2020–0151; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BE33

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Coastal Distinct Population Segment of the Pacific Marten

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose critical habitat for the coastal distinct population segment of Pacific marten (coastal marten) (*Martes caurina*), a mammal species from coastal California and Oregon, under the Endangered Species Act of 1973, as amended (Act). In total, approximately 1,413,305 acres (571,965 hectares) in northwestern California and southwestern Oregon fall within the boundaries of the proposed critical habitat designation. If we finalize this rule as proposed, it would extend the Act's protections to this entity's critical habitat.

DATES: We will accept comments received or postmarked on or before December 27, 2021. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by December 9, 2021.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter the docket number or RIN for this rulemaking (presented above in the document headings). For best results, do not copy and paste either number; instead, type the docket number or RIN into the Search box using hyphens. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R8–ES–2020–0151; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: The coordinates from which the critical habitat maps are generated will be included in the decisional record materials for this rulemaking and are available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2020–0151, and at the Arcata Ecological Services Field Office at *https://www.fws.gov/arcata* (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we may develop for this critical habitat designation will also be available at the Service website and field office set out above, and may also be included in the preamble of this rule at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jenny Ericson, Acting Field Supervisor, U.S. Fish and Wildlife Service, Arcata Ecological Services Field Office, 1655 Heindon Road, Arcata, California 95521, or by telephone 707–822–7201. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Scope of this rule. The information presented in this proposed rule pertains only to the coastal distinct population segment (DPS) of Pacific marten (coastal marten). Any reference to the ''species'' within this document only applies to the DPS and not to the Pacific marten as a whole unless specifically expressed. A complete description of the DPS and area associated with the DPS is contained in the 12-month finding and the final listing rule for the coastal marten published in the **Federal Register** (80 FR 18742, April 7, 2015, and 85 FR 63806, October 8, 2020).

Why we need to publish a rule. Under the Act, to the maximum extent prudent and determinable, we must designate critical habitat for any species that we determine to be an endangered or threatened species. Designations and revisions of critical habitat can only be completed by issuing a rule. On October 8, 2020, we finalized listing the coastal marten as a threatened species in the **Federal Register** (85 FR 63806).

What this document does. This is a proposed rule to designate critical habitat for the coastal marten in 5 units in the States of Oregon and California totaling approximately 1,413,305 acres (ac) (571,965 hectares (ha)). In this proposed designation, we have identified a total of approximately 76,544 ac (30,975 ha) of private land and 26,126 ac (10,573 ha) of Tribal land that we are considering for exclusion from the final designation (see Consideration of Impacts Under Section 4(b)(2) of the Act).

The basis for our action. Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Draft economic analysis. Section 4(b)(2) of the Act states that the Secretary shall designate critical habitat, and make revisions thereto, on the basis of the best scientific data available and after taking into consideration the economic impact. In order to consider the economic impacts of critical habitat for the coastal marten, we drafted information pertaining to the potential incremental economic impacts for this proposed critical habitat designation. The information we used in determining the economic impacts of the proposed critical habitat is summarized in this proposed rule (see *Consideration of Economic Impacts*) and is available at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2020–0151 and at the Arcata Fish and Wildlife Office at *http://www.fws.gov/arcata* (see **FOR FURTHER INFORMATION CONTACT**). We are soliciting public comments on the economic information provided and any other potential economic impact of the proposed designation. We will continue to reevaluate the potential economic

impacts between this proposal and our final designation.

Peer review. In accordance with our peer review policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought the expert opinions of 8 appropriate and independent knowledgeable individuals on our Species Status Assessment (SSA) for the coastal marten (Service 2019a, entire). We received responses from two peer reviewers and two technical reviewers relating to the habitat and habitat needs of coastal marten, which informed the development of this proposed designation. We reviewed the comments we received for substantive issues and new information regarding habitat needs for the coastal marten. The specialists generally concurred with our description of habitat needs for the coastal marten and provided additional information, clarifications, and suggestions to improve the description. We used the SSA and specialists' comments on the SSA to inform our description and selection of areas we are proposing as critical habitat for the coastal marten. The peer and technical reviewers' comments are available at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2018–0076, which was the docket for the listing rule (85 FR 63806, October 8, 2020). The purpose of peer review is to ensure that our critical habitat designations are based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in the biology, habitat, and threats to the species.

We will solicit additional peer review of this proposed rule and respond to any peer review comments on the proposed designation in the final rule as appropriate.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) The coastal marten's biology and range; habitat requirements for feeding, breeding, and sheltering; and the locations of any additional populations.

(2) Specific information on:

(a) The amount and distribution of coastal marten habitat;

(b) What areas that were occupied at the time of listing and that contain the physical or biological features essential to the conservation of the coastal marten should be included in the designation and why;

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change;

(d) What areas not occupied at the time of listing are essential for the conservation of the species. We particularly seek comments:

(i) Regarding whether occupied areas are adequate for the conservation of the species; and

(ii) Providing specific information regarding whether or not unoccupied areas would, with reasonable certainty, contribute to the conservation of the species and contain at least one physical or biological feature essential to the conservation of the species.

(e) Land ownership information, including land conservation status or management status. We particularly seek information on Tribal lands. Our spatial data information did not show any other Tribal lands within proposed critical habitat units beyond the ownership acreages listed below.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and the related benefits of including or excluding specific areas.

(5) Information on the extent to which the description of probable economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts.

(6) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act. In particular, provide information for areas with management plans or other mechanisms in place that identify measures to protect and conserve the coastal marten or its habitat, such as the areas managed by Green Diamond Resource Company and the Yurok Tribe.

(7) If you request exclusion from the designation of critical habitat of any areas under section 4(b)(2) of the Act, the Secretary will consider credible information regarding the existence of a meaningful economic or other relevant impact supporting a benefit of exclusion for that particular area, as provided in 50 CFR 17.90(c)(2)(i).

(8) As provided in our regulations, we are to identify in a proposed designation of critical habitat those areas that we are considering for exclusion. In this proposed rule under the section entitled Exclusions, we have indicated that we are considering areas managed by the Green Diamond Resource Company and by the Yurok Tribe for possible exclusion and explain why. Please provide information regarding Green Diamond Resource Company and the Yurok Tribe lands considered for exclusion.

(9) Information on the projected and reasonably likely impacts of climate change on the coastal marten's habitat.

(10) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

(11) Information relating to species distribution or habitat modeling which is currently underway.

Please include sufficient documentation with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you present.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support our determination, as section 4(b)(2) of the Act directs that critical habitat designations must be made ''on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact.''

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

We will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov* (see **FOR FURTHER INFORMATION CONTACT**).

Because we will consider all comments and information we receive during the comment period, our final determinations may differ from this proposal. Based on the new information we receive (and any comments on that new information), our final critical habitat designation may not include all areas proposed, may include some additional areas that meet the definition of critical habitat, and may exclude some areas if we find the benefits of exclusion outweigh the benefits of inclusion.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. For the immediate future, we will provide these public hearings using webinars that will be announced on the Service's website, in addition to the **Federal Register**. The use of these virtual public hearings is consistent with our regulation at 50 CFR 424.16(c)(3).

Previous Federal Actions

On October 9, 2018, we proposed the coastal marten (83 FR 50574) as a threatened species under the Act and published our proposed rule in the **Federal Register**. On October 8, 2020, we published our final determination in the **Federal Register** (85 FR 63806), and added the coastal marten as threatened to the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). All other previous Federal actions are described in the proposed rule to list the coastal marten as a threatened species under the Act (83 FR 50574, October 9, 2018). Please see that document for actions leading to this proposed designation of critical habitat.

In the final listing rule published in the **Federal Register** on October 8, 2020 (85 FR 63806), we erroneously listed the range of the coastal marten in Oregon as ''OR (south-western)'' in the List at 50 CFR 17.11(h). We are now proposing to correct the actual range of the DPS, which includes the entire coastal region of Oregon, and the change would appear in the List of Endangered and Threatened Wildlife as ''OR (western)'' (see Proposed Regulation Promulgation).

Background

Supporting Documents

A species status assessment team prepared a SSA report for the coastal marten (Service 2019a, entire). The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species, as well as habitat needs for the species, which informed this critical habitat proposal. Information regarding peer review of the SSA is in our October 8, 2020, final listing determination (85 FR 63806). We also conducted an economic analysis on the incremental impacts of the proposed critical habitat designation (see Service 2019b, entire; IEc 2020, entire).

Although published too late to be included in our final listing determination (85 FR 63806, October 8, 2020), we are aware of research indicating that martens in coastal Oregon are of the Humboldt subspecies (*M. c. humboldtensis*), as are the martens in coastal northern California, and not the *caurina* subspecies (*M. c. caurina*), as previously classified (Schwartz *et al.* 2020, p. 179). While this research may result in a name change to the subspecific taxon of martens in coastal Oregon, it does not change our listable entity or DPS analysis. In essence, our coastal DPS of the Pacific marten remains valid, but in its entirety is now synonymous with the Humboldt marten subspecies. The change in nomenclature also does not affect our analysis of the status of and threats to the coastal marten, nor our analysis of critical habitat.

We evaluated all available data, published and unpublished, for Pacific martens within the coastal DPS. Where information gaps exist, we rely on Pacific marten information from outside the DPS, and occasionally from American martens (*Martes americana*) elsewhere in North America. We use the general term ''marten'' when speaking about martens in general or applying information gleaned from martens across their range in North America. We reserve the term ''coastal marten'' for when we are referring exclusively to martens within the coastal DPS.

We are aware of species distribution modeling that is underway but was not available for inclusion in the analysis for this proposed rule. If this new information becomes available, it will be considered in the final determination of critical habitat.

Species Information

The marten is a medium-sized carnivore related to weasels (*Mustela* sp.), minks (*Neovison* sp.), otters (*Lontra* sp.), and fishers (*Pekania* sp.). Martens have brown fur with distinctive coloration on the throat and upper chest that varies from orange to yellow to cream. They have proportionally large and distinctly triangular ears and a bushy long tail. Martens are territorial, and dominant males maintain home ranges that encompass one or more female's home ranges. Martens have a generalist diet dominated by small mammals, but birds, insects, and fruits are also seasonally important. Martens across North America generally select older forest stands that are structurally complex (*e.g.,* late-successional, old-growth, large-conifer, mature, late-seral). These forests generally have a mixture of old and large trees, multiple canopy layers, snags and other decay elements, dense understory, and have a biologically complex structure and composition. A thorough review and assessment of the taxonomy, life history, and ecology, including limiting factors and species resource needs of the coastal marten is presented in the SSA report (Service 2019a, entire) (available at *https://www.fws.gov/arcata/* and at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2018–0076).

Critical Habitat

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as: An area that may generally be delineated around species' occurrences, as determined by the

Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and translocation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Designation also does not allow the government or public to access private lands, nor does designation require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the Federal agency would be required to consult with the Service under section 7(a)(2) of the Act. However, even if the Service were to conclude that the proposed activity would result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features: (1) Which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features that occur in specific occupied areas, we focus on the specific features that are essential to support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. When designating critical habitat, the Secretary will first evaluate areas occupied by the species. The Secretary will only consider unoccupied areas to be essential where a critical habitat designation limited to geographical areas occupied by the species would be inadequate to ensure the conservation of the species. In addition, for an unoccupied area to be considered essential, the Secretary must determine that there is a reasonable certainty both that the area will contribute to the conservation of the species and that the area contains one or more of those physical or biological features essential to the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species, the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) the prohibitions found in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations

(50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the Secretary may, but is not required to, determine that a designation would not be prudent in the following circumstances:

(i) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species;

(ii) The present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or threats to the species' habitat stem solely from causes that cannot be addressed through management actions resulting from consultations under section 7(a)(2) of the Act;

(iii) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States;

(iv) No areas meet the definition of critical habitat; or

(v) The Secretary otherwise determines that designation of critical habitat would not be prudent based on the best scientific data available.

As discussed in the final listing rule (85 FR 63806, October 8, 2020), there is currently no imminent threat of take attributed to collection or vandalism identified under Factor B (16 U.S.C. 1533(a)(1)(B)) for this species, and identification and mapping of critical habitat is not expected to initiate any such threat. In our SSA and final listing rule for the coastal marten, we determined that the present or threatened destruction, modification, or curtailment of habitat or range is a threat to the coastal marten and that those threats in some way can be addressed by section 7(a)(2) consultation measures. The species occurs wholly in the jurisdiction of the United States, and we are able to identify areas that meet the definition of critical habitat. Therefore, because none of the circumstances enumerated in our regulations at 50 CFR 424.12(a)(1) have been met and because there are no other circumstances the Secretary has identified for which this designation of critical habitat would be not prudent, we have determined that the designation of critical habitat is prudent for the coastal marten.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the coastal marten is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

In our proposed listing rule (83 FR 50574, October 9, 2018), we stated that critical habitat was not determinable because the assessment of the economic impacts of the designation were still ongoing and we were in the process of acquiring the complex information needed to perform that assessment. We have now obtained that information and completed an economic analysis of the proposed critical habitat. In addition, we reviewed the available information pertaining to the biological needs of the species and habitat characteristics where these species are located. This and other information represent the best scientific data available and led us to conclude that the designation of critical habitat is determinable for the coastal marten.

Physical or Biological Features Essential to the Conservation of the Species

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas we will designate as critical habitat from within the geographical area occupied by the species at the time of listing, we consider the physical or biological features that are essential to the conservation of the species and that may require special management considerations or protection. The regulations at 50 CFR 424.02 define ''physical or biological features essential to the conservation of the species'' as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features essential to the conservation of the species might include gravel of a particular size required for spawning, alkali soil for seed germination, protective cover for migration or predator avoidance, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, the Service may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include but are not limited to space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

Details on habitat characteristics for the Pacific marten can be found in the SSA (Service 2019a, pp. 24–35) and Slauson *et al.* (2019a, pp. 47–63). We summarize below the more important habitat characteristics, particularly those that support the description of physical and biological features essential to the conservation of the coastal marten DPS. We also describe habitat features relative to the scale at which coastal martens use these features, allowing us to more logically organize the physical and biological features. Greater detail can be found elsewhere (Slauson *et al.* 2019a, pp. 47–59; Service 2019a, pp. 24–34), but we summarize these scales as follows: At the site scale, coastal martens look for structures and surrounding features that accommodate activities such as denning and resting (see *Cover or Shelter*). At the stand scale, coastal martens select forest stands with the structural features that

provide one or more life-history requirements (*e.g.,* features that support marten prey populations, allow prey to be vulnerable to martens, provide structures for denning and resting, and provide cover). At the home range scale, coastal martens position their home ranges to include enough high-quality habitat to provide for life-history needs (*e.g.,* foraging, reproduction, and cover) and access to mates, while avoiding other coastal martens of the same sex, as well as avoiding competitors and predators. The distribution of suitable habitat at the landscape scale influences coastal marten dispersal, location of coastal marten home ranges, and population density. Coastal marten dispersal across the landscape allows for gene flow and maintains adjacent populations (or metapopulation structure where it exists); dispersing individuals select suitable portions of the landscape that are unoccupied by individuals of the same sex to establish home ranges (Slauson *et al.* 2019a, p. 48).

Space for Individual and Population Growth and for Normal Behavior

Coastal martens are solitary animals except during mating and when females are raising young. They establish home ranges in areas that provide enough habitat to support their life-history needs (Table 1), allow access to mates, and avoid individuals of the same sex (Slauson *et al.* 2019a, pp. 47–48). Coastal marten home ranges typically include a high proportion (greater than or equal to 70 percent) of older forest habitat, and both males and females appear to spend a majority of their time in this habitat (Service 2019, p. 30). The older forest habitats used by coastal martens typically have large amounts of the features necessary for cover, foraging, resting, and denning (see descriptions of specific features under the headings immediately below), such as large trees or snags with decay elements, down wood, and dense ericaceous shrub understories.

TABLE 1—LIFE HISTORY AND RESOURCE NEEDS OF THE COASTAL MARTEN

Life stage	Resources and/or circumstances needed for individuals to complete each life stage
Kit (birth to dispersal, ~6 months).	• Female provides food, thermal source, and protection from predators. (Markley and Bassett 1942, pp. 606–607). • Den sites are enclosed areas to shelter from weather and predators and are most often large diameter trees (live or dead) with cavities, but also include hollow logs, crevices under rocks, log piles, and squirrel nests. (Slauson and Zielinski 2009, p. 40; Thompson *et al.* 2012, pp. 223–224; Moriarty 2017a, pp. 82–88).
Juvenile and Adults 2+ years.	• Dispersal habitat is an area that supports movement from natal area to a location where home range can be established. (Chapin *et al.* 1998, pp. 1334–1336; Johnson *et al.* 2009, p. 3365). • Resting sites include cavities, brooms, hollow logs, large limbs, rock crevices, and debris piles and are used to conserve energy and avoid predators. (Taylor and Buskirk 1994, pp. 253–255; Shumacher 1999, pp. 26–58; Slauson and Zielinski 2009, pp. 39–40; 223–224; Thompson *et al.* 2012, pp. 223–224; Early *et al.* 2017, entire). • Food consists primarily of squirrels and chipmunks, birds, berries and insects seasonally. (Slauson and Zielinski 2017, entire; Slauson and Zielinski 2019, entire; Eriksson *et al.* 2019, entire). • Understory consists of dense shrub layer and decayed wood structures providing prey habitat. Shrub layer also provides protection from predators. (Andruskiw *et al.* 2008, pp. 2275–2277; Slauson and Zielinski 2009, pp. 39–42; Eriksson 2016, pp. 19–23). • Forest canopy cover provides protection from aerial and terrestrial predators. Unfragmented habitat excludes bobcats, the primary predator of coastal marten, which are found in more fragmented landscapes (Slauson and Zielinski 2001, entire; Powell *et al.* 2003, entire; Linnell *et al.* 2018, p. 10; Slauson *et al., in prep*). • Home range is habitat that provides an adequate mix of resting and foraging habitat and overlap with opposite sex individuals to provide breeding season encounters. (Ellis 1998 pp. 35–41; Bull and Heater 2001, p. 1; Self and Kerns 2001, p. 5; Slauson 2003, pp. 49–54; Moriarty *et al.* 2017b, pp. 684–686; Linnell *et al.* 2018, p. 10; Slauson et al. 2019a, entire).

Martens occupying shore pine (*Pinus contorta* spp. *contorta*) habitat in coastal Oregon have the smallest home ranges recorded in North America, with average sizes of 0.32 square miles (mi^2) (0.84 square kilometers (km^2)) and 1.18 mi^2 (3.06 km^2) for females and males, respectively (Moriarty *et al.* 2017b, p. 685). Limited data from martens in northern California (3 adult males) show home range sizes from 1.2 to 1.5 mi^2 (3 to 4 km^2), which is similar to home range sizes of Pacific martens in the Sierra Nevada Range elsewhere in California (Slauson *et al.* 2019a, p. 56).

Dispersal is the means by which marten populations maintain and expand their distribution and population size. Successful dispersal requires functional connections between habitat patches capable of supporting reproduction across the landscape. Hence, individual martens disperse by selecting portions of the landscape that facilitate movement and searching for an area in which to select a home range that does not overlap with same-sex individuals. Where landscapes are heavily disturbed through intensive logging, juvenile dispersal may be especially costly, as evidenced by lower survival and poorer body condition of martens dispersing through regenerating vs uncut landscapes (Johnson *et al.* 2009, pp. 3364–3366). Little else is known about what constitutes dispersal habitat for martens, but the combination of reduced foraging efficiency and increased predation risk in predominantly clearcut landscapes may strongly influence dispersal dynamics of martens. (Service 2019a, pp. 22, 33, 58).

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Martens are dietary generalists. Small mammals dominate their diet year round, with some mammal species varying by season. Birds, insects, and fruits are also seasonally important. Habitat characteristics associated with marten prey are important to provide a food source for martens. Many of the small mammal species that martens prey on reach their highest densities in forest stands with mature and late-successional structural features; in these stands, the food resources used by marten prey species, such as conifer seeds and truffles, are most abundant. In addition, other features associated with increased densities or abundances of marten prey species include increased density and complexity of ericaceous shrub layers, increased amounts of coarse woody debris, and density of large snags. Structural complexity on the forest floor improves predation success for martens. In the shore pine forest community of the central coastal Oregon population, areas with an

ericaceous understory had a significantly higher relative abundance of marten prey species, and had a significantly more diverse assemblage of prey species compared to nearby interior forests (Eriksson 2016, p. 16). Many of the bird species found in marten diets are also associated with shrub understories, and these birds feed on the fruits of ericaceous shrub species (Service 2019a, pp. 22–24; Slauson *et al.* 2019a, pp. 33–36).

Cover or Shelter

Bobcats (*Lynx rufus*) and other felids are the primary predators documented for coastal martens (Slauson *et al.* 2014, p. 2; Slauson *et al.* 2019a, p. 40). Other large-bodied mammalian (*e.g.,* coyotes (*Canis latrans*)) and avian (*e.g.,* raptors and owls) predators co-occur with and prey upon martens across North America (Clark *et al.* 1987, p. 4; Buskirk and Ruggiero 1994, p. 28). Avoiding these predators has shaped marten behavior and likely influences their selection of highly complex forest structure for cover and shelter while avoiding areas lacking overhead or escape cover that are more typically occupied by generalist predators such as bobcats and coyotes (Slauson *et al.* 2019a, pp. 38–40). Cover and shelter also provide protection from the physical elements and allow martens to maintain their body temperature (thermoregulation).

Martens seek out cover and shelter at several scales. At the site scale, they look for structures and surrounding features that accommodate denning and resting. Denning sites are used by females for birthing and raising their kits (see *Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring*). Resting sites are used by both sexes on a daily basis, and martens seek them out between foraging bouts to provide thermoregulatory benefits and protection from predators (Taylor and Buskirk 1994, p. 255; Slauson *et al.* 2019a, p. 48). Martens need many resting structures distributed across their home range to meet seasonal changes in thermoregulatory needs. Martens primarily use large-diameter live trees, snags, and down logs, which are typically the largest available structures in the area. Within these structures, martens commonly rest either in cavities, formations caused by forest pathogens such as dwarf mistletoe (*Arceuthobium* spp.), or on platforms such as broken-top snags or large live branches. Cavities may become more important during the winter when conditions are wetter and colder. Less-frequented but still important resting structures include large slash piles with large-diameter logs, natural rock piles, and shrub clumps (Slauson *et al.* 2019a, pp. 48–50). In less productive shore pine communities in coastal Oregon, where large down wood and large standing trees and snags are not as common, martens have been most commonly found resting in squirrel nests, but also use bare branches and hollows at the base of overturned trees (Service 2019a, p. 25).

At larger scales (stand, home range, and landscape), martens need sufficient habitat, such as overhead and escape cover, to minimize their exposure to predators as they move through their home range or disperse across the landscape. Martens tend to avoid forest openings and landscapes with large areas of forest openings. An analysis of martens across North America found that individual home ranges typically contain a large proportion (greater than or equal to 70 percent) of suitable habitat; furthermore, marten density declines when the area of suitable habitat across the landscape is reduced to less than 70 percent as a result of wildfire, forest management, or other stand-replacing disturbance (Thompson *et al.* 2012, pp. 209, 217, 228).

Within the coastal marten DPS, on sites with highly productive soil conditions, martens select old-growth and late-mature stands dominated by Douglas-fir overstories; these stands have dense (greater than 70 percent cover) shrub layers that are spatially extensive and dominated by ericaceous species, including but not limited to evergreen huckleberry (*Vaccinium ovatum*), salal (*Gaultheria shallon*), and *Rhododendron* sp. (Slauson *et al.* 2019a, p. 51). On less productive sites, (*e.g.,* serpentine soils and coastal shore pine communities), the amount of overstory cover may be more variable, but the dense understory characteristics remain similar to productive sites (Slauson *et al.* 2019a, pp. 51–53). Martens favor shrub communities that comprise shade-tolerant, long-lived, mast-producing species that maintain site dominance, rather than early-seral shrub communities that are dominant only for short periods after a disturbance (*e.g., Ceanothus* sp.) (Slauson *et al.* 2019a, p. 9).

Occupying home ranges with large amounts of overhead cover provided by shrub or forest canopy is thought to reduce marten exposure to predators. In addition, occupying landscapes with similarly large amounts of mature or old forest cover with complex understory minimizes their distributional overlap with generalist predators that are typically associated with younger forests or more open habitats (Slauson *et al.* 2019a, p. 40). Mature and old-forest characteristics differ across the DPS depending on the site and plant association. Old-forest characteristics of example plant series are provided in Table 2; however, old-forest conditions in other plant series within critical habitat units may also provide sufficient habitat.

TABLE 2—CHARACTERISTICS OF OLD-GROWTH STANDS IN A SAMPLE OF DIFFERENT PLANT SERIES THAT OCCUR WITHIN THE DPS

Stand feature	Douglas-fir on western hemlock sites.[a] Minimum old-growth values.	Douglas-fir plant series.[b] Mean old-growth values.	Tanoak plant series.[b] Mean old-growth values.
Live trees	≥2 species. Wide range of ages and sizes. Douglas-fir ≥8/ac >32-in diameter (≥20/ha >81 cm) or >200 years old.	Wide range of size classes: Softwood trees 8/ac 30- to 39.9-in diameter (≥20/ha 76 to 101.5 cm), and 9/ac >40″ diameter (22/ha >101.5 cm).	Wide range of size classes. Softwood trees 8/ac 30- to 39.9-in diameter (≥20/ha 76 to 101.5 cm), and 2/ac >40″ diameter (5/ha >101.5 cm).
Canopy	deep, multi-layered canopy.		
Snags	Conifers ≥4/ac >20″ diameter (10/ha >51 cm) and >15 ft (4.5 m) tall.	2.4/ac >20″ diameter (5.9/ha >51 cm) and >50 ft (4.5 m) tall.	1.6/ac >20″ diameter (4.0/ha >51 cm) and >50 ft (4.5 m) tall.

TABLE 2—CHARACTERISTICS OF OLD-GROWTH STANDS IN A SAMPLE OF DIFFERENT PLANT SERIES THAT OCCUR WITHIN THE DPS—Continued

Logs	≥15 tons/ac (34 metric tons/ha) including 4 pieces/ac ≥24″ diameter (10/ha >= 61 cm) and >50 ft (15 m) long.	24.2 tons/ac (54.5 metric tons/ha) of logs >10 in (25 cm) diameter and >1 ft (0.3 m) long. 6.9 logs/ac (17.0 logs/ha) >20 in (51 cm) and <30 in (76 cm) diameter; 3.8 logs/ac (9.4 logs/ha) >30 in (76 cm) diameter.	23.8 tons/ac (53.5 metric tons/ha) of logs >10 in (25 cm) diameter and >1 ft (0.3 m) long. 6.5 logs/ac (16.1 logs/ha) >20 in (51 cm) and <30 in (76 cm) diameter; 3.9 logs/ac (9.6 logs/ha) >30 in (76 cm) diameter.

[a] Minimum old-growth definitions found in Franklin *et al.* (1986, p. 4).
[b] Mean old-growth definitions found in Jimerson *et al.* (1996, pp. E–16 to E–23).

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

Females give birth to kits in forest structures called natal dens. Subsequent structures used to raise young kits are called maternal dens. The most common den structures used by martens across North America are cavities in large-diameter live and dead trees, and known coastal marten dens also correspond to this pattern. Trees containing marten den sites are structurally complex, with large limbs, broken tops, hollow bases, complex crowns, or multiple cavities. Martens appear to be more selective of habitat conditions at den sites than at rest sites; this tendency likely reflects a need for foraging habitat to be within close proximity of a den site, allowing females to minimize energy expenditure for foraging and minimize time spent away from kits (Service 2019a, pp. 26–27; Slauson *et al.* 2019a, p. 50).

Habitats Protected From Disturbance

As noted above in the *Cover or Shelter* section, mature and old forests are important to martens, and marten density declines when landscape amounts are reduced to less than 70 percent of the area, regardless of the disturbance type (Thompson *et al.* 2012, pp. 209, 217, 228). Marten habitat is lost or degraded through natural disturbances and human-induced changes. Such disturbances can remove habitat components necessary for marten fitness (*e.g.,* canopy cover, denning and resting structures, habitat for marten prey). In California, habitat disturbances that remove escape cover and create extensive openings are associated with increased predation risk by increasing the abundance of habitat generalist carnivores that prey on martens (Slauson *et al.* 2019a, pp. 40, 57).

Forest management is the human disturbance that has the greatest effect on marten habitat in terms of scale and severity. The loss of marten habitat as a result of timber harvest is considered the likely cause of the continued low population levels in California since the State banned trapping in 1946. Vegetation management, such as timber harvest, thinning, fuels reduction, and non-forest habitat restoration can result in temporary or permanent loss, degradation, or fragmentation of suitable coastal marten habitat (Service 2019a, p. 55). Human development also results in permanent habitat conversion, but is generally limited in scope to the area around established communities and existing developments.

Within the DPS, wildfire is the natural disturbance that affects by far the greatest area of habitat. Fires are a necessary disturbance feature as they create or facilitate the development of structural features used by martens, such as snags, hollow trees, and down logs. However, fires can also remove large areas of suitable marten habitat that can take many decades to recover (Service 2019a, pp. 48–51). Other natural disturbances that affect marten habitat to a much lesser degree than wildfire include windstorms, landslides, and forest insects and pathogens. These events generally degrade or remove habitat in localized areas. Similar to wildfire, however, they are also important processes for developing forest structures used by coastal martens, such as broken top trees, cavities, and down wood.

Summary of Physical or Biological Features for the Coastal Marten

We derive the specific physical or biological features (PBFs) essential to the conservation of the coastal marten from studies of this species' habitat, ecology, and life history as described in the SSA report for the coastal marten (Service 2019a, entire). We have determined that the following PBFs are essential to the conservation of the coastal marten:

Physical or Biological Feature 1—Habitat that supports a coastal marten home range by providing for breeding, denning, resting, or foraging. This habitat provides cover and shelter to facilitate thermoregulation and reduce predation risk, foraging sources for marten prey, and structures that provide resting and denning sites. To provide cover and support denning, resting, and foraging, coastal martens require a mature forest overstory, dense understory development, and biologically complex structure that contains snags, logs, other decay elements, or other structures that support denning, resting, or marten prey. Stands meeting the conditions for PBF 1 would also function as meeting PBF 2 (facilitating movement within and between coastal marten home ranges). Stands meeting the condition for PBF 1 contain each of the following three components:

(1) *Mature, conifer-dominated forest overstory.* Overstory canopy cover provides protection to coastal martens from aerial and terrestrial predators, as well as shelter from physical elements such as sun or storms. It also is the source of structural features that coastal martens use for denning and resting, and provides suitable coastal marten prey. Suitable overstory conditions vary depending on the productivity of the site as follows:

a. For areas with relatively low productivity (*e.g.,* areas where growing conditions are harsher, such as serpentine sites or coastal shore pine forests, compared to other areas), suitable forest overstory conditions are highly variable. They may contain a sparse conifer overstory, such as in some serpentine areas, or a dense conifer overstory composed mainly of trees smaller than the typical older forest conditions described below in (1)b (*e.g.,* the dense shore pine overstory found in areas occupied by marten along the Oregon coast).

b. For other areas with higher productivity, martens tend to favor forest stands in the old-growth or late-mature seral stages. The specific forest composition and structure conditions found in higher productivity areas will vary by plant series and site class. Structural and composition descriptions of old-growth or late-mature seral stages for local plant community series should be used where available. In general these stands exhibit high levels of canopy cover and structural diversity in the form of: (1) A wide range of tree sizes, including trees with large

diameter and height; (2) deep, dense tree canopies with multiple canopy layers and irregular tree crowns; (3) high numbers of snags, including large-diameter snags; and (4) abundant down wood, including large logs, ideally in a variety of decay stages.

(2) *Dense, spatially extensive shrub layer.* The shrub layer should be greater than 70 percent of the area, comprising mainly shade-tolerant, long-lived, mast-producing species (primarily ericaceous species such as salal, huckleberry, or rhododendron, as well as shrub oaks). An extensive layer of dense shrubs provides protection and cover from coastal marten predators. In addition, ericaceous and mast-producing shrubs provide forage for marten prey.

(3) *Stands with structural features.* Structural features that support denning or resting, such as large down logs, rock piles with interstitial spaces, and large snags or live trees with decay elements or suitable resting structures (*e.g.,* hollows and cavities, forked or broken tops, dead tops, brooms from mistletoe or other tree pathogens, or large platforms including abandoned nests). These features provide cover and thermal protection for kits and denning females, and for all animals when they are resting between foraging bouts. Hence, these features need to be distributed throughout a coastal marten home range. They also tend to be among the largest structures in the stand. Many of these features, such as down logs and snags or live trees with decayed elements, also support coastal marten prey.

Physical or Biological Feature 2— Habitat that allows for movement within home ranges among stands that meet PBF 1, or supports individuals dispersing between home ranges. Habitat within PBF 2 includes: (1) Stands that meet all three conditions of PBF1; (2) forest stands that only meet the first two components of PBF 1 (mature, conifer-dominated forest overstory and a dense, spatially extensive shrub layer); or (3), habitats with some lesser amounts of shrub, canopy, forest cover, or lesser amounts of smaller structural features as described in PBF 1, and while not meeting the definition of PBF 1, would still provide forage and cover from predators that would allow coastal martens to traverse the landscape to areas of higher quality habitat.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of this species may require special management considerations or protection to reduce the following direct or indirect threats: Incidents of roadkill; inadvertent poisoning from rodenticides; predation; disease; impacts from wildfire; and vegetation management actions. A detailed discussion of activities influencing the coastal marten and its habitat can be found in the final listing rule (85 FR 63806, October 8, 2020). Special management considerations or protection that may be required within critical habitat areas to address these threats include (but are not limited to) the following: Development of wildlife crossings on major roadways; monitoring and patrolling for unauthorized use of rodenticides in agricultural settings including cannabis operations; maintaining adequate cover and connectivity of habitats to provide cover from predation; implementation of forest management practices that prevent or reduce risk of catastrophic wildfire; reducing indirect impacts to coastal marten habitat from activities adjacent to critical habitat units; and minimizing habitat disturbance, fragmentation, and destruction through use of best management practices for vegetation management activities and providing appropriate buffers around coastal marten habitat.

Conservation Strategy and Selection Criteria Used To Identify Critical Habitat

Conservation Strategy

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. We are not currently proposing to designate any areas outside the geographical area occupied by the species because we have not identified any unoccupied areas that meet the definition of critical habitat. The occupied areas identified encompass the varying habitat types and distribution of the species and provide sufficient habitat to allow for maintaining and potentially expanding the populations.

To determine and select appropriate occupied areas that contain the physical or biological features essential to the conservation of the species or areas otherwise essential for the conservation of the coastal marten, we developed a conservation strategy for the species. The goal of our conservation strategy for the coastal marten is to recover the species to the point where the protections of the Act are no longer necessary. The role of critical habitat in achieving this conservation goal is to identify the specific areas within the coastal marten's range that provide essential physical and biological features without which the coastal marten's range-wide resiliency, redundancy, and representation could not be achieved. This, in turn, requires an understanding of the fundamental parameters of the species' biology and ecology based on well-accepted conservation-biology and ecological principles for conserving species and their habitats, such as those described by Carroll *et al.* 1996 (pp. 1–12); Shaffer and Stein 2000 (pp. 301–321); Natural Resources Conservation Service (NRCS) 2004 (entire); Tear *et al.* 2005 (pp. 835–849); Groom *et al.* 2006 (pp. 419–551); Redford *et al.* 2011 (pp. 39–48); and Wolf *et al.* 2015 (pp. 200–207); and more specific coastal marten habitat information such as that described in Moriarty *et al.* 2016 (pp. 71–81); Delheimer *et al.* 2018 (pp. 510–517); Linnell *et al.* 2018 (pp. 1–21); Moriarty *et al.* 2019 (pp. 1–25); and Slauson *et al.* (2019a, entire).

In developing our conservation strategy, we focused on increasing the resiliency, representation, and redundancy of coastal marten populations by maintaining and improving extant marten populations and suitable habitat. Because coastal marten occur in small and isolated populations, the primary focus of the conservation strategy is to maintain and expand extant populations and suitable habitat within those population areas. Suitable habitat includes areas for cover, resting, denning and foraging and also provides for dispersal habitat when breeding or food resources may not be optimal. To maintain redundancy of coastal marten populations, the conservation strategy also focuses on providing for areas in the diversity of habitats that coastal martens have been documented to use. This includes mesic serpentine, coastal shore pine, and late-seral coniferous forests. These habitats are spread across the species' range and typically provide the physical and biological features essential to the

conservation of the species without which range-wide resiliency, redundancy, and representation of the species could not be achieved. As explained further below, this focus led to the inclusion of suitable habitat within the ecological settings where the species occurs as part of the conservation strategy.

Selection Criteria and Methodology Used To Determine Critical Habitat

As discussed above, to assist in determining which areas to identify as critical habitat for the coastal marten, we focused our selection on extant populations in the diversity of habitats represented by coastal marten. We define the proposed critical habitat as sites that contain the physical or biological features essential to the conservation of the species within the geographical area occupied by the species at the time of listing.

To define the areas we consider to be the areas occupied at the time of listing, we started with a set of detection points and grouped detections into extant population areas (EPAs). The EPAs and the habitat areas adjacent to and within dispersal distance between the EPAs encompass the core areas we consider to be occupied at the time of listing. All current verifiable coastal marten detections were used to delineate EPAs within the historical home range. If the total number of detections in an area was less than five or they were separated by greater than 3 mi (5 km) from other verifiable detections, the combined detections were not designated as an EPA due to the insufficient level of information to suggest a likely self-sustaining population (Service 2019a, p. 84). EPAs were considered separate from each other if they were not within 4.6 mi (7.5 km) of each other, which is based on half of the average dispersal distance of a coastal marten. This distance assumes that animals are not regularly moving between EPAs and the EPAs are functioning as separate populations. To better focus the areas occupied at the time of listing and considered to be essential to the conservation of the species, we refined the boundaries of the EPAs using a 60 percent concave hull method to select those areas with a higher prevalence of coastal marten detections.

Because the EPAs are based on occurrence records and not habitat, we also used two different habitat models specific to coastal marten to incorporate the habitat used by the coastal marten detections associated with each EPA. These modeled areas are considered occupied by the species based on the continuous nature of the habitat and are within the dispersal distance and home ranges of the species. The first model we used found that coastal martens were positively associated with Old-Growth Structural Index (OGSI), precipitation, and serpentine soils, and negatively with elevation (Slauson *et al.* 2019b, entire). OGSI is a spatial data layer developed by the U.S. Forest Service (USFS) and Oregon State University and is an index of one to four measurable old-growth structure elements including (1) density of large live trees, (2) diversity of live-tree size classes, (3) density of large snags, and (4) percentage cover of down woody material (Davis *et al.* 2015, p. 16). OGSI serves as a surrogate for the late-seral structural features that are important to coastal marten survival and, in conjunction with the serpentine soil layer, incorporates several of the PBFs defined above. The inclusion of precipitation in the model accounts for the association of the mesic shrub layer that marten depend on for cover, resting, and foraging.

We also used a habitat connectivity model developed by the Service that incorporates OGSI data along with a minimum patch size of habitat to create 'cores' of suitable habitat (Schrott and Shinn 2020, entire). We used our model in conjunction with the Slauson *et al.* 2019b model because the Slauson model does not include low elevation areas known to be occupied by coastal martens. The Service model includes modeled output in lower elevation coastal regions of California and Oregon where we know coastal marten occur. Because the entire combined modeled extent of habitat overestimates the amount of habitat used by and needed for coastal marten conservation, we eliminated any modeled areas that were not adjacent to EPAs and eliminated modeled output in arid environments east of the Klamath River in California where suitable habitat is more scarce and localized to moist ravines. In addition, we trimmed the polygons where there were long tendrils displaying high edge-to-interior ratio that were generally artifacts of roads, modeled output, or misaligning of ownership projections and, thus, did not contain the PBFs considered essential to the conservation of the species.

We further evaluated the polygons based on the PBFs for coastal marten and current land management practices under the Northwest Forest Plan (NWFP). We prioritized inclusion of Federal reserve lands and State lands occupied by the species at the time of listing because these lands contribute most to the conservation of the species, but also included those private lands that contain the PBFs essential to coastal marten conservation and which may require special management.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the coastal marten. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Due to unverifiable ownership and mapping information, some small portions of private or unclassified lands may occur within the mapping of Units 1, 2 and 3, but which were not intended for inclusion within the designation. These areas are extremely small artifacts of mapping discrepancies and potential overlapping data information, do not contain the PBFs considered essential to the conservation of the species, and are not intended to be included as critical habitat as defined in this rule. Accordingly, any private lands in Units 1, 2, or 3 inadvertently included in the proposed designation are not considered critical habitat because they are part of inadvertent overlap or undeterminability and are too small to be significant for coastal marten conservation. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We propose to designate as critical habitat lands that we have determined are occupied at the time of listing (*i.e.,* currently occupied) and that contain one or more of the physical or biological features that are essential to support life-history processes of the species.

Units are proposed for designation based on one or more of the physical or biological features being present to support the coastal marten's life-history processes. Some units contain all of the identified physical or biological features and support multiple life-history processes. Some units contain only some of the physical or biological

features necessary to support the coastal marten's particular use of that habitat.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Proposed Regulation Promulgation. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R8–ES–2020–0151 and on our internet site, *https://www.fws.gov/arcata.*

Proposed Critical Habitat Designation

We are proposing five units as critical habitat for the coastal marten. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the coastal marten. Table 3 below identifies all of the units within the geographical area occupied at the time of listing that contain the physical or biological features that support multiple life-history processes for the coastal marten and are thus essential to the conservation of the species.

TABLE 3—PROPOSED CRITICAL HABITAT UNITS FOR PACIFIC MARTEN (COASTAL DPS)

[Area (acres (hectares)) reflects all land within critical habitat unit boundaries and includes area that may not contain PBFs.]

Unit No. and name	Ownership (in acres (hectares))				Total
	Federal	State	Tribal	Other	
Unit 1: OR–1 Siuslaw	94,094 (37,673)	2,124 (859)	0	0	95,218 (38,534)
Unit 2: OR–2 Siltcoos	8,582 (3,472)	249 (101)	0	0	8,830 (3,574)
Unit 3: OR–3 Coos Bay	14,934 (6,044)	648 (262)	0	0	15,582 (6,306)
Unit 4: OR–4 Cape Blanco	1,021 (413)	3,025 (1,224)	0	0	4,046 (1,637)
Unit 5: OR– CA–5 Klamath Mountains	1,154,197 (467,103)	19,829 (8,024)	26,126 (10,573)	89,475 (36,210)	1,289,627 (521,913)
Totals	1,271,828 (514,708)	25,875 (10,471)	26,126 (10,573)	89,475 (36,210)	1,413,305 (571,965)

Note: Area sizes may not sum due to rounding. ''Other'' represents, city, county, private or otherwise unidentified land ownership areas.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the coastal marten, below.

Unit 1: Siuslaw Unit. Lincoln and Lane Counties, Oregon

This unit consists of approximately 95,218 ac (38,534 ha) and encompasses the northern portion of the central coastal Oregon population of coastal martens. Almost all of the unit is within Lane County, north of Oregon Highway 126, but a small portion extends north into Lincoln County, Oregon, on lands managed by the Siuslaw National Forest. The unit mostly borders the Pacific Ocean from just south of the town of Yachats, south to near Sea Lion Caves; further inland, the unit extends as far south as Mercer Lake. Portions of the unit extend inland from the coast as much as 18 mi (29 km), but most of the unit is within 12 mi (19 km) of the coast. The unit is almost entirely in Federal ownership (94,094 ac (37,675 ha)) (99 percent), specifically the Siuslaw National Forest, with approximately 74,899 ac (30,311 ha) in Late-Successional Reserve (LSR) land use allocation under the NWFP (USFS 1994, entire). Rock Creek and Cummins Creek Wilderness Areas make up much of the rest of the Federal lands. Oregon State Park lands along the coast comprise most of the remainder of the unit (2,124 ac (859 ha)), including Neptune, Heceta Head, Washburne, and Ponsler State Parks. Recreation is a principal land use in this unit. Because the Federal lands are in an LSR allocation, forest management is limited to activities that are neutral or beneficial to the retention or development of late-successional forest conditions.

This unit was occupied at the time of listing (2020), is currently occupied by coastal martens, and contains one or more of the physical or biological features essential to the conservation of the species. This unit represents the northernmost distribution of coastal martens in Oregon (based on contemporary detections), as well as relatively unfragmented old forest compared to other forests near the ocean within the DPS. This area may facilitate movement of coastal martens inland. This unit provides all of the features described in PBFs 1 and 2. Overstory conditions as described in PBF 1 are mostly associated with high-productivity sites across much of this unit, characteristic of the mature forests of the Sitka spruce vegetation zone as described in Franklin and Dyrness (1988, pp. 58–59).

The habitat-based threats in this unit that may require special management include removal of forest vegetation, primarily through vegetation management such as timber harvest. Approximately 80 percent of the Federal portion of this unit is managed as a Late Successional Reserve, which requires retaining or developing late-successional conditions that could be suitable for coastal martens. However, some treatments that meet LSR standards and guidelines, such as thinning to increase tree size or stand complexity, can result in loss of dense understories that are valuable to coastal martens to escape from predators and provide suitable prey habitat. We have not identified potential exclusions at this time, but may consider information regarding potential exclusions provided during the comment period for this proposal.

Unit 2: Siltcoos Unit. Lane and Douglas Counties, Oregon

This unit consists of approximately 8,830 ac (3,574 ha) and encompasses the central portion of the central coastal Oregon population of coastal martens in coastal Lane and Douglas Counties, Oregon. The unit occurs along the coastline west of Highway 101 and extends from near the city of Florence, Oregon, south approximately 12 mi (19 km) to the vicinity of Tahkenitch Creek, west of Tahkenitch Lake. Land ownership within the unit includes approximately 8,582 ac (3,472 ha) of Federal and 249 ac (101 ha) of State land. The Federal portion is within the Oregon Dunes National Recreation Area, managed by the Siuslaw National Forest. The State portion comprises Honeyman State Park. Recreation is the principal land use in this unit, primarily All-Terrain Vehicle (ATV) use on the open dunes and forested trails within the recreation area and surrounding areas.

This unit was occupied at the time of listing (2020) and is currently occupied by coastal martens. Coastal martens in this unit and Unit 3 exhibit the highest densities and smallest home ranges documented in North America (Linnell *et al.* 2018, p. 13), indicating that the physical and biological features coastal martens require are widely available in this unit. The unit contains all of the components described in PBFs 1 and 2. For the forest overstory component of PBF 1, this unit falls into the less productive site category, due to the harsher growing conditions along the Oregon coast. Forest vegetation in this unit generally comprises dense strands of shore pine with extremely dense shrub understories, as described in Franklin and Dyrness (1988, pp. 291–294). This unit encompasses one of four known coastal marten populations, allowing for maintaining redundancy across the DPS. Coastal martens in this unit and Unit 3 are generally isolated from coastal martens in the rest of the DPS, with limited ability to connect populations across the landscape.

The habitat-based threats in this unit that may require special management include possible loss of shore pine and understory shrub habitat in an effort to restore movement of coastal sand dunes or increase open areas for recreation vehicles. An additional threat is the invasion of nonnative shrub species (*e.g.,* Scotch broom (*Cytisus scoparius*)) that may preclude the development of ericaceous shrubs and shore pine that are known components of suitable coastal marten habitat. We have not identified potential exclusions at this time, but may consider information regarding potential exclusions provided during the comment period for this proposal.

Unit 3: Coos Bay Unit. Douglas and Coos Counties, Oregon

This unit consists of approximately 15,582 ac (6,306 ha) and encompasses the southern portion of the central coastal Oregon population of coastal martens in coastal Douglas and Coos Counties, Oregon. The unit extends from Winchester Bay south to the north spit of Coos Bay proper, and lies west of U.S. Highway 101. Land ownership includes 14,934 ac (6,044 ha) of Federal and 648 ac (262 ha) of State land. The Federal portion is within the Oregon Dunes National Recreation Area, managed by the Siuslaw National Forest. The State portion comprises Umpqua Lighthouse State Park. This unit is otherwise similar to Unit 2 in terms of primary land use, coastal marten occupancy, presence of physical and biological features, vegetation description, essentiality of conservation, and habitat based threats. Recreation is the principal land use in this unit, primarily ATV use on the open dunes and forested trails within the recreation area and surrounding areas.

This unit was occupied at the time of listing (2020) and is currently occupied by coastal martens. Coastal martens in this unit, along with Unit 2, exhibit the highest densities and smallest home ranges in North America (Linnell *et al.* 2018, p. 13), indicating that the physical and biological features coastal martens require are widely available in this unit. The unit contains all of the components described in PBFs 1 and 2. For the forest overstory component of PBF 1, this unit falls into the less productive site category, due to the harsher growing conditions along the Oregon coast. Forest vegetation in this unit generally comprises dense strands of shore pine with extremely dense shrub understories, as described in Franklin and Dyrness (1988, pp. 291–294). This unit encompasses one of four known coastal marten populations, allowing for maintaining redundancy across the DPS. Coastal martens in this unit and Unit 2 are generally isolated from coastal martens in the rest of the DPS, with limited ability to connect populations across the landscape.

The habitat-based threats in this unit that may require special management include addressing the possible loss of shore pine and understory shrub habitat in an effort to restore movement of coastal sand dunes or increase open areas for recreation vehicles. An additional threat is the invasion of nonnative shrub species (*e.g.,* Scotch broom) that may preclude the development of ericaceous shrubs and shore pine that are known components of suitable coastal marten habitat. Loss of habitat adjacent to the unit as a result of the Jordan Cove liquefied natural gas project will reduce connection capacity with coastal martens detected on the north spit to the south (Service 2020, pp. 46–50). We have not identified potential exclusions at this time in this unit, but may consider information regarding potential exclusions provided during the comment period for this proposal.

Unit 4: Cape Blanco Unit. Coos and Curry Counties, Oregon

This unit consists of approximately 4,046 ac (1,637 ha) and encompasses the immediate coastal portion of the southern coastal Oregon population of coastal martens in coastal Coos and Curry Counties, Oregon. The unit extends from just south of the Bandon State Natural Area, south to Cape Blanco State Park, and lies west of U.S. Highway 101. Land ownership includes 1,021 ac (413 ha) of Federal and 3,025 ac (1,224 ha) of State land. The Federal portion is managed by the Bureau of Land Management (BLM) as a District Designated Reserve with no programmed timber harvest; portions of the reserve are managed for recreation, while other portions are managed as the New River Area of Critical Environmental Concern to protect and conserve natural resources. The State portion comprises Cape Blanco State Park and Floras Lake State Natural Area. Recreation is the principal land use in this unit.

This unit was occupied at the time of listing (2020) and is currently occupied by coastal martens and contains one or more of the components described in PBFs 1 and 2 that are essential to the conservation of the species. The unit is a mix of shore pine dominated forests in the lowlands near the ocean, and more mature Sitka spruce forest in the higher bluffs around Cape Blanco. This unit encompasses occupied coastal forest that is known to be suitable habitat for coastal martens.

The habitat-based threats in this unit that may require special management are the prevalence of invasive shrub species that may preclude the development of ericaceous shrubs and shore pine that are known components of suitable coastal marten habitat. We have not identified potential exclusions at this time, but may consider information regarding potential exclusions provided during the comment period for this proposal.

Unit 5: Klamath Mountains Unit. Coos, Curry, Douglas, and Josephine Counties, Oregon. Del Norte, Humboldt, and Siskiyou Counties, California

This unit consists of approximately 1,289,627 ac (521,913 ha) and occurs mostly within the Klamath Mountains of southwestern Oregon and northwestern California. Within Oregon, the unit occurs in the southern part of Coos County, just south of Powers, Oregon, and extends south through eastern Curry and western Josephine Counties, with the northeastern fringe of the unit extending into Douglas County. The northwestern portion of this unit consists of a non-contiguous portion that encompasses Humbug Mountain State Park. The unit extends south into California, occupying much of the eastern portion of Del Norte County, extending south into Humboldt County and east into Siskiyou County. In California, the unit lies west of U.S. Highway 96 and extends all the way to the Pacific Ocean in northern Humboldt

County, encompassing Redwood National and State Parks. The unit is 89 percent federally owned (1,154,197 ac (467,103 ha)), with an additional 19,829 ac (8,024 ha) of State lands, 26,126 ac (10,573 ha) of Tribal lands, and the remainder (89,475 ac (36,210 ha)) owned by private or local governments. The USFS is the principal Federal land manager (Rogue River-Siskiyou, Six Rivers, and Klamath National Forests), with the BLM managing additional lands in Oregon, and the National Park Service in California. LSRs account for 46 percent of the Federal ownership. In addition, several Wilderness Areas are within this unit, including Grassy Knob, Wild Rogue, Copper Salmon, and Kalmiopsis in Oregon, and the Siskiyou Wilderness in California.

This unit was occupied at the time of listing (2020) and is currently occupied by coastal martens and contains one or more of the physical or biological features essential to the conservation of the species. This unit represents the southernmost distribution of coastal martens in the DPS and encompasses the majority of known coastal marten detections. Outside of the northern portion of Unit 1, it also is the only source of non-shore pine habitat, and includes a variety of vegetation conditions that coastal martens use, enhancing representation. This unit contains key connectivity areas for coastal martens to move either north or south in the DPS, as well as inland or towards the coast. This unit provides all of the features described in PBFs 1 and 2. Overstory conditions as described in PBF 1 are associated with high productivity sites across much of the unit, but low-productivity serpentine sites also occur across this unit.

The habitat-based threats in this unit that may require special management include removal of forest vegetation, primarily through vegetation management such as timber harvest. Fuels management to reduce the risk of fire is also a regular activity throughout much of this unit. We have identified potential exclusions for some private and Tribal lands in this unit (see Exclusions). These potential exclusions include 76,544 ac (30,975 ha) of private land and 26,126 ac (10,573 ha) of Tribal land in the California portion of the unit.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

We published a final rule revising the definition of destruction or adverse modification on August 27, 2019 (84 FR 44976). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.

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

Compliance with the requirements of section 7(a)(2) is documented through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinitiate formal consultation on previously reviewed actions. These requirements apply when the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law) and, subsequent to the previous consultation, we have listed a new species or designated critical habitat that may be affected by the Federal action, or the action has been modified in a manner that affects the species or critical habitat in a way not considered in the previous consultation. In such situations, Federal agencies sometimes may need to request reinitiation of consultation with us, but the regulations also specify some exceptions to the requirement to reinitiate consultation on specific land management plans after subsequently listing a new species or designating new critical habitat. See the regulations for a description of those exceptions.

Application of the ''Destruction or Adverse Modification'' Standard

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat as a whole for the conservation of the listed species. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may violate section 7(a)(2) of the Act by destroying or adversely modifying such habitat, or that may be affected by such designation.

The scale and context of activities are particularly important in evaluating the potential effects on coastal marten habitat. The degree to which management activities are likely to affect the capability of critical habitat to support coastal martens will vary depending on factors such as the scope and location of the action, and the quantity of critical habitat affected. Activities that the Service may, during a consultation under section 7(a)(2) of the Act, be considered likely to destroy or adversely modify critical habitat include, but are not limited to:

(1) Actions that would remove, manipulate, degrade, or destroy coastal marten habitat at such a magnitude that the entirety of the designated critical habitat would no longer serve its intended value of providing for conservation of the species. Activities that could result in such an impact could include very large-scale mechanical (including controlled fire), chemical, or biological (biocontrol agents) actions that may cause significant reductions in the amount, extent, or quality of habitat available to coastal martens for resting, denning, feeding, breeding, sheltering, and dispersing. While we are currently unaware of any planned activities involving Federal actions that could reach this magnitude of impact to the essential physical or biological features, known activities that have the potential to impact components of these features include timber sales, vegetation management, hazard tree removal, salvage of large areas of trees killed by fire or other mortality source, noxious weed treatments, forest pest and disease management, fire management including fire suppression and fuel reduction treatments, forest and aquatic restoration projects, activities conducted under mining permits, activities conducted under travel management plans (*e.g.,* road maintenance, construction, and decommissioning), cleaning up and restoring unauthorized cannabis cultivation sites, recreation and visitor services projects and site development, communication projects and other infrastructure projects. Federal agencies likely to engage with the Service on these activities include the USFS, BLM, National Park Service, and Bureau of Indian Affairs.

(2) Actions in relation to the Federal highway system, as regulated by the U.S. Department of Transportation, that would remove, fragment, manipulate, degrade, or destroy coastal marten habitat at such a magnitude that the entirety of the designated critical habitat would no longer serve its intended value of providing for conservation of the species. While we are currently unaware of any planned activities involving the Federal highway system that could reach this magnitude of impact to the essential physical or biological features, known activities that have the potential to impact components of these features include very large-scale road and bridge construction and right-of-way designation, maintenance or improvements of existing highways, and other infrastructure projects. These activities could remove, fragment, or reduce the amount, extent, or quality of habitat needed by coastal martens for resting, denning, feeding, breeding, sheltering, and dispersing.

(3) Actions regulated by the Federal Energy Regulatory Commission, which are energy development projects that would remove, manipulate, degrade, or destroy coastal marten habitat at such a magnitude that the entirety of the designated critical habitat would no longer serve its intended value of providing for conservation of the species. While we are currently unaware of any planned activities involving Federal actions that could reach this magnitude of impact to the essential physical or biological features, known energy development projects that have the potential to impact components of these features could include, but are not limited to, very large-scale powerlines, liquefied natural gas pipelines and terminals, and solar and wind farms. These activities could remove or reduce the amount, extent, or quality of habitat needed by coastal martens for resting, denning, feeding, breeding, sheltering, and dispersing.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan (INRMP) prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' There are no Department of Defense (DoD) lands with a completed INRMP within the proposed critical habitat designation.

Consideration of Exclusions Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making the determination to exclude a particular area, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

We describe below the process that we undertook for taking into consideration each category of impacts and our analyses of the relevant impacts.

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.''

The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected

by the designation of critical habitat (*e.g.,* under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts attributable to the listing of the species under the Act (*i.e.,* conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct a discretionary section 4(b)(2) exclusion analysis.

For this particular designation, we developed an incremental effects memorandum (IEM) (Service 2019b, entire) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the coastal marten (Industrial Economics (IEc) 2020, entire). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out particular geographic areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. In particular, the screening analysis considers baseline costs (*i.e.,* absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. If there are any unoccupied units in the proposed critical habitat designation, the screening analysis assesses whether any additional management or conservation efforts may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM are what we consider our draft economic analysis (DEA) of the proposed critical habitat designation for the coastal marten; our DEA is summarized in the narrative below.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess to the extent practicable the probable impacts to both directly and indirectly affected entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the coastal marten, first we identified, in the IEM dated October 22, 2019, probable incremental economic impacts associated with the following categories of activities: (1) Timber harvest activities; (2) wildfire or wildfire suppression activities; (3) road construction activities; (4) remediation of unauthorized cannabis cultivation sites; and (5) habitat restoration activities. We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the coastal marten is present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our IEM, we attempted to clarify the distinction between the effects that would result from the species being listed and those attributable to the critical habitat designation (*i.e.,* difference between the jeopardy and adverse modification standards) for the coastal marten's critical habitat. Because the designation of critical habitat for coastal marten is being proposed nearly concurrently with the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to the coastal marten may also be likely to adversely affect the essential physical or biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat.

The proposed critical habitat designation for the coastal marten is made up of five units, four within Oregon and one along the Oregon border extending south into California. All of the units are occupied by the coastal marten. The amount of area being proposed within each unit along with ownership information is summarized in Table 3 (see Proposed Critical Habitat Designation). Federal land makes up 90 percent of the total proposed designation (Table 3). As a result, a large percentage of the designation would be subject to a Federal nexus and section 7 consultation. Approximately 81 percent of the Federal lands are specifically managed by the USFS. A number of existing land use and management plans exist within proposed critical habitat that may provide benefits to coastal marten critical habitat. In particular, USFS lands proposed as critical habitat are managed under the Northwest Forest Plan, which entails a network of late-successional reserve land-use allocations to be managed for the retention and development of late-successional forest that may benefit habitat for coastal martens. In addition, most proposed BLM lands are included in reservation allocations where programmed timber harvest does not occur.

Because the proposed units are occupied, any actions that may affect the species or its habitat would also affect designated critical habitat, and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the coastal marten. Therefore, only administrative costs associated with an adverse modification analysis are expected in approximately 90 percent of the proposed critical habitat designation. While this additional analysis will require time and resources by both the Federal action agency and the Service, it is believed that, in most circumstances, these costs would predominantly be administrative in nature and would not be significant.

In addition, nearly 48 percent of the proposed designation for coastal marten overlaps with existing critical habitat for the endangered marbled murrelet (*Brachyramphus marmoratus*), threatened northern spotted owl (*Strix occidentalis caurina*), threatened Oregon silverspot butterfly (*Speyeria zerene hippolyta*), and the threatened Pacific coast population of the western snowy plover (*Charadrius nivosus nivosus*) (IEc 2020, Exhibit A–1, p. 18). Although the western snowy plover's and Oregon silverspot butterfly's habitat needs are distinctly different than the coastal marten's, the overall habitat needs of both the marbled murrelet and northern spotted owl would provide at least some overlap in maintaining appropriate forested habitat. The overlap between the murrelet and northern spotted owl make up the majority (42 percent) of critical habitat overlap with the coastal marten As a result, any consultation requirements for listed species and resulting costs would be at least partially split between each overlapped species with not one species being the sole source of the entire costs.

The entities most likely to incur incremental costs are parties to section 7 consultations, including Federal action agencies and, in some cases, third parties, most frequently State agencies or Tribes. Because the proposed critical habitat designation includes other lands not owned by Federal, State, or Tribal governments, incremental costs arising from public perception of the designation have some potential to arise; however, these non-governmental lands make up only a small portion (6.3 percent) of the proposed designation. Further, there do not appear to be significant development pressures in the area. We are not aware of any Tribal, State, or local government regulations or requirements that could be triggered by the designation of critical habitat for the coastal marten and attribute any change in behavior from private entities to be associated with public perception or attitudes rather than any specific requirements. Based on coordination efforts with Tribal partners and State and local agencies, the cost to private entities within these sectors is expected to be relatively minor (administrative costs of less than $10,000 per consultation effort); they, therefore, would not be significant.

Our analysis of economic costs estimates that considering adverse modification of coastal marten critical habitat during section 7 consultation will result in incremental costs of approximately $280,000 (2018 dollars) per year. The incremental administrative burden resulting from the designation of critical habitat for the coastal marten will not reach $100 million in a given year based on the estimated annual number of consultations and per-unit consultation costs. The designation is unlikely to trigger additional requirements under State or local regulations and is not expected to have perceptional effects to third parties.

We are soliciting data and comments from the public on the DEA discussed above, as well as all aspects of this proposed rule and our required determinations. During the development of a final designation, we will consider the information presented in the DEA and any additional information on economic impacts received during the public comment period to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2) and our implementing regulations at 50 CFR 424.19. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Consideration of National Security Impacts

In preparing this proposal, we have determined that the lands within the proposed designation of critical habitat for the coastal marten are not owned, managed, or used by the Department of Defense or Department of Homeland Security; therefore, we anticipate no impact on national security or homeland security as a result of the designation. However, during the development of a final designation, we will consider any additional information received through the public comment period on the impacts of the proposed designation on national security or homeland security to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2) of the Act and our implementing regulations at 50 CFR 424.19.

Consideration of Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security discussed above. We consider a number of factors including whether there are permitted conservation plans covering the species in the area such as HCPs, safe harbor agreements (SHAs), or candidate conservation agreements with assurances (CCAAs), or whether there are non-permitted conservation agreements and partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at the existence of Tribal conservation plans and partnerships and consider the government-to-government relationship of the United States with Tribal entities. We also consider any social impacts that might occur because of the designation.

When identifying the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive due to the protection from destruction or adverse modification as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation, or in the continuation, strengthening, or encouragement of partnerships.

In the case of the coastal marten, the benefits of critical habitat include public awareness of the presence of the coastal marten and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the coastal marten due to protection from destruction or adverse modification of critical habitat. Additionally, continued implementation of an ongoing management or conservation plan that provides equal to or more conservation than a critical habitat designation would reduce the benefits of including that

specific area in the critical habitat designation.

We evaluate the existence of a management or conservation plan when considering the benefits of inclusion. We consider a variety of factors, including, but not limited to, whether the plan is finalized; how it provides for the conservation of the essential physical or biological features; whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan will be implemented into the future; whether the conservation strategies in the plan are likely to be effective; and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information or changing conditions.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction of the species. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

Private or Other Non-Federal Conservation Plans or Agreements and Partnerships, in General

We sometimes exclude specific areas from critical habitat designations based in part on the existence of private or other non-Federal conservation plans or agreements and their attendant partnerships. A conservation plan or agreement describes actions that are designed to provide for the conservation needs of a species and its habitat, and may include actions to reduce or mitigate negative effects on the species caused by activities on or adjacent to the area covered by the plan. Conservation plans or agreements can be developed by private entities with no Service involvement, or in partnership with the Service.

We evaluate a variety of factors to determine how the benefits of any exclusion and the benefits of inclusion are affected by the existence of private or other non-Federal conservation plans or agreements and their attendant partnerships when we undertake a discretionary section 4(b)(2) exclusion analysis. A non-exhaustive list of factors that we will consider for non-permitted plans or agreements is shown below. These factors are not required elements of plans or agreements, and all items may not apply to every plan or agreement.

(i) The degree to which the plan or agreement provides for the conservation of the species or the essential physical or biological features (if present) for the species.

(ii) Whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan or agreement will be implemented.

(iii) The demonstrated implementation and success of the chosen conservation measures.

(iv) The degree to which the record of the plan supports a conclusion that a critical habitat designation would impair the realization of benefits expected from the plan, agreement, or partnership.

(v) The extent of public participation in the development of the conservation plan.

(vi) The degree to which there has been agency review and required determinations (*e.g.,* State regulatory requirements), as necessary and appropriate.

(vii) Whether National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) compliance was required.

(viii) Whether the plan or agreement contains a monitoring program and adaptive management to ensure that the conservation measures are effective and can be modified in the future in response to new information.

Green Diamond Resource Company Lands; Unit 5 Klamath Mountains

The Green Diamond Resource Company (GDRC) owns and manages approximately 76,544 ac (30,976 ha) of lands included in the proposed designation for the coastal marten in California. Using the criteria described under *Criteria Used To Identify Critical Habitat,* we have determined that these lands are essential to the conservation of the species.

The GDRC has developed an MOU with the Service (GDRC-Service 2020, entire) and a State Safe Harbor Agreement (SHA) with the California Department of Fish and Wildlife (CDFW 2018, entire) to assist in conservation of the coastal marten and its habitat. Conservation measures identified for the coastal marten and its habitat in the MOU and State SHA include:

- Engage in survey, monitoring, reporting, and coordination efforts for coastal marten.
- Provide funding and technical support for assisted coastal marten dispersal actions.
- Develop and implement a coastal marten training program.
- Establish a 127,217 ac ''Marten Special Management Area'' with a 2,098 ac reserve.
- Create slash piles to benefit coastal marten and provide habitat around natal dens.
- Implement avoidance and minimization measures for GDRC actions in coastal marten habitat.
- Discourage and prevent unauthorized cannabis cultivation and use of pesticides.
- Implement adaptive management strategies for conservation of coastal marten and its habitat.
- Designate an internal compliance team and MOU Coordinator to oversee coastal marten conservation through the MOU and SHA.
- Provide access to GDRC lands to State and Service staff to verify compliance of agreements.
- Retain live and snag tree habitat components to benefit coastal marten (Retention Scorecard) and their habitat.

In addition, the GDRC has been and continues to be a member of a multi-agency management group for conservation of the coastal marten in California and Oregon. The group has developed a conservation strategy and management plan for conserving the coastal marten in California (Slauson *et al.* 2019a, entire). The conservation strategy was developed to address coastal marten declines and synthesizes current knowledge on the species and identifies current threats, management goals, and outlines numerous conservation actions and information needs. The implementation of the conservation measures outlined in the strategy would assist in conserving the species and its habitat.

We have determined that the conservation measures and management actions identified above being undertaken by GDRC will conserve and manage coastal marten habitat including the species' PBFs and that these actions meet our criteria for exclusion under section 4(b)(2) of the Act. Based on GDRC working with the Service and the CDFW on development and implementation of the MOU and State SHA that benefit coastal marten habitat, involvement and development of the conservation strategy, and its continued partnership with us in coastal marten conservation, we are considering excluding GDRC lands from the final designation. We will continue to work with the GDRC throughout the public comment period and during development of the final designation of critical habitat for the coastal marten and are seeking comment on whether

the existing management and conservation efforts of GDRC meet our criteria for exclusion from the final designation under section 4(b)(2) of the Act.

Tribal Lands

Several Executive Orders, Secretarial Orders, and policies concern working with Tribes. These guidance documents generally confirm our trust responsibilities to Tribes, recognize that Tribes have sovereign authority to control Tribal lands, emphasize the importance of developing partnerships with Tribal governments, and direct the Service to consult with Tribes on a government-to-government basis.

A joint Secretarial Order that applies to both the Service and the National Marine Fisheries Service (NMFS), Secretarial Order 3206, *American Indian Tribal Rights, Federal–Tribal Trust Responsibilities, and the Endangered Species Act* (June 5, 1997) (S.O. 3206), is the most comprehensive of the various guidance documents related to our relationships with Tribes and Act implementation, and it provides the most detail directly relevant to the designation of critical habitat. In addition to the general direction discussed above, S.O. 3206 explicitly recognizes the right of Tribes to participate fully in the listing process, including designation of critical habitat. The Order also states: ''Critical habitat shall not be designated in such areas unless it is determined essential to conserve a listed species. In designating critical habitat, the Services shall evaluate and document the extent to which the conservation needs of the listed species can be achieved by limiting the designation to other lands.'' In light of this instruction, when we undertake a discretionary section 4(b)(2) exclusion analysis, we will always consider exclusions of Tribal lands under section 4(b)(2) of the Act prior to finalizing a designation of critical habitat, and will give great weight to Tribal concerns in analyzing the benefits of exclusion.

However, S.O. 3206 does not preclude us from designating Tribal lands or waters as critical habitat, nor does it state that Tribal lands or waters cannot meet the Act's definition of ''critical habitat.'' We are directed by the Act to identify areas that meet the definition of ''critical habitat'' (*i.e.,* areas occupied at the time of listing that contain the essential physical or biological features that may require special management or protection and unoccupied areas that are essential to the conservation of a species), without regard to landownership. While S.O. 3206 provides important direction, it expressly states that it does not modify the Secretaries' statutory authority.

Yurok Tribal Lands; Unit 5 Klamath Mountains

Approximately 26,126 ac (10,573 ha) of Yurok Tribal lands are included in the proposed designation of critical habitat for the coastal marten in Unit 5 in California. Using the criteria described under *Criteria Used To Identify Critical Habitat,* we have determined that these Tribal lands are occupied by the coastal marten and contain the features essential to the conservation of the species.

The Yurok Tribe has a demonstrated track record of maintaining its lands for natural resources through implementation of their Yurok Forest Management Plan (FMP) (Yurok 2012, entire) and the Blue Creek Interim Management Plan (BCIMP) (Yurok Tribe and Western Rivers Conservancy 2018, entire). The FMP and BCIMP identify management guidance for specific forest types to enhance and restore healthy, resilient riparian and old growth forests on Yurok Tribal lands. The FMP and BCIMP identify actions that contribute to the conservation of coastal forest habitat important to coastal marten including:

- Establishment of the Humboldt Marten Special Management Area (currently 10,906 ac).
- Surveys for coastal marten in and around project areas.
- Retention and enhancement of suitable reproductive habitat.
- Strategic habitat management to improve connectivity.
- Population monitoring combined with adaptive management to evaluate management effectiveness and prevent disease and predation.
- When appropriate, use of timber harvest, thinning, fuels reduction, and prescribed fire methods that avoid or minimize alteration of dense understory shrubs that are beneficial to coastal marten.
- Identification of stand management alternative to restore and enhance shrub cover where it has been lost or reduced.
- Maintenance of spatial database of coastal marten distribution.
- Nonnative and invasive species control and eradication.
- Fire and fuels management (including variable density thinning, shaded fuel breaks, cultural burning, and emergency rehabilitation).
- Development, testing, and creation of surrogate structures that meet key life-history needs for resting and denning to increase habitat suitability in the short term.

Additionally, we have begun coordination with the Yurok Tribe to assist in identifying additional management actions that may benefit the coastal marten or its habitat. The intent of the discussions is to ultimately develop an MOU with the Tribe to further solidify our partnership with the Tribe in developing and implementing land management practices beneficial to the Tribe and the coastal marten. The current draft MOU identifies habitat management practices, habitat restoration, fuels reduction, and research opportunities that will benefit the coastal marten. The Yurok Tribe has also been and continues to be a member of a multi-agency management group for the conservation of coastal marten in California and Oregon. The group has developed a conservation strategy and management plan for conserving the coastal marten in California (Slauson *et al.* 2019a, entire). We will continue to work with the Tribe throughout the public comment period and during development of the final designation of critical habitat for the coastal marten to further develop and finalize the MOU and build on our existing partnership in implementing specific conservation measures for the coastal marten.

Based on existing conservation and management actions for natural resources by the Yurok Tribe, maintaining and strengthening our working relationship with the Tribe, and preliminary development of the coastal marten MOU with the Tribe, we are considering excluding the Yurok Tribal lands from the final designation. We are seeking comment on whether the Yurok Tribal lands are appropriate for exclusion from the final critical habitat designation to the extent consistent with the requirements of section 4(b)(2) of the Act.

Summary of Exclusions Considered Under 4(b)(2) of the Act

Based on the information provided by entities whose lands we are considering for exclusion, as well as any additional public comments we receive, we will evaluate whether certain lands in Unit 5 of the proposed critical habitat are appropriate for exclusion from the final designation under section 4(b)(2) of the Act. If the analysis indicates that the benefits of excluding lands from the final designation outweigh the benefits of designating those lands as critical habitat, then the Secretary may exercise her discretion to exclude the lands from the final designation. We may also consider areas not identified above for exclusion from the final critical habitat designation based on information we

may receive during the public comment period.

We are considering whether to exclude the following areas under section 4(b)(2) of the Act from the final critical habitat designation for the coastal marten. Table 4 below provides approximate areas (ac, ha) of lands that meet the definition of critical habitat but for which we are considering possible exclusion under section 4(b)(2) of the Act from the final critical habitat rule. These areas include lands owned and managed by the Green Diamond Resource Company and the Yurok Tribe in California in Unit 5.

TABLE 4—AREAS CONSIDERED FOR EXCLUSION BY CRITICAL HABITAT UNIT

[Ac (ha)]

Unit	Name	Areas meeting the definition of critical habitat in ac (Ha)	Areas considered for possible exclusion in ac (Ha)	Rationale for proposed exclusion
5	Klamath Mountains	1,290,604 (573,058)	76,544 (30,975)	Existing Land Management, State Safe Harbor, MOU, Maintaining Partnership.
			26,126 (10,573)	Existing Land Management, Draft MOU, Maintaining Partnership.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine whether potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies would be directly regulated if we adopt the proposed critical habitat designation. There is no requirement under the RFA to evaluate the potential impacts to entities not directly

regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that, if made final as proposed, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if made final, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. In our economic analysis, we did not find that this proposed critical habitat designation would significantly affect energy supplies, distribution, or use, because these types of activities are not occurring and not expected to occur in areas being proposed as critical habitat. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following finding:

(1) This proposed rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that would impose an enforceable duty upon State, local, or Tribal governments with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule would significantly or uniquely affect small governments. The lands being proposed for critical habitat designation are owned by cities, Tribes, the State of California or Oregon, and the National Park Service, Bureau of Land Management, or the U.S. Forest Service. None of these government entities fits the definition of a ''small governmental jurisdiction.'' Therefore, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the coastal marten in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed for the proposed designation of critical habitat for coastal marten, and it concludes that, if adopted, this designation of critical habitat does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposed critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for State and local governments, or for anyone else. As a result, the proposed rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The proposed designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary for the conservation of the species are specifically identified. This information does not alter where and

what federally sponsored activities may occur. However, it may assist State and local governments in long-range planning because they no longer have to wait for case-by-case section 7 consultations to occur.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this proposed rule identifies the elements of physical or biological features essential to the conservation of the species. The proposed areas of designated critical habitat are presented on maps, and the proposed rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. The Yurok Tribe has lands identified in the proposed designation. We have coordinated with the Tribe in development of the SSA and will continue to work with the Yurok Tribe throughout the process of designating critical habitat for the coastal marten.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *http://www.regulations.gov* and upon request from the Arcata Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Arcata Fish and Wildlife Field Office and Oregon State Fish and Wildlife Service Office.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. Amend § 17.11(h) by revising the entry for ''Marten, Pacific [Coastal DPS]'' under MAMMALS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
MAMMALS				
*	*	*	*	*
Marten, Pacific [coastal DPS].	*Martes caurina*	U.S.A. (CA (north-western), OR (western))	T	85 FR 63806, 10/8/2020; 50 CFR 17.40(s).[4d] 50 CFR 17.95(a).[CH]
*	*	*	*	*

■ 3. In § 17.95, amend paragraph (a) by adding an entry for ''Pacific Marten (*Martes caurina*), Coastal DPS'' after the entry for ''Florida Manatee (*Trichechus manatus*)'' to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

(a) *Mammals.*

* * * * *

Pacific Marten (*Martes caurina*), Coastal DPS

(1) Critical habitat units are depicted for California and Oregon, on the maps below in this entry.

(2) Within these areas, the physical or biological features (PBFs) essential to the conservation of the Pacific marten (Coastal DPS) consist of the following components:

(i) Habitat that supports a coastal marten home range by providing for breeding, denning, resting, or foraging. This habitat provides cover and shelter to facilitate thermoregulation and reduce predation risk, foraging sources for marten prey, and structures that provide resting and denning sites. To provide cover and support denning, resting, and foraging, coastal martens require a mature forest overstory, dense understory development, and biologically complex structure that contains snags, logs, other decay elements, or other structures that support denning, resting, or marten prey. Stands meeting the conditions for PBF 1 would also function as meeting PBF 2 (facilitating movement within and between coastal marten home ranges). Stands meeting the condition for PBF 1 contain each of the following three components:

(A) *Mature, conifer-dominated forest overstory.* Overstory canopy cover provides protection to coastal martens from aerial and terrestrial predators, as well as shelter from physical elements such as sun or storms. It also is the source of structural features that coastal martens use for denning and resting, and provides suitable marten prey. Suitable overstory conditions vary depending on the productivity of the site as follows:

(1) For areas with relatively low productivity (*e.g.,* areas where growing conditions are harsher, such as serpentine sites or coastal shore pine forests, compared to other areas), suitable forest overstory conditions are highly variable. They may contain a sparse conifer overstory, such as in some serpentine areas, or a dense conifer overstory composed mainly of trees smaller than the typical older forest conditions described below in paragraph (2)(i)(B)*(2)* of this entry (*e.g.,* the dense shore pine overstory found in areas occupied by marten along the Oregon coast).

(2) For other areas with higher productivity, martens tend to favor forest stands in the old-growth or late-mature seral stages. The specific forest composition and structure conditions found in higher productivity areas will vary by plant series and site class. Structural and composition descriptions of old-growth or late-mature seral stages for local plant community series should be used where available. In general these stands exhibit high levels of canopy cover and structural diversity in the form of:

(i) A wide range of tree sizes, including trees with large diameter and height;

(ii) Deep, dense tree canopies with multiple canopy layers and irregular tree crowns;

(iii) High numbers of snags, including large-diameter snags; and

(iv) Abundant down wood, including large logs, ideally in a variety of decay stages.

(B) *Dense, spatially extensive shrub layer.* The shrub layer should be greater than 70 percent of the area, comprising mainly shade-tolerant, long-lived, mast-producing species (primarily ericaceous species such as salal, huckleberry, or rhododendron, as well as shrub oaks). An extensive layer of dense shrubs provides protection and cover from coastal marten predators. In addition, ericaceous and mast-producing shrubs provide forage for marten prey.

(C) *Stands with structural features.* Structural features that support denning or resting, such as large down logs, rock piles with interstitial spaces, and large snags or live trees with decay elements or suitable resting structures (*e.g.,* hollows and cavities, forked or broken tops, dead tops, brooms from mistletoe or other tree pathogens, or large platforms including abandoned nests). These features provide cover and thermal protection for kits and denning females, and for all animals when they are resting between foraging bouts. Hence, these features need to be distributed throughout a coastal marten home range. They also tend to be among the largest structures in the stand. Many of these features, such as down logs and snags or live trees with decayed elements, also support coastal marten prey.

(ii) Habitat that allows for movement within home ranges among stands that meet PBF 1 or that supports individuals dispersing between home ranges. Habitat within PBF 2 includes:

(A) Stands that meet all three conditions of PBF1;

(B) Forest stands that meet only the first two components of PBF 1 (mature, conifer-dominated forest overstory and a dense, spatially extensive shrub layer); or

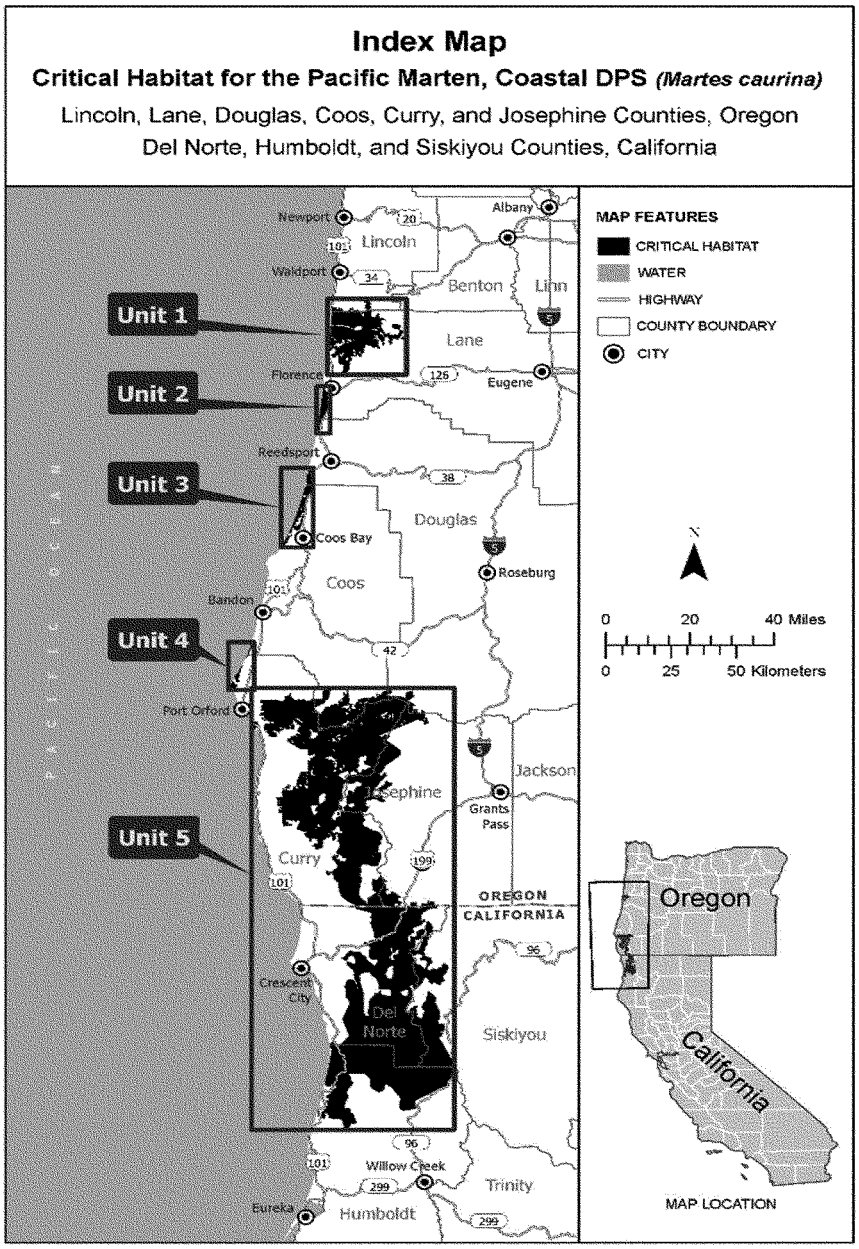
(C) Habitats with lesser amounts of shrub, canopy, or forest cover, or lesser amounts of smaller structural features as described in PBF 1, and while not meeting the definition of PBF 1, would still provide forage and cover from predators that would allow a coastal marten to traverse the landscape to areas of higher quality habitat.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved or hardened areas as a result of development) and the land on which they are located existing within the legal boundaries of the critical habitat units for the species on [EFFECTIVE DATE OF THE FINAL RULE]. Due to the scale on which the critical habitat boundaries are developed, some areas within these legal boundaries may not contain the physical or biological features and therefore are not considered critical habitat.

(4) *Critical habitat map units.* In the critical habitat map units, data layers defining map units were created using ArcGIS Pro 2.5.2 (Environmental Systems Research Institute, Inc. (ESRI)), a Geographic Information Systems (GIS) program. ESRI base maps of world topographic, world imagery, and the program's world imagery USGS Imagery were used. Base map service was last refreshed April 2020. Critical habitat units were then mapped using North American Datum (NAD) 1983, Albers. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Arcata Fish and Wildlife Office's internet site at *http://www.fws.gov/arcata,* or on *http://www.regulations.gov* at Docket No. FWS–R8–ES–2020–0151, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) *Note:* Index map for California and Oregon follows:

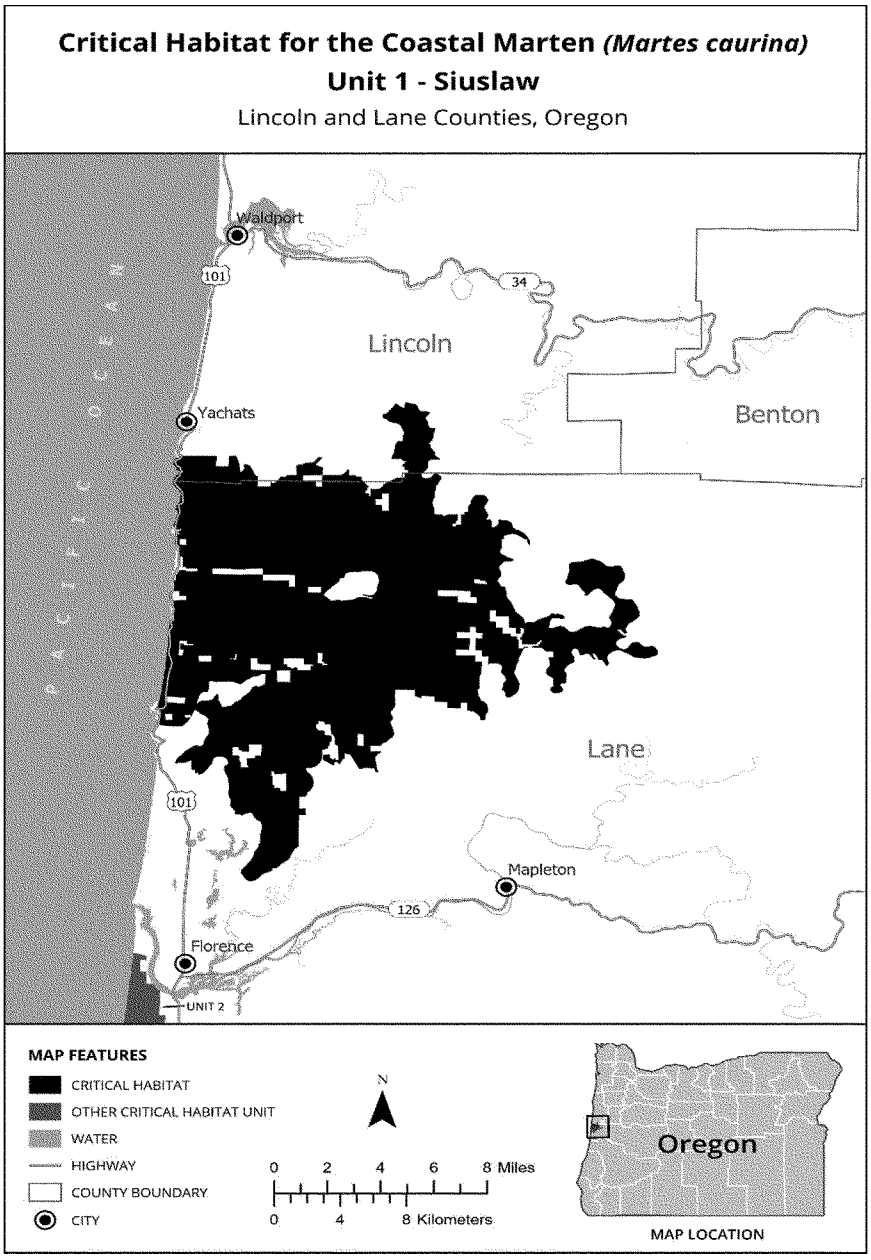
BILLING CODE 4333–15–P



(6) Unit 1: Siuslaw Unit, Lincoln and Lane Counties, Oregon.

(i) General description: Unit 1 consists of 95,218 ac (38,543 ha) and comprises Federal (94,094 ac (37,673 ha)), State (2,124 ac (859 ha)), and less than 1 ac (1 ha) other lands.

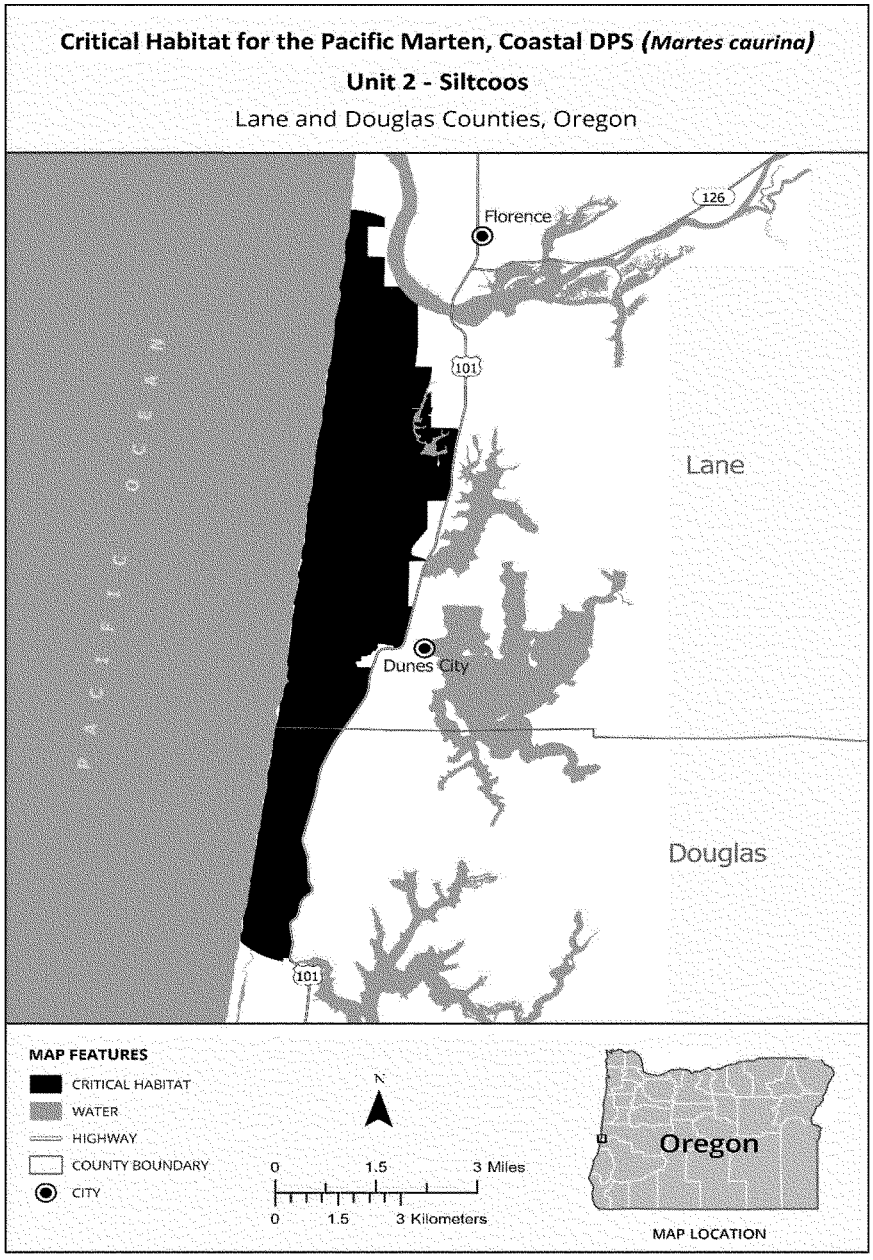
(ii) Map of Unit 1 follows:



(7) Unit 2: Siltcoos Unit. Lane and Douglas Counties, Oregon.

(i) General description: Unit 2 consists of 8,830 ac (3,574 ha) and comprises Federal (8,582 ac (3,472 ha)) and State (249 ac (101 ha)) lands.

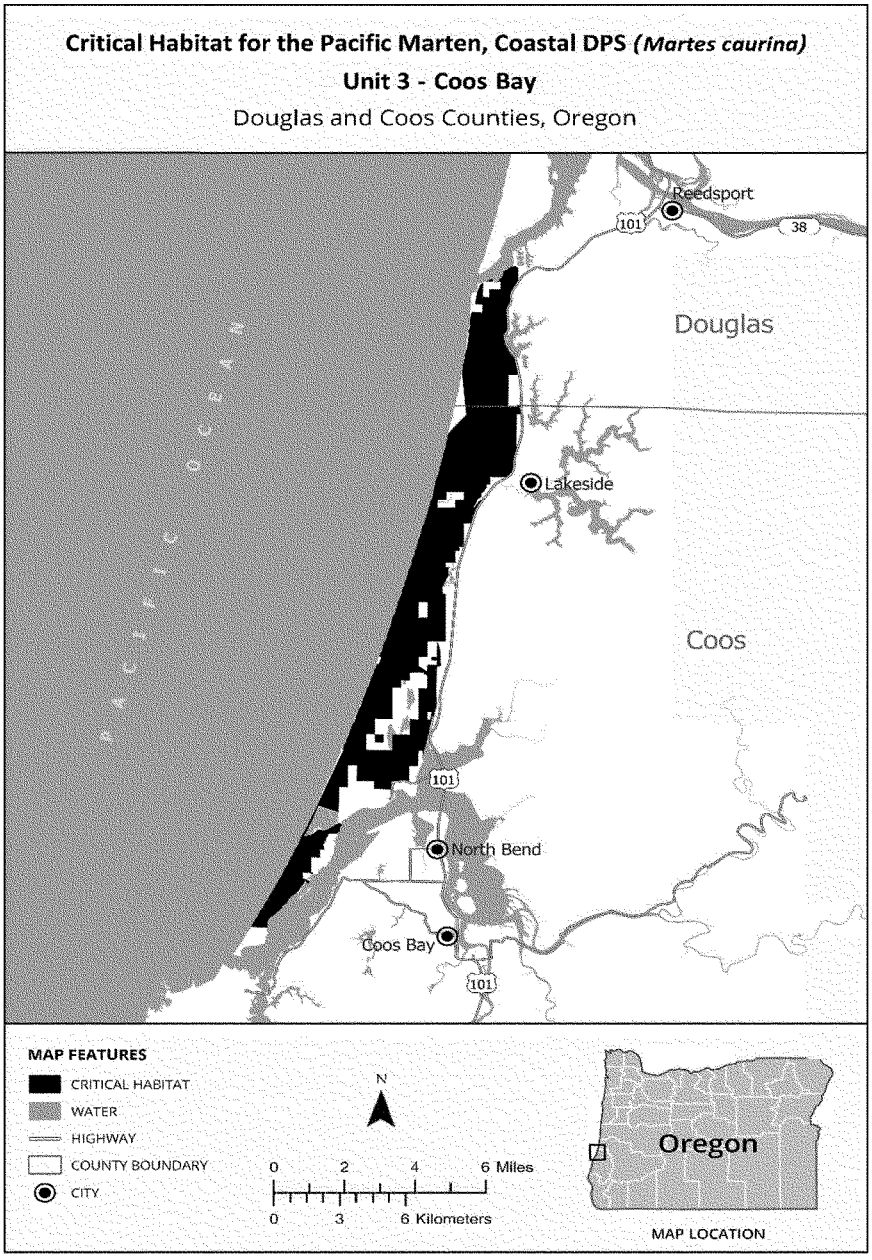
(ii) Map of Unit 2 follows:



(8) Unit 3: Coos Bay Unit. Douglas and Coos Counties, Oregon.

(i) General description: Unit 3 consists of 15,582 ac (6,306 ha) and comprises Federal (14,934 ac (6,044 ha)) and State (648 ac (262 ha)) lands.

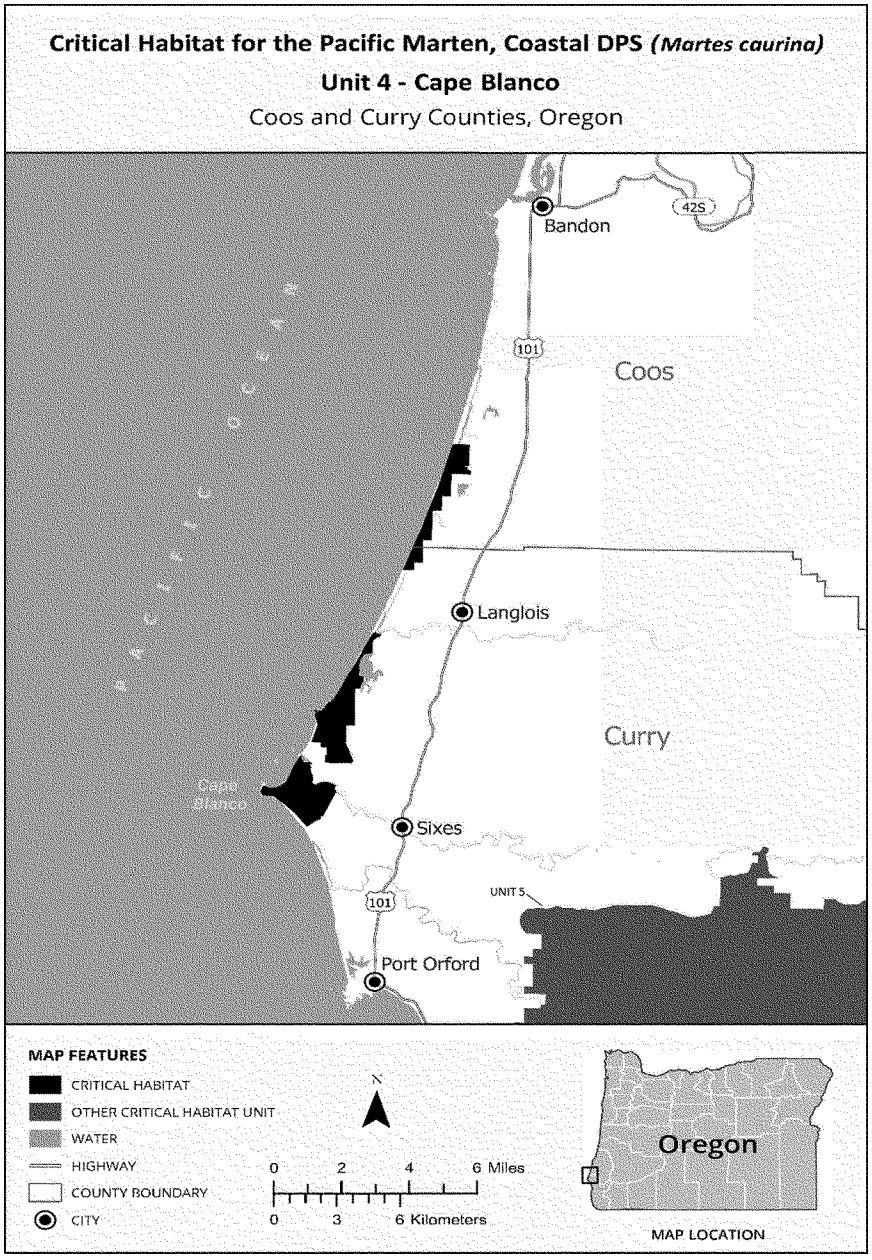
(ii) Map of Unit 3 follows:



(9) Unit 4: Cape Blanco Unit. Coos and Curry Counties, Oregon.

(i) General description: Unit 4 consists of 4,046 ac (1,637 ha) and comprises Federal (1,021 ac (413 ha)) and State (3,025 ac (1,224 ha)) lands.

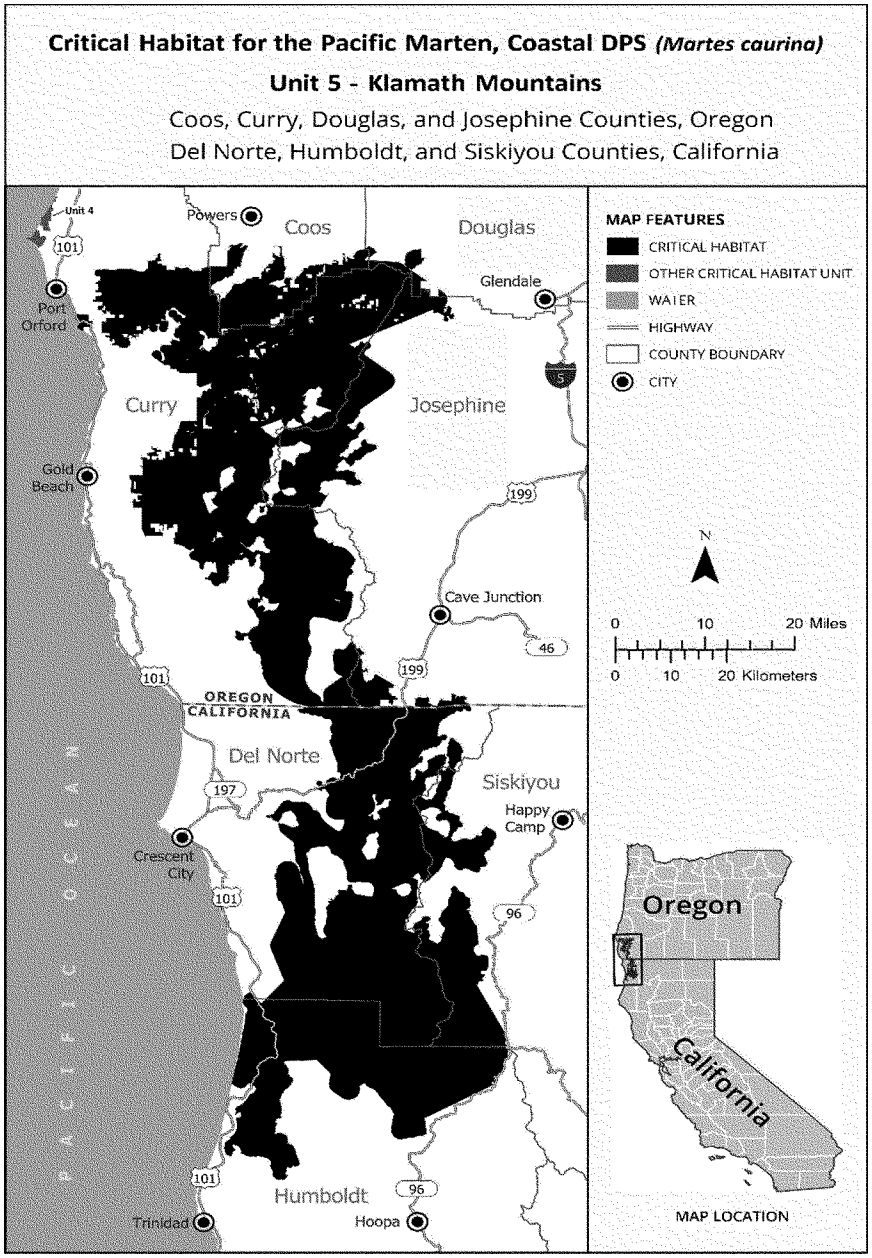
(ii) Map of Unit 4 follows:



(10) Unit 5: Klamath Mountains Unit. Coos, Curry, Douglas, and Josephine Counties, Oregon. Del Norte, Humboldt, and Siskiyou Counties, California.

(i) General description: Unit 5 consists of 1,289,627 ac (521,913 ha) and comprises Federal (1,154,197 ac (467,103 ha)), State (19,829 ac (8,024 ha)), Tribal (26,126 ac (10,573 ha)), and private or undefined (89,475 ac (36,210 ha)) lands.

(ii) Map of Unit 5 follows:



* * * * *

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–22994 Filed 10–22–21; 8:45 am]

BILLING CODE 4333–15–C

Notices

Federal Register
Vol. 86, No. 203
Monday, October 25, 2021

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.

UNITED STATES AFRICAN DEVELOPMENT FOUNDATION

Public Quarterly Meeting of the Board of Directors

AGENCY: United States African Development Foundation.

ACTION: Notice of meeting.

SUMMARY: The U.S. African Development Foundation (USADF) will hold its quarterly meeting of the Board of Directors to discuss the agency's programs and administration. This meeting will occur at the USADF office.

DATES: The meeting date is Tuesday, October 26, 2021, 11:00 a.m. to 12:30 p.m.

ADDRESSES: The meeting will be held by teleconference. Please see contact information for invitation details.

FOR FURTHER INFORMATION CONTACT: Nina-Belle Mbayu, 202–233–8808.

Authority: Public Law 96–533 (22 U.S.C. § 290h).

Dated: October 20, 2021.

Nina-Belle Mbayu,

Acting General Counsel.

[FR Doc. 2021–23193 Filed 10–22–21; 8:45 am]

BILLING CODE 6117–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 19, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 24, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: American Rescue Plan Act of 2021 Section 1005 Loan Payment (ARPA).

OMB Control Number: 0560–0300.

Summary of Collection: The Farm Service Agency (FSA) implemented the American Rescue Plan Act (ARPA; Pub. L. 117–2) to provide payments up to 120 percent to socially disadvantaged borrowers who have ARPA-eligible Farm Loan Programs (FLP) in the Direct and Guaranteed Farm Loan programs and Farm Storage Facility Loan Program (FSFL) loans for the loan balances as of January 1, 2021. This program will provide immediate financial relief from the COVID related economic crisis to approximately 24,000 FSA borrowers who are eligible.

Need and Use of the Information: FSA is using the form FSA–2601, Notification of FSA's Decision-ARPA that includes the information to borrowers to accept, discuss with FSA before making a decision, or decline the financial assistance. The borrowers have 60 days to return FSA–2601 to accept the payment calculations and request payment; self-certify racial and/or ethnic eligibility; acknowledge that ARPA is subject to public disclosure; acknowledge probable tax liability; assign payment to FSA for the amount of the ARPA eligible debt as of January 1, 2021. The balance sent to the borrower to allow to schedule a meeting to discuss with FSA before making a decision; or decline ARPA.

Description of Respondents: Farms.

Number of Respondents: 24,000.

Frequency of Responses: Reporting; Other (one-time).

Total Burden Hours: 6,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–23118 Filed 10–22–21; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Office of Partnerships and Public Engagement

Advisory Committee on Minority Farmers

AGENCY: Office of Partnerships and Public Engagement, USDA.

ACTION: Notice of conference call meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the Department of Agriculture and the Federal Advisory Committee Act (FACA), that a public teleconference of the Advisory Committee on Minority Farmers (ACMF) will be held to discuss USDA outreach, technical assistance, and capacity building for and with minority farmers; the implementation of the Socially Disadvantaged and Veteran Farmer and Rancher Grant Program (2501 Program); and methods of maximizing the participation of minority farmers and ranchers in the U.S. Department of Agriculture; and to plan mechanisms for best providing advice to the Secretary on the issues outlined above.

DATES: The meeting will be held virtually, Wednesday, November 3, 2021 at 1:00 p.m.–4:00 p.m. Central Standard Time (CST).

Public Call-in Information:
Conference Join ZoomGov Meeting *https://www.zoomgov.com/j/16146435155?pwd=eWFuSkJJUmgrQnE3bUhHK0dpUDF2Zz09.*

Meeting ID: 161 4643 5155.

Passcode: ACMF.

One tap mobile:

+16692545252,16146435155# US (San Jose).

+16468287666,16146435155# US (New York).

Dial by your location:

+1 669 254 5252 US (San Jose).

+1 646 828 7666 US (New York).

+1 669 216 1590 US (San Jose).

+1 551 285 1373 US.

Meeting ID: 161 4643 5155.

Find your local number: https://www.zoomgov.com/u/amr6G32xI.

Public Comments: Written comments for the Committee's consideration may be submitted to email: *ACMF@usda.gov.* Written comments must be received by November 2, 2021.

Availability of Materials for the Meeting: General information about the ACMF as well as any updates concerning the meeting announced in this notice, may be found on the ACMF website at *https://www.usda.gov/partnerships/advisory-committee-on-minority-farmers.*

Accessibility: USDA is committed to ensuring that all persons are included in our programs and events. If you are a person with a disability and require reasonable accommodations to participate in this meeting Please contact Eston Williams at *Eston.Williams@usda.gov* or (202) 596–0226.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: General information about the committee can also be found at *https://www.usda.gov/partnerships/advisory-committee-on-minority-farmers.* Any member of the public wishing to obtain information concerning this public meeting may contact Eston Williams, Designated Federal Officer (DFO), at *Eston.Williams@usda.gov* or at (202) 596–0226.

SUPPLEMENTARY INFORMATION: *Background:* The Committee was established in the U.S. Department of Agriculture pursuant to section 14008 of the Food Conservation and Energy Act of 2008, Public Law 110–246, 122 Stat. 1651, 2008 (7 U.S.C. 2279).

The Committee works in the interest of the public to ensure socially disadvantaged farmers have equal access to USDA programs. The Committee advises the Secretary on the implementation of section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990; methods of maximizing the participation of minority farmers and ranchers in U.S. Department of Agriculture programs; and civil rights activities within the Department, as such activities relate to participants in such programs.

Dated: October 13, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–23235 Filed 10–22–21; 8:45 am]

BILLING CODE 3412–88–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket Number: RUS–21–Telecom–0010]

Rural eConnectivity Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Funding opportunity announcement.

SUMMARY: The Rural Utilities Service, a Rural Development agency of the United States Department of Agriculture (USDA), hereinafter referred to as ''RUS'' or ''the Agency'' is issuing a Funding Opportunity Announcement (FOA) to announce that it is accepting applications for fiscal year 2022 (FY 22) for the Rural eConnectivity Program (the ReConnect Program). In addition, this FOA defines requirements that are determined at the time a funding announcement is published, as outlined in the regulation. As part of this announcement, the Agency is also informing potential applicants and other interested parties about its intention to seek information on a topic that will help inform future funding announcements. More information is located in Section G of this announcement.

DATES: Beginning on November 24, 2021, applications can be submitted through the RUS on-line application portal until 11:59 a.m. Eastern on February 22, 2022. Applications will not be accepted after February 22, 2022 until a new application opportunity has been opened with the publication of an additional FOA in the **Federal Register**.

ADDRESSES: Applications must be submitted electronically through the RUS on-line application portal located at *https://www.usda.gov/reconnect.* This FOA will be made available for informational purposes on *Grants.gov.*

FOR FURTHER INFORMATION CONTACT: For general inquiries regarding the ReConnect Program, contact Laurel Leverrier, Assistant Administrator, Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture (USDA), email *laurel.leverrier@usda.gov,* telephone: (202) 720–9554.

For inquiries regarding eligibility concerns, please contact the ReConnect Program Staff at *https://www.usda.gov/reconnect/contact-us.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service.

Funding Opportunity Title: The Rural eConnectivity Program.

Announcement Type: Funding Opportunity Announcement.

Assistance Listing: 10.752.

Funding Opportunity Number (grants.gov): RUS–REC–2022.

Dates: Beginning on November 24, 2021, applications can be submitted through the RUS on-line application portal until 11:59 a.m. Eastern on February 22, 2022. Applications will not be accepted after February 22, 2022 until a new application opportunity has been opened with the publication of an additional FOA in the **Federal Register**.

Administrative: The Agency encourages applicants to consider projects that will advance the following key priorities:

- Assisting Rural communities recover economically from the impacts of the COVID–19 pandemic, particularly disadvantaged communities.
- Ensuring all rural residents have equitable access to Rural Development programs and benefits from Rural Development funded projects.
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

In addition, the Agency would like to highlight the importance of creating good-paying jobs with strong labor standards.

Program Description

1. Program purpose. The ReConnect Program provides loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. In facilitating the expansion of broadband services and infrastructure, the program will fuel long-term rural economic development and opportunities in rural America.

2. Statutory authority. The ReConnect Program is authorized by the Consolidated Appropriations Act, 2018 (Pub. L. 115–141), which directs the

pilot to be conducted under the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq*). Since its establishment in 2018, the ReConnect Program has been implemented by issuing two FOAs that detailed the requirements for submitting an application. The ReConnect Program has received successive appropriations by Congress and has matured due to Agency experience and feedback provided by stakeholders. The policies and procedures for the ReConnect Program are codified in a final rule, 7 CFR part 1740, that was published in the **Federal Register** on February 26, 2021 (86 FR 11603). Among other things, those rules require that the applicant demonstrate that the project can be completely built out within five years from the date funds are first made available; the project is technically feasible; all project costs can be fully funded or accounted for; facilities funded with grant funds will provide the broadband service proposed in the application for the composite economic life of the facilities, as approved by RUS, or as provided in the Award Documents; and that facilities funded with loan funds must provide broadband service through the amortization period of the loan. Applicants should carefully review those rules in conjunction with this FOA.

For FY 22, loans, grants, and loan/grant combinations will be made for the costs of construction, improvement, or acquisition of facilities and equipment needed to facilitate broadband deployment in rural areas.

3. Definition of terms. The definitions applicable to this FOA are as follows:

i. *Local government* means the administration of a particular town, county, or district, with representatives elected by those who live there.

ii. *Remote areas* means areas classified by the USDA Economic Research Service as Frontier and Remote Area (FAR) Level 4. A geographic information system (GIS) layer of FAR Level 4 areas can be found at *https://www.usda.gov/reconnect.*

iii. *Socially Vulnerable Community* means a community or area identified in the Center for Disease Control's Social Vulnerability Index with a score of .75 or higher. A GIS layer identifying the Socially Vulnerable Communities can be found at *https://www.usda.gov/reconnect.*

iv. *Sufficient access to broadband* (7 CFR 1740.2) means any rural area in which households have fixed, terrestrial broadband service defined as 100 megabits per second (Mbps) downstream and 20 Mbps upstream.

v. *System requirements* (7 CFR 1740.3(a)(2)). Facilities proposed to be constructed with award funds must be capable of delivering 100 Mbps symmetrical service to every premise in the proposed funded service area (PFSA). Please note that capable of delivering 100 Mbps symmetrical service to every premise means that all premises in the PFSA must be able to receive this service at the same time.

vi. *Tribal Government* means the governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community listed pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

vii. *Tribal land* means any area identified by the United States Census Bureau as tribal land. A GIS layer of Tribal Lands can be found on the RUS mapping tool located at *https://www.usda.gov/reconnect.*

viii. *Other definitions* related to the ReConnect Program are contained in 7 CFR 1740.2.

B. Federal Award Information

1. Funding categories, interest rates and terms (7 CFR 1740.3(b)).

i. *100 Percent Loan.* Applications will be processed and awarded on a rolling basis. In the event two loan applications are received for the same PFSA, the application submitted first will be considered first. The interest rate for a 100 percent loan will be set at a fixed 2 percent. Principal and interest payments will be deferred for three years. The amortization period will be based on the composite economic life of the assets funded plus three years.

ii. *50 Percent Loan/50 Percent Grant Combination.* The interest rate for the 50 percent loan component will be set at the Treasury rate for the remaining amortization period at the time of each advance of funds. Principal and interest payments will be deferred for three years. The amortization period will be based on the composite economic life of the assets funded plus three years. Applicants may propose substituting cash for the loan component at the time of application and funds must be deposited into the applicant's operating accounts at the closing of the award.

iii. *100 Percent Grant.* Applicants must provide a matching contribution equal to at least 25 percent of the cost of the overall project. The matching contribution requirement applies only to the 100 Percent Grant funding category. The applicant must clearly identify the source of the funds even if it is to be provided from the applicant's operating accounts. All matching funds must be deposited into the applicant's operating accounts at the closing of the award. If the matching funds are provided by a third party, a commitment letter from the third party must be submitted indicating that the funds will be available at the closing of the award if approved. The matching contribution can only be used for eligible purposes. If the applicant elects to initiate a loan to satisfy the matching requirement, documentation must be included as part of the application indicating the terms and conditions for the loan and that the grant funded assets cannot be used as collateral for the matching funds loan. The loan must be entered into and funds transferred into the applicant's accounts by the closing of the award.

iv. *100 Percent Grant for Tribal Governments and Socially Vulnerable Communities.* If the applicant is a Tribal Government, or a corporation that is wholly owned by a Tribal Government, proposing to provide service on its own lands, there is no matching fund requirement and applicants may apply for grant funds to construct the broadband facilities. In addition, if at least 75 percent of the geographic area of an applicant's PFSA(s) consists of Socially Vulnerable Communities, as defined in section A.3.iii. of this FOA, there is no matching fund requirement and applicants may apply for grant funds to construct the broadband facilities.

2. Maximum and minimum funding amounts (7 CFR 1740.3(b)).

i. *100 Percent Loan.* Up to $200,000,000 is available for loans. The maximum amount that can be requested in an application is $50,000,000.

ii. *50 Percent Loan—50 Percent Grant Combination.* Up to $250,000,000 is available for loan/grant combinations. The maximum amount that can be requested in an application is $25,000,000 for the loan and $25,000,000 for the grant. Loan and grant amounts will always be equal.

iii. *100 Percent Grant.* Up to $350,000,000 is available for grants. The maximum amount of grant funds that can be requested in an application is $25,000,000. However, to encourage broadband deployment in remote areas, if an applicant provides supporting information that demonstrates that the PFSA(s) is comprised 100 percent of areas classified by the USDA Economic Research Service as FAR Level 4, the applicant may request up to $35,000,000. A GIS layer of FAR Level 4 areas can be found at *https://www.usda.gov/reconnect.*

iv. *100 Percent Grant for Tribal Governments and Socially Vulnerable Communities.* Up to $350,000,000 is available for grants. The maximum

amount of grant funds that can be requested in an application is $25,000,000. However, to encourage broadband deployment in remote areas, if an applicant provides supporting information that demonstrates that the PFSA(s) is comprised 100 percent of locations within areas classified by the USDA Economic Research Service as FAR Level 4, the applicant may request up to $35,000,000. A GIS layer of FAR Level 4 areas can be found at *https://www.usda.gov/reconnect.*

v. The minimum amount that can be requested in any ReConnect Program application is $100,000.

C. Eligibility Information

1. Eligibility requirements. The eligibility requirements for the ReConnect Program are published at 7 CFR 1740 Subpart B.

2. Eligible service areas. The following areas are eligible:

i. For a PFSA to be eligible for funding, at least 90 percent of the households in the PFSA must lack sufficient access to broadband. For purposes of this FOA, sufficient access to broadband means any rural area in which households have access to fixed, terrestrial broadband service of at least 100 megabits per second (Mbps) downstream and 20 Mbps upstream. Applicants must submit evidence that sufficient access to broadband does not exist for 90 percent of the households in the PFSA, identify all existing providers in the PFSA, and indicate what level of service is being provided. If these areas are found to have sufficient service, the application will be rejected.

ii. Pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260), the service areas of existing RUS borrowers without sufficient access to broadband, as defined in this FOA, are eligible for ReConnect funding.

iii. Areas that receive support from the Federal Communications Commission (FCC), but are without sufficient access to broadband, as defined in this FOA, are eligible for funding under this FOA.

iv. RUS will offer funding in areas receiving or under consideration for a Rural Digital Opportunity Fund (RDOF) award because RDOF funds both operational expenses and capital expenses, while ReConnect funds only capital expenses. However, the application should explain why RUS should provide additional funding. For example, will the applicant commit to an accelerated deployment schedule if it receives RUS funding. RUS will also require all ReConnect awardees receiving or under consideration for RDOF funding to submit a statement certifying that the funds requested from ReConnect have not been and will not be reimbursed by the RDOF award. That is, funds must be used only for complementary purposes and not for duplicative ones, and therefore funding recipients cannot claim that both RDOF and ReConnect funds were used to pay for the same labor or materials used to deploy broadband to specific locations or to procure the same unit of network equipment. Recipients that receive both RDOF and ReConnect funding must keep separate accounts to track the sources and uses of each funding source as needed to support the certification statement submitted with its ReConnect application.

v. If two or more applications are submitted for the same non-Tribal Land area receiving or under consideration for an RDOF award, and one of those applications is submitted by the RDOF winning bidder, or the winning bidder's assignee, and its application scores equally as high as the other application(s) for the area, RUS will give preference to the applicant receiving or under consideration for the RDOF award, except that on Tribal Lands, RUS will give preference to the applicant that has a Tribal Government Resolution of Consent.

vi. If an applicant has applied for or is receiving other federal funding to deploy broadband in all or part of the PFSA, the applicant should explain how RUS funding will be complementary to but not duplicative of the other funding. ReConnect awardees will be required to submit a statement certifying that the funds requested from ReConnect have not been and will not be reimbursed by any other federal funding mechanism.

3. Tribal Government Resolution of Consent. Pursuant to 7 CFR 1740.60(d)(19), a certification from the appropriate tribal official is required if service is being proposed over or on tribal lands. The appropriate certification is a Tribal Government Resolution of Consent. The appropriate tribal official is the Tribal Council of the Tribal Government with jurisdiction over the tribal lands at issue. Any applicant that fails to provide a certification to provide service on the tribal lands identified in the PFSA will not be considered for funding.

4. Pre-application expenses. The costs associated with satisfying the environmental review requirements are eligible for reimbursement under this category. Up to three percent of the requested award funds can be used for this purpose. Please note that any environmental expenses will count as part of the overall five percent that is allowable for pre-application expenses.

D. Application and Submission Information

1. All requirements for submission of an application under the ReConnect Program are subject to 7 CFR part 1740.

2. Applications must be submitted through the Agency's online application system located on the ReConnect web page, *https://www.usda.gov/reconnect.* All materials required for completing an application are included in the online system. Please note there are a number of supporting documents that will need to be uploaded through the application system.

3. Applicants can submit only one application. Applicants may start multiple applications in the system but only one can be submitted.

E. Application Review Information

1. Evaluation. All applications are subject to the submission and evaluation requirements contained in 7 CFR 1740, Subpart E.

2. Scoring. Applications will be scored based on the following criteria:

i. *Rurality of PFSA (25 Points).* Points will be awarded for serving the least dense rural areas as measured by the population of the PFSA per square mile or if the PFSA is located at least one hundred miles from a city or town that has a population of greater than 50,000 inhabitants. If multiple service areas are proposed, the density calculation will be made on the combined areas as if they were a single area and not the average densities. Population densities of 6 or less or if the PFSA is located one hundred miles from a city or town of 50,000, 25 points will be awarded.

ii. *Level of existing service (25 Points).* Projects that are proposing to build in areas that are not receiving service of at least 25 Mbps downstream and 3 Mbps upstream will receive 25 points, with points awarded based on the number of households lacking such service that the project will serve. Applicants must provide supporting evidence that 25/3 service does not exist for those households. To the extent possible, applicants must identify all existing providers in the PFSA and indicate what level of service is actually being provided. Applicants are not required to treat the publicly available FCC current Form 477 data as dispositive of what speed service currently exists.

iii. *Economic need of the community (20 Points).* Economic need is based on the county poverty percentage of the PFSA in the application. The percentages must be determined by utilizing the United States Census Small Area Income and Poverty Estimates (SAIPE) Program. For applications

where 75 percent of the PFSA(s) are proposing to serve communities with a SAIPE score of 20 percent or higher, 20 points will be awarded. Proposed funded service areas located in geographic areas for which no SAIPE data exist will be determined to have an average SAIPE poverty percentage of 30 percent. Such geographic areas may include territories of the United States or other locations eligible for funding through the ReConnect Program. A GIS layer identifying SAIPE areas can be found in the RUS mapping tool located at *https://reconnect.usda.gov.*

iv. *Affordability (20 Points).* Applications can receive 20 points based on their affordability measures. Applicants should demonstrate that the broadband prices they will offer are affordable to their target markets, provide information about the pricing and speed tiers they intend to offer, and include at least one low-cost option offered at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Applicants should also commit to applying to participate in the Federal Communication Commission's Lifeline Program, the Emergency Broadband Benefit Program, and any successors to those programs which provide low-income consumers with discounts on broadband services. More details are available in the Application Guide.

v. *Labor Standards (20 points).* It is important that necessary investments in broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. The Agency understands the importance of promoting workforce development and encourages recipients to ensure that broadband projects use strong labor standards consistent with Tribal laws when projects propose to build infrastructure on Tribal Lands. Using these practices in construction projects not only promotes effective and efficient delivery of high-quality infrastructure and supports the economic recovery through employment opportunities for workers, but may also help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

Applicants should include in their applications a description of whether and, if so, how the project will incorporate strong labor standards, including whether workers (including contractors and subcontractors) will be paid wages at or above the prevailing rate; [1] whether the project will be covered by a project labor agreement; what safety training, professional certifications, in-house training and/or licensure will be required of workers (including contractors and subcontractors); whether a locally-based workforce will be used; whether work will be performed by a directly employed workforce or whether the employer has policies and practices in place to ensure employees of contractors and subcontractors are qualified; and whether the applicant, its contractors, or subcontractors have any violations of state or federal labor, workplace safety and health, or employment laws within the last five years.

For applicants that commit to strong labor standards, consistent with Tribal Laws when the project proposes to build infrastructure on Tribal Lands, 20 points will be awarded. Projects that propose to build infrastructure on Tribal Lands must follow Tribal Laws such as Tribal Employment Rights Ordinances to be in compliance with a ReConnect award, regardless of receiving points under this standard. The Agency reserves the right to adjust award amounts for unforeseen circumstances.

vi. *Tribal lands (15 Points).* For applicants that are Tribal Governments and tribal entities and, at a minimum, 50 percent of the geographical area of the PFSA(s) is to provide service on tribal lands, 15 points shall be awarded. For non-tribal entities where at least 50 percent of the geographic area of the PFSA(s) is to provide service on tribal lands, 10 points shall be awarded. Tribal lands will be analyzed using the GIS layer in the RUS mapping tool located at *https://reconnect.usda.gov.*

vii. *Local governments, non-profits and cooperatives (15 points).* Applications submitted by local governments, non-profits or cooperatives (including for projects involving public-private partnerships where the local government, non-profit, or cooperative is the applicant) will be awarded 15 points.

viii. *Socially Vulnerable Communities (15 points).* For applications where at least 75 percent of the PFSA(s) are proposing to serve Socially Vulnerable Communities, as defined in this FOA, 15 points will be awarded.

ix. *Net neutrality (10 points).* For applicants that commit to net neutrality, 10 points will be awarded. A board resolution or its equivalent must be submitted in the application committing that the applicant's networks shall not (1) block lawful content, applications, services, or non-harmful devices, subject to reasonable network management; (2) impair or degrade lawful internet traffic on the basis of internet content, application, or service, or use of a non-harmful device, subject to reasonable network management; and (3) engage in paid prioritization, meaning the management of a broadband provider's network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (a) in exchange for consideration (monetary or otherwise) from a third party, or (b) to benefit an affiliated entity.

x. *Wholesale broadband services (10 points).* Recipients that commit to offering wholesale broadband services at rates and terms that are reasonable and nondiscriminatory will receive 10 points.

F. Federal Award Administration Information

1. *Closing, servicing and reporting.* All applications are subject to the requirements contained in 7 CFR 1740, Subpart F.

2. *Other requirements.* All applications are subject to the additional requirements contained in 7 CFR 1740, Subpart G.

3. *Ineligible Costs.* A recipient may not use grant or loan funds, whether directly or indirectly as an offset for other funds, to support or oppose collective bargaining.

G. Upcoming Request for Information

As noted in the Summary section of this announcement, RUS intends to issue a Request for Information (RFI) seeking feedback from potential applicants and other interested parties on whether the requirement for facilities constructed with RUS funding to provide 100 Mbps symmetrical service to every premise in the proposed funded service area (PFSA) at the same time should apply in future funding rounds. The feedback from that RFI will help inform future funding announcements, including potentially scoring criteria.

[1] This means that all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the ''Davis-Bacon Act'') or, for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate state entity pursuant to a corollary state prevailing-wage-in-construction law (commonly known as ''baby Davis-Bacon Acts'').

H. Federal Awarding Agency Contacts

Any questions should be addressed to the contact information located in the **FOR FURTHER INFORMATION CONTACT** section of this FOA.

I. Other Information

1. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with the ReConnect Program, as covered in this FOA, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572–0152. This funding announcement does not create any new information collection requirements nor does it change existing information collection requirements.

2. *Congressional Review Act.* Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA), 5 U.S.C. 801 *et seq.,* the Office of Information and Regulatory Affairs in the Office of Management and Budget designated this action as a major rule as defined by 5 U.S.C. 804(2), because it is likely to result in an annual effect on the economy of $100,000,000 or more. Accordingly, there is a 60-day delay in the effective date of this action. Application selection will not begin until after December 27, 2021. Therefore, the 60-day delay required by the CRA is not expected to have a material impact upon the administration and/or implementation of the ReConnect Program.

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

Program Information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Mission Area, Agency, or staff office; the USDA TARGET Center at 202–720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

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

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

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

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

USDA is an equal opportunity provider, employer, and lender.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2021–23128 Filed 10–22–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–143]

Freight Rail Coupler Systems and Certain Components Thereof From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

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

DATES: Applicable October 19, 2021.

FOR FURTHER INFORMATION CONTACT: Mark Harrison, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0357.

SUPPLEMENTARY INFORMATION:

The Petition

On September 29, 2021, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of freight rail coupler systems and certain components thereof (freight rail couplers) from the People's Republic of China (China) filed in proper form on behalf of the Coalition of Freight Coupler Producers (the petitioner).[1] On October 6, 2021, the petitioner filed an amendment to the Petition, clarifying the identity of the members of the Coalition of Freight Coupler Producers, the members of which are, or represent, domestic producers of freight rail couplers.[2] The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of freight rail couplers from China.[3]

On October 1, 4, 8, and 15, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petition in both general and AD-specific separate supplemental questionnaires and phone calls with the petitioner.[4] On October 6, 12, and 18,

[1] *See* Petitioner's Letter, ''Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated September 29, 2021 (the Petition).

[2] *See* Petitioner's Letters, ''Amended Entry of Appearance: A–570–143,'' dated October 6, 2021 (Amended EOA) and ''Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to First Supplemental Questions for on Volume I General Issues and Injury Petition,'' dated October 6, 2021 (First General Issues Supplement). The petitioner notes that, per the Amended EOA, the members of the Coalition of Freight Coupler Producers are: McConway & Torley, LLC and the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Worker International Union, AFL–CIO, CLC (the USW). The petitioner further notes that Amsted Rail Company, Inc. (Amsted) is no longer a member of the petitioning coalition and that the USW represents the workers at Amsted's Granite, IL facility. *See* First General Issues Supplement at 8.

[3] *See* the Petition.

[4] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Supplemental Questions,'' dated October 4, 2021 (General Issues Supplemental); ''Petition for the Imposition of Antidumping Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Supplemental Questions,'' dated October 4, 2021; Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner,'' dated October 4, 2021 (October 4, 2021, Phone Call Memorandum); Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner,'' dated October 8, 2021 (October 8, 2021, Phone Call Memorandum); and Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner,'' dated October 15, 2021 (October 15, 2021, Phone Call Memorandum).

2021, the petitioner filed timely responses to these requests for additional information.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of freight rail couplers from China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act and that imports of such products are materially injuring, or threatening material injury to, the domestic freight rail couplers industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting the allegation.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party, as defined in section 771(9)(E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigation.[6]

Period of Investigation

Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is January 1, 2021, through June 30, 2021.

Scope of the Investigation

The product covered by this investigation is freight rail couplers from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

On October 4, 8, and 15, 2021, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[7] On October 6, 12, and 18, 2021, the petitioner revised the scope.[8] The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications. In its October 18, 2021, submission, the petitioner provided additional explanation of the language in the scope of the investigation pertaining to the inclusion of freight rail couplers imported as part of a rail car (''{w}hen mounted on or to other non-subject merchandise, such as a rail car, only the complete coupler system is covered by the scope''), including freight rail couplers attached to rail cars in, and imported from, third countries (''{s}ubject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car in third countries.'').[9] While Commerce has adopted this provision for purposes of initiation, we invite parties to this proceeding to comment on this provision along with their scope comments (as detailed below).

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[10] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.[11] To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on November 8, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on November 18, 2021, which is 10 calendar days from the initial comment deadline.[12]

Commerce requests that any factual information that parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's (E&C's) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[13] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of freight rail couplers to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on November 8, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on November 18, 2021, which is 10 calendar days after the

[5] *See* Petitioner's Letters, ''Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Responses to Supplemental Questions for on Volume I General Issues and Injury Petition,'' dated October 6, 2021 (First General Issues Supplement); ''Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Response to Supplemental Questions for Volume II China Antidumping Duty Petition,'' dated October 6, 2021*;* ''Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Second Supplemental Questions on Volume I General Issues and Injury Petition,'' dated October 12, 2021 (Second General Issues Supplement); and ''Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Third Supplemental Questions on Volume I General Issues and Injury Petition,'' dated October 18, 2021 (Scope Clarification).

[6] *See* ''Determination of Industry Support for the Petition'' section, *infra.*

[7] *See* General Issues Supplemental; *see also* October 4, 2021, Phone Call Memorandum; October 8, 2021, Phone Call Memorandum; and October 15, 2021, Phone Call Memorandum.

[8] *See* First General Issues Supplement at 1–7 and Exhibit I–Supp–1; *see also* Second General Issues Supplement at 1–4 and Exhibit I–2Supp–1; *see also* Scope Clarification at 1–9 and Exhibit I–3Supp–1.

[9] *See* Scope Clarification.

[10] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[11] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[12] *See* 19 CFR 351.303(b).

[13] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the AD investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[14] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[15]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[16] Based on our analysis of the information submitted on the record, we have determined that freight rail couplers, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[17]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided its own production of freight rail couplers in 2020.[18] The petitioner estimated production for the only other known producer of freight rail couplers in the United States.[19] The petitioner compared its production to the estimated total 2020 production of the domestic like product for the entire domestic industry.[20] We relied on data provided by the petitioner for purposes of measuring industry support.[21]

On October 7, 2021, we received comments on industry support from Wabtec Corporation (Wabtec), a U.S. importer of freight rail couplers.[22] On October 12, 2021, the petitioner responded to the comments from Wabtec.[23] On October 12, 2021, we received additional comments from Wabtec.[24] On October 13, 2021, we received comments on industry support from Strato, Inc. (Strato), a U.S. importer of freight rail couplers.[25] On October 14, 2021, the petitioner responded to the comments from Strato and Wabtec.[26]

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, Petitioner Letters I and II, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[27] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[28] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[29] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act

[14] *See* section 771(10) of the Act.

[15] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

[16] *See* Petition at Volume I at 16–21 and Exhibits I–4, I–7, and I–15; *see also* First General Issues Supplement at 10–11; and Second General Issues Supplement at 6–7.

[17] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Checklist, ''Antidumping Duty Investigation Initiation Checklist: Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China,'' dated concurrently with this **Federal Register** notice (China AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China (Attachment II).

[18] *See* Petition at Volume I at 3–4; *see also* First General Issues Supplement at 8–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 4–5.

[19] *See* Petition at Volume I at 3–4 and Exhibit I–5; *see also* First General Issues Supplement at 9–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 5 and Exhibit I–2Supp–2.

[20] *See* Petition at Volume I at 3–4 and Exhibit I–5; *see also* First General Issues Supplement at 8–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 5.

[21] *See* Petition at Volume I at 2–4 and Exhibits I–3 through I–5; *see also* First General Issues Supplement at 7–10 and Exhibits I–Supp–2 and I–Supp–3; and Second General Issues Supplement at 4–5 and Exhibit I–2Supp–2.

[22] *See* Wabtec's Letter, ''Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Request for Department to Deny the Petitions for Imposition of Duties Filed by the Coalition of Freight Coupler Producers as Legally Infirm,'' dated October 7, 2021.

[23] *See* Petitioner's Letter, ''Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Wabtec,'' dated October 12, 2021 (Petitioner Letter I).

[24] *See* Wabtec's Letter, ''Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Reply in Support of Request for Department to Deny the Petitions for Imposition of Duties Filed by the Coalition of Freight Coupler Producers,'' dated October 12, 2021.

[25] *See* Strato's Letter, ''Strato Support for Rejecting Petition: Antidumping & Countervailing Duty Investigation of Freight Rail Coupler Systems and Components Thereof from the People's Republic of China,'' dated October 13, 2021.

[26] *See* Petitioner's Letter, ''Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Strato and Wabtec,'' dated October 14, 2021 (Petitioner Letter II).

[27] *See* China AD Initiation Checklist at Attachment II.

[28] *Id.; see also* section 732(c)(4)(D) of the Act.

[29] *See* China AD Initiation Checklist at Attachment II.

because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[30] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[31]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[32]

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; declines in production, U.S. shipments, and capacity utilization; decline in employment; decline in financial performance; and the magnitude of the estimated dumping margin.[33] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[34]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate the AD investigation of imports of freight rail couplers from China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the China AD Initiation Checklist.

U.S. Price

The petitioner based export price (EP) on information from a quoted sales offer for freight rail couplers produced in and exported from China by a Chinese producer.[35] The petitioner made adjustments for foreign inland freight and foreign brokerage and handling to calculate an ex-factory U.S. price.[36]

Normal Value

Commerce considers China to be an NME country.[37] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

The petitioner states that Brazil is an appropriate surrogate country because Brazil is a market economy country that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.[38] The petitioner submitted publicly-available information from Brazil to value all FOPs.[39] Based on the information provided by the petitioner, we determine that it is appropriate to use Brazil as a surrogate country for China for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selections and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

The petitioner used the product-specific consumption rates of a U.S. producer of freight rail couplers as a surrogate to value Chinese manufacturers' FOPs.[40] Additionally, the petitioner calculated factory overhead; selling, general and administrative expenses; and profit based on the experience of a Brazilian producer of comparable merchandise (*i.e.,* steel components).[41]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of freight rail couplers from China are being, or are likely to be, sold in the United States at LTFV. Based on a comparison of EP to NV, in accordance with sections 772 and 773 of the Act, the estimated dumping margins for freight rail couplers from China are 142.98 and 147.11 percent *ad valorem.*[42]

Initiation of LTFV Investigation

Based upon our examination of the Petition on freight rail couplers from China and supplemental responses, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of freight rail couplers from China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioner named eight companies in China as producers and/or exporters of freight rail couplers.[43]

In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and exporters identified in the Petition, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Because there are eight producers and/or exporters identified in the Petition, Commerce has determined that it will

[30] *Id.*

[31] *Id.*

[32] *See* Petition at Volume I at 27 and Exhibit I–27.

[33] *Id.* at 14–16, 22–44 and Exhibits I–3 through I–5, I–11, I–13, I–14, and I–17 through I–47; *see also* First General Issues Supplement at 11–13 and Exhibit I–Supp–3.

[34] *See* China AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China.

[35] *See* the China AD Initiation Checklist.

[36] *Id.*

[37] *See, e.g., Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at ''China's Status as a Non-Market Economy,'' unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018).

[38] *See* Petition at Volume II at 8–9.

[39] *Id.* at 10 and Exhibit II–15.

[40] *Id.* at 1 and 10–12 and Exhibits II–11 and II–14.

[41] *Id.* at 17–18 and Exhibit II–23 and II–24.

[42] *See* China AD Initiation Checklist.

[43] *See* Petition at Volume I at 13 and Exhibit I–10.

issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on E&C's website at *https://enforcement.trade.gov/questionnaires/questionnaires-ad.html*. Producers/exporters of freight rail couplers from China that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from E&C's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on November 2, 2021, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under Administrative Protective Order (APO) in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at *http://enforcement.trade.gov/apo*. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[44] The specific requirements for submitting a separate-rate application in a China investigation are outlined in detail in the application itself, which is available on E&C's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html*. The separate-rate application will be due 30 days after publication of this initiation notice. Producers/exporters who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that respondents from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[45]

Distribution of Copies of the AD Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of China via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of freight rail couplers from China are materially injuring, or threatening material injury to, a U.S. industry.[46] A negative ITC determination will result in the investigation being terminated.[47] Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[48] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[49] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301 or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by

[44] *See* Policy Bulletin 05.1: ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries,'' (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[45] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[46] *See* section 733(a) of the Act.

[47] *Id.*

[48] *See* 19 CFR 351.301(b).

[49] *See* 19 CFR 351.301(b)(2).

which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule,* prior to submitting factual information in this investigation.[50]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[51] Parties must use the certification formats provided in 19 CFR 351.303(g).[52] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).[53] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[54]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: October 19, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The scope of this investigation covers freight rail car coupler systems and certain components thereof. Freight rail car coupler systems are composed of, at minimum, four main components (knuckles, coupler bodies, coupler yokes, and follower blocks, as specified below) but may also include other items (*e.g.,* coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The components covered by the investigation include: (1) E coupler bodies; (2) E/F coupler bodies; (3) F coupler bodies; (4) E yokes; (5) F yokes; (6) E knuckles; (7) F knuckles; (8) E type follower blocks; and (9) F type follower blocks, as set forth by the Association of American Railroads (AAR). The freight rail coupler components are included within the scope of the investigation when imported individually, or in some combination thereof, such as in the form of a coupler fit (a coupler body and knuckle assembled together), independent from a coupler system.

Subject freight rail car coupler systems and components are included within the scope whether finished or unfinished, whether imported individually or with other subject or non-subject components, whether assembled or unassembled, whether mounted or unmounted, or if joined with non-subject merchandise, such as other non-subject system parts or a completed rail car. Finishing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, machining, and assembly of various components. When a subject coupler system or subject components are mounted on or to other non-subject merchandise, such as a rail car, only the coupler system or subject components are covered by the scope.

The finished products covered by the scope of this investigation meet or exceed the AAR specifications of M–211, ''Foundry and Product Approval Requirements for the Manufacture of Couplers, Coupler Yokes, Knuckles, Follower Blocks, and Coupler Parts'' or AAR M–215 ''Coupling Systems,'' or other equivalent domestic or international standards (including any revisions to the standard(s)).

The country of origin for subject coupler systems and components, whether fully assembled, unfinished or finished, or attached to a rail car, is the country where the subject coupler components were cast or forged. Subject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car in third countries. Further processing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, painting, coating, priming, machining, and assembly of various components. The inclusion, attachment, joining, or assembly of non-subject components with subject components or coupler systems either in the country of manufacture of the in-scope product or in a third country does not remove the subject components or coupler systems from the scope.

The coupler systems that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished rail cars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.5000 if imported as an Instrument of International Traffic. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

[FR Doc. 2021–23231 Filed 10–22–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–823]

Polyester Textured Yarn From Malaysia: Final Affirmative Determination of Sales at Less-Than Fair-Value

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

SUMMARY: The Department of Commerce (Commerce) determines that polyester textured yarn (yarn) from Malaysia is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2019, through September 30, 2020.

DATES: Applicable October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Daniel Alexander, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4313.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2021, Commerce published in the **Federal Register** the preliminary affirmative determination in the LTFV investigation of yarn from Malaysia.[1]

[50] *See* 19 CFR 351; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule),* available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[51] *See* section 782(b) of the Act.

[52] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[53] *See Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008).

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

[1] *See Polyester Textured Yarn from Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 29748 (June 3, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

Commerce invited interested parties to comment on the *Preliminary Determination.*

For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope Comments

On May 26, 2021, we issued the Preliminary Scope Decision Memorandum.[3] The scope case briefs were due on July 9, 2021.[4] We did not receive any scope case briefs from interested parties. Therefore, Commerce has not made any changes to the scope of this investigation since the *Preliminary Determination.*

Scope of the Investigation

The product covered by this investigation is yarn from Malaysia. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis,* or determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Recron. Consequently, the rate calculated for Recron is also assigned as the rate for all other producers and exporters.

Changes From the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the dumping margin calculations for Recron.[6]

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Recron (Malaysia) Sdn. Bhd	8.50
All Others	8.50

Disclosure

Commerce intends to disclose its calculations and analysis performed in this final determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of yarn from Malaysia, as described in Appendix I of this notice, which were entered or withdrawn from warehouse for consumption on or after June 3, 2021, the date of publication of the *Preliminary Determination* in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act, upon the publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price as follows: (1) The cash deposit rate for the companies listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at less than fair value. Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Indonesia no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse,

[2] *See* Memorandum, ''Polyester Textured Yarn from Malaysia: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Antidumping Duty Investigations of Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam: Preliminary Scope Decision Memorandum,'' dated May 26, 2021 (Preliminary Scope Decision Memorandum).

[4] The scope case briefs were due no later than 15 days after the responses to the scope supplemental questionnaires on intermingled textured yarn were filed. *See* Preliminary Scope Decision Memorandum at 3. The last scope supplemental response was submitted on June 24, 2021. *See* Recron (Malaysia) Sdn. Bhd. (Recron)'s Letter, ''Scope Supplemental Questionnaire Response,'' dated June 24, 2021.

[5] *See* Commerce's Letter, ''In Lieu of Verification Questionnaire for Recron (Malaysia) Sdn. Bhd. in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from Malaysia,'' dated July 21, 2021; *see also* Recron's Letter, ''Polyester Textured Yarn from Malaysia: Recron (Malaysia) Sdn. Bhd. In Lieu of Verification Questionnaire Response,'' dated July 30, 2021.

[6] *See* the Issues and Decision Memorandum for a discussion of these changes.

for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: October 18, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, Performing the Non-Exclusive Functions and Duties of The Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packaging method (such as spindles, tubes, or beams).

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2021–23125 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) has determined that the manufacturers/exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) listed in the ''Final Results of Review'' section below, did not sell subject merchandise in the United States at less than normal value during the period of review (POR) December 1, 2018, through November 30, 2019.

DATES: Applicable October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Aleksandras Nakutis, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2769 or (202) 482–3147, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2021, Commerce published the *Preliminary Results* of this review in the **Federal Register**.[1] After publication of the *Preliminary Results,* a number of interested parties filed case and rebuttal briefs and Commerce held a public hearing (*see* the Issues and Decision Memorandum for details).[2] On August 12, 2021, Commerce extended the deadline for the final results of this review until September 24, 2021.[3] On September 22, 2021, Commerce extended the deadline for the final results of this review until October 19, 2021.[4] The final weighted-average dumping margins are in the ''Final Results of Review'' section of this notice.

Scope of the Order [5]

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.[6] Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6015, 8541.40.6020, 8541.40.6025, 8541.40.6030, 8541.40.6035, 8541.40.6045, and 8501.31.8000. Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

We addressed all of the issues that were raised in interested parties' case and rebuttal briefs in the Issues and Decision Memorandum. A list of the sections in the Issues and Decision Memorandum, including a list of issues that parties raised, and to which we responded, is in the appendix to this notice. The Issues and Decision Memorandum is a public document and

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Administrative Review, and Preliminary Determination of No Shipments; 2018–2019,* 86 FR 21277 (April 22, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2018–2019 Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2018–2019,'' dated August 12, 2021.

[4] *See* Memorandum, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Second Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2018–2019,'' dated September 22, 2021.

[5] The scope was most recently updated in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Changed Circumstances Reviews, and Revocation of the Antidumping and Countervailing Duty Orders,* 83 FR 65344 (December 20, 2018).

[6] For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Determination of No Shipments

We have continued to find that, during the POR, there were no entries of subject merchandise into the United States from, or exports or sales of subject merchandise to the United States by, the following companies: (1) BYD (Shangluo) Industrial Co., Ltd.; (2) Changzhou Trina Solar Energy Co., Ltd., Trina Solar (Changzhou) Science and Technology Co., Ltd., Yancheng Trina Solar Energy Technology Co., Ltd., Changzhou Trina Solar Yabang Energy Co., Ltd., Turpan Trina Solar Energy Co., Ltd., Hubei Trina Solar Energy Co., Ltd., Trina (Hefei) Science and Technology Co., Ltd.; and (3) Shanghai BYD Co., Ltd.

Changes Since the Preliminary Results

Since issuing the *Preliminary Results,* we corrected certain ministerial errors in our calculation of Jinko's weighted-average dumping margin, (*i.e.,* programming language regarding the calculation of normal value and domestic brokerage and handling expenses). Based on comments regarding the draft liquidation instructions to U.S. Customs and Border Protection (CBP) that we circulated to the parties, have updated the instructions regarding any shipments by Trina.

Separate Rates

No parties commented on our preliminary separate rate findings. Therefore, we have continued to grant Jinko [7] and Risen,[8] (the mandatory respondents) and the nine other companies/company groups listed in the ''Final Results of Review'' section below separate rate status. However, we have continued to deny separate rate status to the 25 companies listed in Appendix II of the *Preliminary Results.*

Dumping Margin for Non-Individually Examined Respondents Granted Separate Rate Status

The statute and Commerce's regulations do not address the rate to apply to respondents not selected for individual examination in a non-market economy (NME) administrative review who are eligible for a separate rate. When considering which rate to apply to such respondents, Commerce generally looks to section 735(c)(5) of the Tariff Act of 1930, as amended (the Act), which provides instructions for calculating the all-others rate in an antidumping duty investigation. Section 735(c)(5)(A) of the Act instructs Commerce to base the all-others rate on the estimated weighted-average dumping margins established for the exporters and producers individually investigated, excluding any dumping margins that are zero, *de minimis,* or based entirely on facts available. However, section 735(c)(5)(B) of the Act provides that, where all of the estimated dumping margins for the exporters and producers individually investigated are either zero, *de minimis,* or are determined entirely under section 776 of the Act, Commerce may use any reasonable method to establish the rate for exporters and producers not individually examined.[9]

The SAA provides that when the dumping margins for all individually examined respondents are zero, *de minimis,* or determined entirely on the basis of facts available, the ''expected method'' of determining the all-others rate is to weight average the zero and *de minimis* dumping margins with the dumping margins based on facts available, provided that volume data are available.[10] This practice has been upheld by both the United States Court of International Trade and United States Court of Appeals for the Federal Circuit (CAFC).[11] In *Albemarle* and *Changzhou Hawd 2017,* the CAFC held that under the ''expected method'' the rates determined for the ''mandatory respondents are assumed to be representative'' of the experience of the non-selected companies.[12]

We calculated weighted-average dumping margins of zero percent for both mandatory respondents. Accordingly, pursuant to section 735(c)(5)(B) of the Act and the CAFC's decisions in *Albemarle* and *Changzhou Hawd 2017,* we assigned a dumping margin of zero percent to the separate rate recipients not selected for examination.

Final Results of Review

We are assigning the following dumping margins to the firms listed below for the period December 1, 2018, through November 30, 2019:

Producers/exporters	Weighted-average dumping margin (percent)
Jinko Solar Import and Export Co., Ltd./Jinko Solar Co., Ltd./JinkoSolar Technology (Haining) Co., Ltd./Yuhuan Jinko Solar Co., Ltd./Zhejiang Jinko Solar Co., Ltd./Jiangsu Jinko Tiansheng Solar Co., Ltd	0.00
Risen Energy Co. Ltd./Risen (Wuhai) New Energy Co., Ltd./Zhejiang Twinsel Electronic Technology Co., Ltd./Risen (Luoyang) New Energy Co., Ltd./Jiujiang Shengzhao Xinye Technology Co., Ltd./Jiujiang Shengchao Xinye Trade Co., Ltd., Ruichang Branch/Risen Energy (HongKong) Co., Ltd./Risen Energy (Changzhou) Co., Ltd./Risen Energy (Yiwu) Co., Ltd	0.00
Review-Specific Average Rate Applicable to the Following Companies	
Anji DaSol Solar Energy Science & Technology Co., Ltd	0.00

[7] We have continued to treat the following companies as a single entity: Jinko Solar Import and Export Co., Ltd.; Jinko Solar Co., Ltd.; JinkoSolar Technology (Haining) Co., Ltd.; Yuhuan Jinko Solar Co., Ltd.; Zhejiang Jinko Solar Co., Ltd.; and Jiangsu Jinko Tiansheng Solar Co., Ltd. (collectively, Jinko).

[8] We have continued to treat the following companies as a single entity: Risen Energy Co. Ltd.; Risen (Wuhai) New Energy Co., Ltd.; Zhejiang Twinsel Electronic Technology Co., Ltd.; Risen (Luoyang) New Energy Co., Ltd.; Jiujiang Shengchao Xinye Technology Co., Ltd.; Jiujiang Shengzhao Xinye Trade Co., Ltd., Ruichang Branch; Risen Energy (HongKong) Co., Ltd.; Risen Energy (Changzhou) Co., Ltd.; and Risen Energy (YIWU) Co., Ltd. (collectively, Risen).

[9] *See* the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Rep. No. 103–316 at 870–873 (1994), *reprinted* in 1994 U.S.C.C.A.N. 4040, 4200.

[10] *Id.* at 873.

[11] *See Albemarle Corp. & Subsidiaries* v. *United States,* 821 F.3d 1345, 1351–52 (Fed. Cir. 2016) (*Albemarle*); *see also Changzhou Hawd Flooring Co.,* v. *United States,* 848 F.3d 1006, 1012 (Fed. Cir. 2017) (*Changzhou Hawd 2017*); and *Navneet Publications (India) Ltd.* v. *United States,* 999 F. Supp. 2d 1354, 1358 (CIT 2014) (*Navneet*).

[12] *See Changzhou Hawd 2017,* 843 F.3d at 1012 (citing *Albemarle,* 821 F.3d at 1351–54) (explaining that, under *Albemarle,* Commerce cannot ''deviate from the expected method unless it is found, based on substantial evidence, that the separate-rate firms' dumping is different from that of the mandatory respondents'').

Producers/exporters	Weighted-average dumping margin (percent)
Canadian Solar International Limited/Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang) Inc./CSI Cells Co., Ltd./CSI–GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc	0.00
Chint Solar (Zhejiang) Co., Ltd./Chint New Energy Technology (Haining) Co., Ltd./Chint Solar (Jiuquan) Co., Ltd./Chint Solar (Hong Kong) Company Limited	0.00
LONGi Solar Technology Co., Ltd	0.00
Shenzhen Sungold Solar Co., Ltd	0.00
Shenzhen Topray Solar Co., Ltd	0.00
Wuxi Tianran Photovoltaic Co., Ltd	0.00
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd./Shenzhen Yingli New Energy Resources Co., Ltd	0.00
Zhejiang Aiko Solar Energy Technology Co., Ltd.	0.00

Commerce's policy regarding the conditional review of the China-wide entity applies to this administrative review.[13] Under this policy, Commerce will not review the China-wide entity in an administrative review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, and Commerce did not self-initiate a review of the entity, the China-wide entity is not under review, and the dumping margin assigned to the China-wide entity (*i.e.,* 238.95 percent) has not changed.[14]

Disclosure

Pursuant to 19 CFR 351.224(b), within five days of the publication of this notice in the **Federal Register**, we will disclose to the parties to this proceeding, the calculations that we performed for these final results of review.

Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by the final results of this review. Because the respondents' weighted average dumping margins are zero percent, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication date of the final results of this review in the **Federal Register**. If a timely summons is filed at the CIT, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Where merchandise was entered into the United States under the case number of a mandatory respondent in this review during the POR (*i.e.,* entered under the mandatory respondent's cash deposit rate), but the mandatory respondent did not report a corresponding sale or entry in its U.S. sales database, we will instruct CBP to liquidate such entries at the China-wide rate. In addition, for the companies for which we determined that there were no entries, exports, or sales of subject merchandise during the POR, any suspended entries of subject merchandise entered under one of the companies' case numbers during the POR will be liquidated at the China-wide rate.[16]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review in the **Federal Register**. Pursuant to section 751(a)(2)(C) of the Act, for shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, the following cash deposits will be required: (1) For the companies/company groups listed in the table in the ''Final Results of Review'' section above, the cash deposit rate will be the rate listed for each company/company group in the table; (2) for previously investigated Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the China-wide entity (*i.e.,* 238.95 percent); and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied the non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information

[13] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[14] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016,* 83 FR 35616 (July 27, 2018).

[15] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[16] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice. For reasons described in Comment 8 of the IDM, we intend to liquidate certain entries by Trina during the POR at the cash deposit rate under which they were entered.

disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: October 19, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

[FR Doc. 2021–23181 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Notice of Final Results of Antidumping Duty Changed Circumstances Review

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

SUMMARY: On September 7, 2021, the Department of Commerce (Commerce) published the initiation and preliminary results of a changed circumstances review (CCR) of the antidumping duty (AD) order on certain activated carbon (activated carbon) from the People's Republic of China (China). For these final results, Commerce continues to find that Jacobi Carbons AB (Jacobi AB) and its affiliates, Tianjin Jacobi International Trading Co. Ltd. (Tianjin Jacobi) and Jacobi Carbons Industry (Tianjin) Co. Ltd. (JCC) (collectively, Jacobi), should be collapsed with its new wholly-owned Chinese affiliate, Jacobi Adsorbent Materials (JAM), and the single entity, inclusive of JAM, should be assigned the same AD cash deposit rate assigned to Jacobi for purposes of determining AD liability in this proceeding.

DATES: Applicable October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Jinny Ahn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0339.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2021, Commerce published the *Initiation and Preliminary Results,*[1] finding that Jacobi should be collapsed with JAM, and the Jacobi single entity, inclusive of JAM, should be assigned the same AD cash deposit rate assigned to Jacobi for purposes of determining AD liability in this proceeding.[2] In the *Initiation and Preliminary Results,* we provided all interested parties with an opportunity to comment and request a public hearing regarding our preliminary finding.[3] We received no comments or requests for a public hearing from interested parties.

Scope of the Order[4]

The merchandise covered by the scope of the *Order* is activated carbon. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Final Results of Changed Circumstances Review

For the reasons stated in the *Initiation and Preliminary Results,* and because we received no comments from interested parties to the contrary, Commerce continues to find that Jacobi should be collapsed with JAM, and that the Jacobi single entity, inclusive of JAM, should be assigned the same AD cash deposit rate assigned to Jacobi for purposes of determining AD liability in this proceeding.[5] As a result of this determination and consistent with established practice, we find that JAM should receive the cash deposit rate previously assigned to Jacobi in the most recently completed review of the *Order.* The cash deposit rate assigned to Jacobi in the most recently completed review was $0.65 per kilogram.[6] Consequently, Commerce will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of subject merchandise exported by JAM and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at $0.65 per kilogram, which is the current AD cash deposit rate for Jacobi. This cash deposit requirement shall remain in effect until further notice.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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[1] *See Certain Activated Carbon from the People's Republic of China: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 86 FR 50050 (September 7, 2021) (*Initiation and Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Initiation and Preliminary Results,* 86 FR at 50051.

[3] *Id.*

[4] *See Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China,* 72 FR 20988 (April 27, 2007) (*Order*).

[5] *See Initiation and Preliminary Results,* 86 FR at 50051.

[6] *See Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Final Rescission of Administrative Review, in Part; 2018–2019,* 86 FR 10539 (February 22, 2021).

Notification to Interested Parties

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3).

Dated: October 18, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, Performing the Non-Exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–23129 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–838]

Polyester Textured Yarn From Indonesia: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines that polyester textured yarn from Indonesia is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2019, through September 30, 2020.

DATES: Applicable October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Toni Page or Peter Shaw, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1398 or (202) 482–0697, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2021, Commerce published in the **Federal Register** its *Preliminary Determination* of sales of polyester textured yarn from Indonesia at LTFV.[1] Commerce invited interested parties to comment on the *Preliminary Determination.*

For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2]

The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope Comments

On May 26, 2021, we issued a Preliminary Scope Decision Memorandum.[3] The scope case briefs were due on July 9, 2021.[4] We did not receive any scope case briefs from interested parties. Therefore, Commerce has not made any changes to the scope of this investigation since the *Preliminary Determination.*

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from Indonesia. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Changes From the Preliminary Determination

Based on our analysis of the comments received from interested parties, we made certain changes to the dumping margin calculations for PT. Asia Pacific Fibers Tbk (Asia Pacific), PT. Mutu Gading Tekstil (Mutu Gading), and the All-Others rate. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Use of Facts Available and Adverse Facts Available

We find that the use of facts available is warranted in determining the rate for mandatory respondent PT. Polyfin Canggih (Polyfin), pursuant to sections 776(a)(1) and (2)(A)–(C) of the Act, and the rate for mandatory respondent Asia Pacific, pursuant to sections 776(a)(1) and (2)(A)–(D) of the Act.[6] Further, use of adverse facts available is warranted with respect to Polyfin and Asia Pacific because these two mandatory respondents did not cooperate to the best of their ability to comply with our requests for information and, accordingly, we applied adverse inferences in selecting from the facts available, pursuant to section 776(b) of the Act and 19 CFR 351.308(a).

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding rates that are zero, *de minimis,* or determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Mutu Gading but is using an

[1] *See Polyester Textured Yarn from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 29742 (June 3, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Polyester Textured Yarn from Indonesia: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value Investigation,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Antidumping Duty Investigations of Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam: Preliminary Scope Decision Memorandum,'' dated May 26, 2021 (Preliminary Scope Decision Memorandum).

[4] The scope case briefs were due ''no later than 15 days after the responses to the scope supplemental questionnaires on intermingled textured yarn are filed.'' *Id.* at 3. The last scope supplemental response was submitted on June 24, 2021. *See* Recron (Malaysia) Sdn. Bhd.'s Letter, ''Scope Supplemental Questionnaire Response,'' dated June 24, 2021.

[5] *See* Commerce's Letters, '' Revised In Lieu of Verification Questionnaire for PT. Asia Pacific Fibers Tbk in the Antidumping Duty Investigation of Polyester Textured Yarn from Indonesia,'' dated August 4, 2021; and ''Revised in Lieu of Verification Questionnaire for PT. Mutu Gading Tekstil in the Antidumping Duty Investigation of Polyester Textured Yarn from Indonesia,'' dated August 4, 2021; *see also* PT. Asia Pacific Fibers Tbk's Letter, ''Polyester Textured Yarn from Indonesia: Submission of Response to the Revised Questionnaire in Lieu of Verification,'' dated August 13, 2021; and PT. Mutu Gading Tekstil's Letter, ''Polyester Textured Yarn from Indonesia: Submission of Response to Revised in Lieu of Verification Questionnaire,'' dated August 13, 2021.

[6] *See* Issues and Decision Memorandum at ''Use of Adverse Facts Available.''

adverse facts available rate for Asia Pacific and Polyfin. Therefore, the only rate which is not zero, *de minimis,* or determined entirely under section 776 of the Act is the rate calculated for Mutu Gading. Consequently, the rate calculated for Mutu Gading is also assigned as the rate for all other producers and exporters.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Producer or exporter	Estimated weighted-average dumping margin (percent)
PT. Polyfin Canggih	*26.07
PT. Asia Pacific Fibers Tbk	*26.07
PT. Mutu Gading Tekstil	7.47
All Others	7.47

*Adverse Facts Available (AFA).

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of polyester textured yarn from Indonesia, as described in Appendix I of this notice, which were entered or withdrawn from warehouse for consumption on or after June 3, 2021, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act, upon the publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Indonesia no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: October 18, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, Performing the Non-Exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packaging method (such as spindles, tubes, or beams).

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2021–23126 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–832]

Polyester Textured Yarn From the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines that polyester textured yarn from the Socialist Republic of Vietnam (Vietnam) is being, or is likely to be, sold in the United States at less than fair value. The period of investigation is April 1, 2020, through September 30, 2020.

DATES: Applicable October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Preston Cox or Yang Jin Chun, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041 or (202) 482–5760, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2021, Commerce published its *Preliminary Determination.*[1] Commerce invited interested parties to comment on the *Preliminary Determination.*

For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope Comments

On May 26, 2021, we issued the Preliminary Scope Decision Memorandum.[3] The scope case briefs were due on July 9, 2021.[4] We did not receive any scope case briefs from interested parties. Therefore, Commerce has not made any changes to the scope of this investigation since the *Preliminary Determination.*

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Vietnam-Wide Entity and Use of Adverse Facts Available

We continue to find that the use of facts available is warranted in determining the rate for the Vietnam-wide entity pursuant to sections 776(a)(1) and (2)(A)–(C) of the Act.[6] Further, use of adverse facts available is warranted with respect to the Vietnam-wide entity because the Vietnam-wide entity did not cooperate to the best of its ability to comply with our requests for information and, accordingly, we applied adverse inferences in selecting from the facts available, pursuant to section 776(b) of the Act and 19 CFR 351.308(a).

Changes From the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the dumping margin calculations for the Century Single Entity and the Vietnam-wide entity.[7]

Combination Rate

Consistent with the *Preliminary Determination*[8] and Policy Bulletin 05.1,[9] Commerce calculated a combination rate for the Century Single Entity, the sole respondent eligible for a separate rate in this investigation.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter	Producer	Estimated weighted-average dumping margin (percent)
Century Single Entity.	Century Single Entity.	2.58
Vietnam-Wide Entity.	.....	22.36

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

[1] *See Polyester Textured Yarn from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 29750 (June 3, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Polyester Textured Yarn from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Antidumping Duty Investigations of Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam: Preliminary Scope Decision Memorandum,'' dated May 26, 2021 (Preliminary Scope Decision Memorandum).

[4] The scope case briefs were due ''no later than 15 days after the responses to the scope supplemental questionnaires on intermingled textured yarn are filed.'' *Id.* at 3. The last scope supplemental response was submitted on June 24, 2021. *See* Recron (Malaysia) Sdn. Bhd.'s Letter, ''Scope Supplemental Questionnaire Response,'' dated June 24, 2021. No information was provided in the responses to the scope supplemental questionnaires that was sufficient for us to revise our findings in the Preliminary Scope Decision Memorandum.

[5] *See* Commerce's Letter, ''Questionnaire In Lieu of Verification,'' dated June 23, 2021; and the Century Single Entity's Letter, ''Response to Questionnaire in Lieu of Verification,'' dated July 1, 2021. The Century Single Entity is comprised of Century Synthetic Fiber Corporation and Century Synthetic Fiber Corporation-Branch. *See* Memorandum, ''Less-Than-Fair-Value Investigation of Polyester Textured Yarn from the Socialist Republic of Vietnam: Affiliation and Collapsing Analysis for Century Synthetic Fiber Corporation and Century Synthetic Fiber Corporation-Branch,'' dated May 26, 2021.

[6] *See Preliminary Determination* PDM at 15–17.

[7] *See* the Issues and Decision Memorandum for a discussion of these changes.

[8] *See Preliminary Determination.*

[9] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' dated April 5, 2005 (Policy Bulletin 05.1), available on Commerce's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of polyester textured yarn from Vietnam, as described in Appendix I of this notice, which were entered or withdrawn from warehouse for consumption on or after June 3, 2021, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act, upon the publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price as follows: (1) The cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified in the table; (2) for all combinations of Vietnamese exporters/producers of subject merchandise that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the Vietnam-wide entity; and (3) for all non-Vietnamese exporters of subject merchandise which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Vietnamese exporter/producer combination (or the Vietnam-wide entity) that supplied that non-Vietnamese exporter. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at less than fair value. Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Vietnam no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: October 18, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, Performing the Non-Exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packaging method (such as spindles, tubes, or beams).

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2021–23127 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–144]

Freight Rail Coupler Systems and Certain Components Thereof From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: Applicable October 19, 2021.

FOR FURTHER INFORMATION CONTACT: Whitley Herndon, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6274.

SUPPLEMENTARY INFORMATION:

The Petition

On September 29, 2021, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of freight rail coupler systems and certain components thereof (freight rail couplers) from the People's Republic of China (China) filed in proper form on behalf of the Coalition of Freight Coupler Producers (the petitioner).[1] On October 6, 2021, the petitioner filed an amendment to the Petition, clarifying the identity of the members of the Coalition of Freight Coupler Producers, the members of which are, or represent, domestic producers of freight rail couplers.[2] The Petition was

[1] *See* Petitioner's Letter, ''Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated September 29, 2021 (the Petition).

[2] *See* Petitioner's Letters, ''Amended Entry of Appearance: C–570–144,'' dated October 6, 2021 (Amended EOA); and ''Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to First Supplemental Questions for on Volume I General Issues and Injury Petition,'' dated October 6, 2021 (First General Issues Supplement). The petitioner notes that, per the Amended EOA, the members of the Coalition of Freight Coupler Producers are: McConway & Torley, LLC and the United Steel,

accompanied by an antidumping duty (AD) petition concerning freight rail couplers from China.[3]

On October 1, 4, 8, and 15, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petition.[4] On October 6, 7, 12, and 18, 2021, the petitioner filed timely responses to these requests for additional information.[5]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of freight rail couplers in China and that such imports are materially injuring, or threatening material injury to, the domestic industry producing in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.[6]

Period of Investigation

Because the Petition was filed on September 29, 2021, the period of investigation is January 1, 2020, through December 31, 2020.[7]

Scope of the Investigation

The merchandise covered by this investigation is freight rail couplers from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

On October 1, 4, 8, and 15, 2021, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[8] On October 6, 12, and 18, 2021, the petitioner revised the scope.[9] The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications. In its October 18, 2021, submission, the petitioner provided additional explanation of the language in the scope of the investigation pertaining to the inclusion of freight rail couplers imported as part of a rail car (''{w}hen mounted on or to other non-subject merchandise, such as a rail car, only the complete coupler system is covered by the scope''), including freight rail couplers attached to rail cars in, and imported from, third countries (''{s}ubject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car in third countries.'').[10] While Commerce has adopted this provision for purposes of initiation, we invite parties to this proceeding to comment on this provision along with their scope comments (as detailed below).

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[11] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.[12] To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on November 8, 2021, which is 20 calendar days from the signature date of this notice.[13] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on November 18, 2021, which is 10 calendar days from the initial comment deadline.[14]

Commerce requests that any factual information that the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope comments must also be filed on the record of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance (E&C)'s Antidumping Duty and Countervailing Duty Centralized

Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Worker International Union, AFL–CIO, CLC (the USW). The petitioner further notes that Amsted Rail Company, Inc. (Amsted) is no longer a member of the petitioning coalition and that the USW represents the workers at Amsted's Granite, IL facility. *See* First General Issues Supplement at 8.

[3] *See* the Petition.

[4] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Supplemental Questions,'' dated October 4, 2021 (General Issues Supplemental); ''Petition for the Imposition of Antidumping Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Supplemental Questions,'' dated October 4, 2021; Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner,'' dated October 4, 2021 (October 4, 2021, Phone Call Memorandum); Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner,'' dated October 8, 2021 (October 8, 2021, Phone Call Memorandum); and Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner,'' dated October 15, 2021 (October 15, 2021, Phone Call Memorandum).

[5] *See* Petitioner's Letters, ''Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Responses to Supplemental Questions for on Volume I General Issues and Injury Petition,'' dated October 6, 2021 (First General Issues Supplement); *see also* Petitioner's Letter, ''Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Supplemental Questions on Volume III China Countervailing Duty Petition—Questions 9 and 11,'' dated October 7, 2021; ''Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Second Supplemental Questions on Volume I General Issues and Injury Petition,'' dated October 12, 2021 (Second General Issues Supplement); and ''Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Third Supplemental Questions on Volume I General Issues and Injury Petition,'' dated October 18, 2021 (Scope Clarification).

[6] *See* ''Determination of Industry Support for the Petition'' section, *infra.*

[7] *See* 19 CFR 351.204(b)(2).

[8] *See* First General Issues Supplement Questionnaire; *see also* October 4, 2021, Phone Call Memorandum; October 8, 2021, Phone Call Memorandum; and October 15, 2021, Phone Call Memorandum.

[9] *See* First General Issues Supplement at 1–7 and Exhibit I–Supp–1; *see also* Second General Issues Supplement at 1–4 and Exhibit I–2Supp–1; and Scope Clarification at Exhibit I–3Supp–1.

[10] *See* Scope Clarification.

[11] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[12] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[13] *See* 19 CFR 351.303(b).

[14] Commerce's practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005); *see also* 19 CFR 351.303(b).

Electronic Service System (ACCESS), unless an exception applies.[15] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC of the receipt of the Petition and provided it the opportunity for consultations with respect to the CVD Petition.[16] The GOC requested consultations,[17] which were held via video conference on October 18, 2021.[18]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[19] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[20]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[21] Based on our analysis of the information submitted on the record, we have determined that freight rail couplers, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[22]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided its own production of freight rail couplers in 2020.[23] The petitioner estimated production for the only other known producer of freight rail couplers in the United States.[24] The petitioner compared its production to the estimated total 2020 production of the domestic like product for the entire domestic industry.[25] We relied on data provided by the petitioner for purposes of measuring industry support.[26]

On October 7, 2021, we received comments on industry support from Wabtec Corporation (Wabtec), a U.S. importer of freight rail couplers.[27] On October 8, 2021, the petitioner responded to the comments from Wabtec.[28] On October 12, 2021, we received additional comments from Wabtec.[29] On October 13, 2021, we received comments on industry support from Strato, Inc. (Strato), a U.S. importer of freight rail couplers.[30] On October 14, 2021, the petitioner responded to the comments from Strato and Wabtec.[31]

[15] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[16] *See* Commerce's Letter, ''Countervailing Duty Petition on Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China,'' dated September 29, 2021.

[17] *See* GOC's Letter, ''Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Request for Consultation to Discuss the Countervailing Duty Investigation Petition,'' dated October 11, 2021.

[18] *See* Memorandum, ''Petitions for the Imposition of Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Consultations with Officials from the Government of China,'' dated October 18, 2021.

[19] *See* section 771(10) of the Act.

[20] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[21] *See* Petition at Volume I at 16–21 and Exhibits I–4, I–7, and I–15; *see also* First General Issues Supplement at 10–11; and Second General Issues Supplement at 6–7.

[22] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Checklist, ''Countervailing Duty Investigation Initiation Checklist: Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China,'' dated concurrently with this **Federal Register** notice (China CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China (Attachment II).

[23] *See* Petition at Volume I at 3–4; *see also* First General Issues Supplement at 8–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 4–5.

[24] *See* Petition at Volume I at 3–4 and Exhibit I–5; *see also* First General Issues Supplement at 9–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 5 and Exhibit I–2Supp–2.

[25] *See* Petition at Volume I at 3–4 and Exhibit I–5; *see also* First General Issues Supplement at 8–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 5.

[26] *See* Petition at Volume I at 2–4 and Exhibits I–3 through I–5; *see also* First General Issues Supplement at 7–10 and Exhibits I–Supp–2 and I–Supp–3; and Second General Issues Supplement at 4–5 and Exhibit I–2Supp–2.

[27] *See* Wabtec's Letter, ''Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Request for Department to Deny the Petitions for Imposition of Duties Filed by the Coalition of Freight Coupler Producers as Legally Infirm,'' dated October 7, 2021.

[28] *See* Petitioner's Letter, ''Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Wabtec,'' dated October 8, 2021 (Petitioner Letter I).

[29] *See* Wabtec's Letter, ''Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Reply in Support of Request for Department to Deny the Petitions for Imposition of Duties Filed by the Coalition of Freight Coupler Producers,'' dated October 12, 2021.

[30] *See* Strato's Letter, ''Strato Support for Rejecting Petition: Antidumping & Countervailing Duty Investigation of Freight Rail Coupler Systems and Components Thereof from the People's Republic of China,'' dated October 13, 2021.

[31] *See* Petitioner's Letter, ''Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Strato and Wabtec,'' dated October 14, 2021 (Petitioner Letter II).

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, Petitioner Letters I and II, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[32] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[33] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[34] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[35] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[36]

Injury Test

Because China is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports threaten to cause material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[37]

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; declines in production, U.S. shipments, and capacity utilization; decline in employment; and decline in financial performance.[38] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[39]

Initiation of CVD Investigation

Based upon our examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of freight rail couplers from China benefit from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 33 of the 35 alleged programs. Additionally, we find that there is sufficient information to initiate on the allegation of the creditworthiness of CRRC Corporation Limited (CRRC) and will explore this allegation in the investigation should CRRC be selected as a mandatory respondent. For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. The initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner named eight companies in China as producers and/or exporters of freight rail couplers.[40] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event that Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to the potential respondents. Commerce normally selects mandatory respondents in CVD investigations using U.S. Customs and Border Protection (CBP) entry data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. However, for this investigation, one of the HTSUS subheadings under which the subject merchandise would enter (*i.e.,* 8607.30.1000) is a basket category under which non-subject merchandise may enter. Therefore, we cannot rely on CBP entry data in selecting respondents. We intend instead to issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

Producers/exporters of freight rail couplers from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain the Q&V questionnaire from E&C's website at *https://enforcement.trade.gov/questionnaires/questionnaires-ad.html.* Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on November 2, 2021. All Q&V responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under Administrative Protective Order (APO) in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at *http://enforcement.trade.gov/apo.* Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version

[32] *See* China CVD Initiation Checklist at Attachment II.

[33] *Id.; see also* section 702(c)(4)(D) of the Act.

[34] *See* China CVD Initiation Checklist at Attachment II.

[35] *Id.*

[36] *Id.*

[37] *See* Petition at Volume I at 27 and Exhibit I–27.

[38] *Id.* at 14–16, 22–44 and Exhibits I–3 through I–5, I–11, I–13, I–14, and I–17 through I–47; *see also* First General Issues Supplement at 11–13 and Exhibit I–Supp–3.

[39] *See* China CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China.

[40] *See* Petition at Volume I at Exhibit I–10.

of the Petition has been provided to the GOC via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of freight rail couplers from China are materially injuring, or threatening material injury to, a U.S. industry.[41] A negative ITC determination will result in the investigation being terminated.[42] Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [43] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[44] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[45] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting extension requests or factual information in this investigation.[46]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[47] Parties must use the certification formats provided in 19 CFR 351.303(g).[48] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of document submission procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).[49] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[50]

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: October 19, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The scope of this investigation covers freight rail car coupler systems and certain components thereof. Freight rail car coupler systems are composed of, at minimum, four main components (knuckles, coupler bodies, coupler yokes, and follower blocks, as specified below) but may also include other items (*e.g.,* coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The components covered by the investigation include: (1) E coupler bodies; (2) E/F coupler bodies; (3) F coupler bodies; (4) E yokes; (5) F yokes; (6) E knuckles; (7) F knuckles; (8) E type follower blocks; and (9) F type follower blocks, as set forth by the Association of American Railroads (AAR). The freight rail coupler components are included within the scope of the investigation when imported individually, or in some combination thereof, such as in the form of a coupler fit (a coupler body and knuckle assembled together), independent from a coupler system.

Subject freight rail car coupler systems and components are included within the scope whether finished or unfinished, whether imported individually or with other subject or non-subject components, whether assembled or unassembled, whether mounted or unmounted, or if joined with non-subject merchandise, such as other non-subject system parts or a completed rail car. Finishing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, machining, and assembly of various components. When a subject coupler system or subject components are mounted on or to other non-subject merchandise, such as a rail car, only the coupler system or subject components are covered by the scope.

The finished products covered by the scope of this investigation meet or exceed the AAR specifications of M–211, ''Foundry and Product Approval Requirements for the Manufacture of Couplers, Coupler Yokes, Knuckles, Follower Blocks, and Coupler Parts'' or AAR M–215 ''Coupling Systems,'' or other equivalent domestic or international standards (including any revisions to the standard(s)).

The country of origin for subject coupler systems and components, whether fully

[41] *See* section 703(a)(1) of the Act.

[42] *Id.*

[43] *See* 19 CFR 351.301(b).

[44] *See* 19 CFR 351.301(b)(2).

[45] *See* 19 CFR 351.302.

[46] *See* 19 CFR 351; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[47] *See* section 782(b) of the Act.

[48] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[49] *See Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008).

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

assembled, unfinished or finished, or attached to a rail car, is the country where the subject coupler components were cast or forged. Subject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car in third countries. Further processing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, painting, coating, priming, machining, and assembly of various components. The inclusion, attachment, joining, or assembly of non-subject components with subject components or coupler systems either in the country of manufacture of the in-scope product or in a third country does not remove the subject components or coupler systems from the scope.

The coupler systems that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished rail cars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.5000 if imported as an Instrument of International Traffic. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

[FR Doc. 2021–23232 Filed 10–22–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–843]

Polyester Textured Yarn From Thailand: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines that polyester textured yarn from Thailand is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2019, through September 30, 2020.

DATES: Applicable October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Stephanie Berger, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2483.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2021, Commerce published its *Preliminary Determination*.[1] Commerce invited interested parties to comment on the *Preliminary Determination.*

For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope Comments

On May 26, 2021, we issued the Preliminary Scope Decision Memorandum.[3] The scope case briefs were due on July 9, 2021.[4] We did not receive any scope case briefs from interested parties. Therefore, Commerce has not made any changes to the scope of this investigation since the *Preliminary Determination.*

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from Thailand. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Changes From the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the margin calculation for Sunflag Thailand Ltd. (Sunflag) since the *Preliminary Determination. See* the Issues and Decision Memorandum for a discussion of these changes.

Use of Adverse Facts Available

The mandatory respondent Jong Stit Co., Ltd. (Jong Stit) did not respond to Commerce's initial antidumping duty questionnaire in this investigation.[6] Therefore, in the *Preliminary Determination,* pursuant to sections 776(a) and 776(b) of the Act, we assigned to Jong Stit the highest Petition margin based on adverse facts available (AFA). No party filed comments concerning the *Preliminary Determination* with respect to Jong Stit, and there is no new information on the record that would cause us to revisit the *Preliminary Determination.* Accordingly, we continue to find that the application of AFA pursuant to sections 776(a) and (b) of the Act is warranted with respect to Jong Stit. Consistent with the *Preliminary Determination,* Commerce has assigned to Jong Stit the highest Petition margin, which is 56.80 percent. For further information, *see* the section ''Application of Facts Available and Use of Adverse Inferences'' in the *Preliminary Determination* PDM.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-

[1] *See Polyester Textured Yarn from Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 29746 (June 3, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from Thailand,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Antidumping Duty Investigations of Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and Vietnam: Preliminary Scope Decision Memorandum,'' dated May 26, 2021 (Preliminary Scope Decision Memorandum).

[4] The scope case briefs were due ''no later than 15 days after the responses to the scope supplemental questionnaires on intermingled textured yarn are filed.'' *Id.* at 3. The last scope supplemental response was submitted on June 24, 2021. *See* Recron (Malaysia) Sdn. Bhd.'s Letter, ''Scope Supplemental Questionnaire Response,'' dated June 24, 2021. No information was provided in the responses to the scope supplemental questionnaires that was sufficient for us to revise our findings in the Preliminary Scope Decision Memorandum.

[5] *See* Commerce's Letter, ''Antidumping Duty (AD) In Lieu of Verification Questions,'' dated July 6, 2021, and Sunflag's Letter, ''Polyester Textured Yarn from Thailand: Response to the In Lieu of Verification Questionnaire,'' dated July 14, 2021.

[6] *See Preliminary Determination* PDM at 2.

average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. In this investigation, Commerce has assigned a rate based entirely on facts available to Jong Stit. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Sunflag. Consequently, the rate calculated for Sunflag is also assigned as the rate for all other producers and exporters.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Sunflag Thailand Ltd	14.47
Jong Stit Co., Ltd	*56.80
All Others	14.47

*(AFA).

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of polyester textured yarn from Thailand, as described in Appendix I of this notice, which were entered or withdrawn from warehouse for consumption on or after June 3, 2021, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for such entries of merchandise equal to the following: (1) The cash deposit rate for the respondents listed in the table above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin listed in the table above. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Thailand no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: October 18, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, Performing the Non-Exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packaging method (such as spindles, tubes, or beams).

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2021–23124 Filed 10–22–21; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Rescission of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: Based upon the timely withdrawal of all review requests, the Department of Commerce (Commerce) is rescinding the administrative reviews covering the periods of review for the antidumping duty (AD) and countervailing duty (CVD) orders identified in the table below.

DATES: Applicable October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Based upon timely requests for review, Commerce initiated administrative reviews of certain companies for the periods of review for the AD and CVD orders listed in the table below, pursuant to 19 CFR 351.221(c)(1)(i).[1] All requests for these reviews have been timely withdrawn.[2]

Rescission of Reviews

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested the review withdraw their review requests within 90 days of the date of publication of the notice of initiation for the requested review. All parties withdrew their requests for the reviews listed in the table below within the 90-day deadline. No other parties requested administrative reviews of these AD/CVD orders for the periods noted in the table. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding, in their entirety, the administrative reviews listed in the table below.

	Period of review
AD Proceedings	
Argentina:	
Biodiesel, A–357–820	4/1/2020–3/31/2021
Brazil:	
Certain Uncoated Paper, A–351–842	3/1/2020–2/28/2021
Canada:	
Polyethylene Terephthalate Resin, A–122–855	5/1/2021–4/30/2021
Germany:	
Cold-Drawn Mechanical Tubing, A–428–845	6/1/2020–5/31/2021
India:	
Fine Denier Polyester Staple Fiber, A–533–875	7/1/2020–6/30/2021
Indonesia:	
Biodiesel, A–560–830	4/1/2020–3/31/2021
Japan:	
Carbon and Alloy Seamless Standard, Line, Pressure (under 4½ inches), A–588–851	6/1/2020–5/31/2021
Cold-Rolled Steel Flat Products	7/1/2020–6/30/2021
Republic of Korea:	
Polyester Staple Fiber, A–580–839	5/1/2020–4/30/2021
Switzerland:	
Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, A–441–801	6/1/2020–5/31/2021
Taiwan:	
Stainless Steel Plate in Coils, A–583–830	5/1/2020–4/30/2021
The Republic of Turkey:	
Certain Quartz Surface Products, A–489–837	12/13/2019–5/31/2021
The People's Republic of China:	
Alloy and Certain Carbon Steel Threaded Rod, A–570–104	9/25/2019–3/31/2021
Aluminum Extrusions, A–570–967	5/1/2020–4/30/2021
Certain Aluminum Foil, A–570–053	4/1/2020–3/31/2021
Certain Amorphous Silica Fabric, A–570–038	3/1/2020–2/28/2021
Oil Country Tubular Goods, A–570–943	5/1/2020–4/30/2021
Stainless Steel Sheet and Strip, A–570–042	4/1/2020–3/31/2021
CVD Proceedings	
The Republic of Turkey:	
Certain Quartz Surface Products, C–489–838	10/11/2019–12/31/2020

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 23925 (May 5, 2021); *see also Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 31282 (June 11, 2021); *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 35481 (July 6, 2021); *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 41821 (August 3, 2021); and *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 50034 (September 7, 2021).

[2] The letters withdrawing the review requests may be found in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.*

	Period of review
The People's Republic of China:	
Aluminum Extrusions, C–570–968	1/1/2020–12/21/2020
Certain Aluminum Foil, C–570–054	1/1/2020–12/31/2020
Glycine, C–570–081	1/1/2020–12/31/2020
Stainless Steel Sheet and Strip, C–570–043	1/1/2020–12/31/2020
The Socialist Republic of Vietnam:	
Certain Steel Nails, C–552–819	1/1/2020–12/31/2020

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping and/or countervailing duties on all appropriate entries during the periods of review noted above for each of the listed administrative reviews at rates equal to the cash deposit of estimated antidumping or countervailing duties, as applicable, required at the time of entry, or withdrawal of merchandise from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this recission notice in the **Federal Register** for rescinded administrative reviews of AD/CVD orders on countries other than Canada and Mexico. For rescinded administrative reviews of AD/CVD orders on Canada or Mexico, Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of this recission notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers of merchandise subject to AD orders of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in these segments of these proceedings. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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, and 19 CFR 351.213(d)(4).

Dated: October 19, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–23119 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Construction Safety Team Advisory Committee Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Construction Safety Team (NCST) Advisory Committee (Committee) will hold a virtual meeting via web conference on Monday, November 8, 2021, from 11:00 a.m. to 5:00 p.m. Eastern Time. The primary purposes of this meeting are to: Update the Committee on the progress of the NCST investigation focused on the impacts of Hurricane Maria in Puerto Rico and the NCST investigation focused on the Champlain Towers South partial building collapse that occurred in Surfside, Florida; finalize the Committee's annual report to Congress; and provide an overview of event scoring and readiness of teams. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST website at *https://www.nist.gov/topics/disaster-failure-studies/national-construction-safety-team-ncst/advisory-committee-meetings.*

DATES: The NCST Advisory Committee will meet on Monday, November 8, 2021, from 11:00 a.m. to 5:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held via web conference. For instructions on how to participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tanya Brown-Giammanco, Disaster and Failure Studies Program, Engineering Laboratory, NIST. Tanya Brown-Giammanco's email address is *Tanya.Brown-Giammanco@nist.gov* and her phone number is 240- 267–9504.

SUPPLEMENTARY INFORMATION: The Committee was established pursuant to Section 11 of the NCST Act (Pub. L. 107–231, codified at 15 U.S.C. 7301 *et seq.*). The Committee is currently composed of seven members, appointed by the Director of NIST, who were selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Construction Safety Teams. The Committee advises the Director of NIST on carrying out the NCST Act; reviews the procedures developed for conducting investigations; and reviews the reports issued documenting investigations. Background information on the NCST Act and information on the NCST Advisory Committee is available at *https://www.nist.gov/topics/disaster-failure-studies/national-construction-safety-team-ncst/advisory-committee.*

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. app., notice is hereby given that the NCST Advisory Committee will meet on Monday, November 8, 2021, from 11:00 a.m. to 5:00 p.m. Eastern Time. The meeting will be open to the public and will be held via web conference. Interested members of the public will be able to participate in the meeting from remote locations. The primary purposes of this meeting are to: Update the Committee on the progress of the NCST investigation focused on the impacts of Hurricane Maria in Puerto Rico and the NCST investigation focused on the Champlain Towers South partial building collapse that occurred in

Surfside, Florida; finalize the Committee's annual report to Congress; and provide an overview of event scoring and readiness of teams. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST website at *https://www.nist.gov/topics/disaster-failure-studies/national-construction-safety-team-ncst/advisory-committee-meetings.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to items on the Committee's agenda for this meeting are invited to request a place on the agenda. Approximately thirty minutes will be reserved for public comments and speaking times will be assigned on a first-come, first-served basis. Public comments can be provided via email or by web conference attendance. The amount of time per speaker will be determined by the number of requests received. Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to the attention of Peter Gale at *Peter.Gale@nist.gov* by 5:00 p.m. Eastern Time, Wednesday, November 3, 2021. Speakers who wish to expand upon their oral statements, those who wish to speak but cannot be accommodated on the agenda, and those who are unable to attend are invited to submit written statements electronically by email to *disaster@nist.gov.*

Anyone wishing to attend this meeting via web conference must register by 5:00 p.m. Eastern Time, Wednesday, November 3, 2021, to attend. Please submit your full name, email address, and phone number to Peter Gale at *Peter.Gale@nist.gov.*

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2021–23198 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB302]

Draft 2021 Marine Mammal Stock Assessment Reports

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

ACTION: Notice; request for comments and new information.

SUMMARY: NMFS reviewed the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports (SARs) in accordance with the Marine Mammal Protection Act (MMPA). SARs for marine mammals in the Alaska, Atlantic, and Pacific regions were revised according to new information. NMFS solicits public comments on the draft 2021 SARs. NMFS is also requesting new information for strategic stocks that were not updated in 2021.

DATES: Comments must be received by January 24, 2022.

ADDRESSES: The 2021 draft SARs are available in electronic form via the internet at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports.*

Copies of the Alaska Regional SARs may be requested from Marcia Muto, Alaska Fisheries Science Center; copies of the Atlantic, Gulf of Mexico, and Caribbean Regional SARs may be requested from Elizabeth Josephson, Northeast Fisheries Science Center; and copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center (see **FOR FURTHER INFORMATION CONTACT** below).

You may submit comments or new information, identified by NOAA–NMFS–2021–0130, through the Federal e-Rulemaking Portal:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0130 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the comment period. Due to delays in processing mail related to COVID–19 and health and safety concerns, no mail, courier, or hand deliveries will be accepted. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Zachary Schakner, Office of Science and Technology, 301–427–8106, *Zachary.Schakner@noaa.gov;* Marcia Muto, 206–526–4026, *Marcia.Muto@noaa.gov,* regarding Alaska regional stock assessments; Elizabeth Josephson, 508–495–2362, *Elizabeth.Josephson@noaa.gov,* regarding Atlantic, Gulf of Mexico, and Caribbean regional stock assessments; or Jim Carretta, 858–546–7171, *Jim.Carretta@noaa.gov,* regarding Pacific regional stock assessments.

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States, including the U.S. Exclusive Economic Zone (EEZ). These stock assessment reports (SARs) must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury (M/SI) from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial SARs were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every three years for non-strategic stocks. The term ''strategic stock'' means a marine mammal stock: (A) For which the level of direct human-caused mortality exceeds the potential biological removal level or PBR (defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population); (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act (ESA) within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the ESA or is designated as depleted under the MMPA. NMFS and FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined.

In order to ensure that marine mammal SARs constitute the best scientific information available, the updated SARs under NMFS's jurisdiction are peer-reviewed within NOAA Fisheries Science Centers and by members of three regional independent Scientific Review Groups, established under the MMPA to independently advise NMFS. As a result of the review, revision, and assessment of available data, the period covered by the 2021

draft SARs is 2015 through 2019. While this results in a time lag, the extensive peer review process ensures the best scientific information is available in the SARs.

NMFS reviewed the status of all marine mammal strategic stocks as required and considered whether significant new information was available for all other stocks under NMFS's jurisdiction. As a result of this review, NMFS revised a total of 50 SARs in the Alaska, Atlantic, and Pacific regions to incorporate new information. The 2021 revisions to the SARs consist primarily of updated or revised human-caused M/SI estimates and updated abundance estimates. No stocks changed in status from ''non-strategic'' to ''strategic.'' Three stocks changed in status from ''strategic'' to ''non-strategic.'' Highlights of the draft 2021 SAR revisions are discussed below.

NMFS solicits public comments on the draft 2021 SARs. To ensure NMFS is aware of new information relevant to all strategic stocks, NMFS also requests new information for strategic stocks that were not updated in 2021. Specifically, new relevant information could include peer-reviewed information on human-caused M/SI, fishery interactions, abundance, distribution, stock structure, habitat concerns, and other information on emerging concerns for strategic stocks that could be incorporated into the SARs.

Alaska Reports

In 2021, NMFS reviewed new information for 19 stocks in the Alaska Region and revised five SARs under NMFS's jurisdiction: Four strategic stocks and one non-strategic stock. A list of the revised SARs in 2021 for the Alaska region is presented in Table 1. Information on the remaining Alaska region stocks can be found in the final 2020 SARs (Muto *et al.* 2021).

TABLE 1—LIST OF MARINE MAMMAL STOCKS IN THE ALASKA REGION REVISED IN 2021

Strategic stocks	Non-strategic stocks
• Northern fur seal, Eastern Pacific.* • Beluga whale, Cook Inlet. • Harbor porpoise, Southeast Alaska.* • Bowhead whale, Western Arctic.	• Dall's porpoise, Alaska.*

* Includes updated abundance estimates.

Northern Fur Seal, Eastern Pacific

The updated abundance estimate for the Eastern Pacific stock of northern fur seals is 626,618 northern fur seals, based on pup production estimates on Sea Lion Rock (2014), on St. Paul and St. George Islands (mean of 2014, 2016, and 2018), and on Bogoslof Island (mean of 2015 and 2019). This is an increase from the previous estimate of 608,143 northern fur seals. The methods for estimating the population size are the same as previous years (the population size is estimated as the number of pups born at rookeries in the eastern Bering Sea multiplied by a series of expansion factors determined from a previous life table analysis). The updated minimum population estimate is 530,376 northern fur seals. The Eastern Pacific stock of northern fur seals remains classified as a strategic stock because it is designated as depleted under the MMPA.

Harbor Porpoise, Southeast Alaska

The updated best estimate of abundance (uncorrected for animals missed on the trackline), derived from a vessel survey in 2019, is 1,302 harbor porpoise. This estimate is not statistically different from the previous (uncorrected) estimate of 975 in 2010–2012. However, the estimates for both 2010–2012 and 2019 are for the inland waters of Southeast Alaska, which is only a portion of the range of this stock. The updated minimum population estimate for this stock is 1,057 porpoise.

Beluga Whale, Eastern Bering Sea

NMFS has temporarily withdrawn the final 2020 Eastern Bering Sea Beluga whale stock assessment report from the NMFS website in order to consult with the Alaska Beluga Whale Committee (ABWC) on the change in the stock's status from non-strategic to strategic, as is outlined in the NMFS–ABWC co-management agreement. This has been noted on the NOAA Fisheries website: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock#cetaceans---small-whales*.

NMFS is providing this information for awareness only and is not seeking public comment on the NMFS–ABWC co-management agreement, nor the final 2020 Eastern Bering Sea Beluga whale stock assessment report.

Atlantic Reports

In 2021, NMFS reviewed all 116 stocks in the Atlantic region for new information (including the Atlantic Ocean, Gulf of Mexico, and U.S. territories in the Caribbean). This year, NMFS revised 23 SARs in the Atlantic region (Table 2). No stocks changed in status from ''non-strategic'' to ''strategic.'' Three Northern Gulf of Mexico bay, sound and estuary stocks of common bottlenose dolphin changed from strategic to non-strategic (Galveston Bay, East Bay, Trinity Bay; Mississippi River Delta; and Sabine Lake). Previously, information for the Galveston Bay, East Bay, Trinity Bay stock of common bottlenose dolphins was contained within the report ''Common Bottlenose Dolphin, Northern Gulf of Mexico Bay, Sound, and Estuary Stocks.'' This stock now has its own report. A list of the revised SARs in the Atlantic region for 2021 is presented in Table 2. Information on the remaining Atlantic region stocks can be found in the final 2020 SARs (Hayes *et al.* 2021).

TABLE 2—LIST OF MARINE MAMMAL SARS IN THE ATLANTIC REGION REVISED IN 2021

Strategic stocks	Non-strategic stocks
• North Atlantic right whale, Western North Atlantic (WNA).* • Fin whale, WNA. • Sei whale, Nova Scotia. • Common bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau.* • Common bottlenose dolphin, Barataria Bay Estuarine System.*	• Common bottlenose dolphin, Gulf of Mexico Eastern Coastal.* • Common bottlenose dolphin, Gulf of Mexico Western Coastal.* • Common bottlenose dolphin, Gulf of Mexico Northern Coastal.* • Common bottlenose dolphin, Northern Gulf of Mexico Continental Shelf.* • Common bottlenose dolphin, West Bay.*

TABLE 2—LIST OF MARINE MAMMAL SARS IN THE ATLANTIC REGION REVISED IN 2021—Continued

Strategic stocks	Non-strategic stocks
• Common bottlenose dolphin, Northern Gulf of Mexico Bay, Sound, and Estuary Stocks.**	• Common bottlenose dolphin, Galveston Bay, East Bay, Trinity Bay.
	• Atlantic white-sided dolphin, WNA.
	• Atlantic spotted dolphin, Northern Gulf of Mexico.*
	• Long-finned pilot whale, WNA.
	• Harp seal, WNA.*
	• Short-finned pilot whale, WNA.
	• Common Minke whale, Canadian East Coast.
	• Common dolphin, WNA.
	• Harbor porpoise, Gulf of Maine/Bay of Fundy.
	• Harbor seal, WNA.*
	• Gray seal, WNA.*
	• Risso's dolphin, WNA.

* Includes updated abundance estimates.
** Excluding the Sabine Lake, Mississippi River Delta, and Sarasota Bay/Little Sarasota Bay stocks.

North Atlantic Right Whale, Western North Atlantic

The new abundance estimate calculated for the western North Atlantic right whale stock is 368 individuals, which is a decrease from the previous estimate of 412 individuals contained in the 2020 report. This updated estimate is based on a published state-space model of the sighting histories of individual whales identified using photo-identification techniques (Pace *et al.* 2017, Pace 2021) and reflects the impacts of the ongoing Unusual Mortality Event declared in 2017 for the species (NMFS 2021).

Harp Seal, Western Atlantic

Per recommendations by the Atlantic Scientific Review Group, a PBR was calculated for harp seal based on the minimum estimate of abundance in Canadian waters because there is no known resident population in U.S. waters. PBR for the western North Atlantic harp seal is 426,000; previously the PBR was reported as unknown. The best estimate of abundance for western North Atlantic harp seals, based on the last 2017 survey, is 7.6 million (95 percent Confidence Intervals 6.5–8.8 million; DFO 2020).

Pacific Reports

In 2021, NMFS reviewed all 85 stocks in the Pacific region (waters along the west coast of the United States, within waters surrounding the main and Northwestern Hawaiian Islands, and within waters surrounding U.S. territories in the Western Pacific) for new information, and revised SARs for 22 stocks (6 strategic and 16 non-strategic). A list of revised SARs in 2021 for the Pacific region is presented in Table 3. Information on the remaining Pacific region stocks can be found in the final 2020 SARs (Carretta *et al.* 2021).

TABLE 3—LIST OF MARINE MAMMAL SARS IN THE PACIFIC REGION REVISED IN 2021

Strategic stocks	Non-strategic stocks
• False killer whale, Main Hawaiian Islands Insular.	• Baird's beaked whale, California/Oregon/Washington.
• Hawaiian monk seal.*	• Common Bottlenose dolphin, California/Oregon/Washington Offshore.*
• Killer whale, Eastern North Pacific Southern Resident.*	• Short-beaked common dolphin, California/Oregon/Washington.*
• Humpback whale, California/Oregon/Washington.	• Long-beaked common dolphin, California/Oregon/Washington.*
• Fin whale, California/Oregon/Washington.	• Dall's porpoise, California/Oregon/Washington.
• Blue whale, Eastern North Pacific.	• Harbor porpoise, Monterey Bay.*
	• Harbor porpoise, Morro Bay.*
	• Harbor porpoise, Northern California Southern Oregon.*
	• Harbor porpoise, San Francisco Russian River.*
	• Minke whale, California/Oregon/Washington.
	• Northern Elephant seal, California breeding.
	• Northern right whale dolphin, California/Oregon/Washington.*
	• Pacific White-sided dolphin, California/Oregon/Washington.*
	• Striped dolphin, California/Oregon/Washington.*
	• False killer whale, Northwest Hawaiian Islands.*
	• False killer whale, Hawaii Pelagic.*

* Includes updated abundance estimates.

Updated Abundance Estimates for California Current Stocks

The majority of the revised Pacific SARs contain new abundance estimates from the California Current Ecosystem Survey using a consistent analysis approach. Given the heterogeneity of the 2018 survey coverage in the California Coastal Ecosystem study area, Species Distribution Models were used to estimate abundance for numerous U.S. West Coast marine mammal stocks rather than using design-based analytical approaches. The use of species distribution models for density and abundance estimation is well-established for this region and models incorporate changes in species abundance and habitat shifts over time.

References

Carretta *et al.* 2021. U.S. Pacific Marine Mammal Stock Assessments: 2020, U.S. Department of Commerce, NOAA Technical Memorandum NMFS–SWFSC–646.

DFO 2020. 2019 status of Northwest Atlantic harp seals, (*Pagophilus groenlandicus*). Department of Fisheries and Oceans. DFO Can. Sci. Advis. Sec. Sci. Rep. 2020/020. 14 pp.

Hayes, S.A., E. Josephson, K. Maze-Foley, P.E. Rosel, and J. Turek. 2021. US Atlantic and Gulf of Mexico marine mammal stock assessments 2020. NOAA Tech Memo NMFS–NE–271. 403 pp.

Muto, M. M., V. T. Helker, B. J. Delean, N. C. Young, J. C. Freed, R. P. Angliss, N. A. Friday, P. L. Boveng, J. M. Breiwick, B. M. Brost, M. F. Cameron, P. J. Clapham, J. L. Crance, S. P. Dahle, M. E. Dahlheim, B. S. Fadely, M. C. Ferguson, L. W. Fritz, K. T. Goetz, R. C. Hobbs, Y. V. Ivashchenko, A. S. Kennedy, J. M. London, S. A. Mizroch, R. R. Ream, E. L. Richmond, K. E. W. Shelden, K. L. Sweeney, R. G. Towell, P. R. Wade, J. M. Waite, and A. N. Zerbini. 2021. Alaska marine mammal stock assessments, 2020. U.S. Dep. Commer., NOAA Tech. Memo. NMFS–AFSC–421, 398 p.

NMFS. 2021, August 11. 2017–2021 North Atlantic Right Whale Unusual Mortality Event. *https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-north-atlantic-right-whale-unusual-mortality-event.*

Pace, R.M. 2021. Revisions and further evaluations of the right whale abundance model: improvements for hypothesis testing. NOAA Tech Memo NMFS–NE 269. 54 pp.

Pace, R.M., III, P.J. Corkeron and S.D. Kraus. 2017. State-space mark-recapture estimates reveal a recent decline in abundance of North Atlantic right whales. Ecol. and Evol. 7:8730–8741. DOI: 10.1002/ece3.3406

Dated: October 19, 2021.

Evan Howell,

Director, Office of Science and Technology, National Marine Fisheries Service.

[FR Doc. 2021–23225 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

U.S. Integrated Ocean Observing System (IOOS®) Advisory Committee Public Meeting

AGENCY: U.S. Integrated Ocean Observing System (IOOS®), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of a virtual meeting of the U. S. Integrated Ocean Observing System (IOOS®) Advisory Committee (Committee). The meeting is open to the public and an opportunity for oral and written comments will be provided.

DATES: The meeting will be held November 29, 2021, and December 06, 2021. The times and the agenda topics described below are subject to change.

ADDRESSES: The meeting will be held virtually. To register for the meeting and/or submit public comments, use this link *https://forms.gle/qrem9uwCcyjB1vHEA* or email *Laura.Gewain@noaa.gov.* Refer to the U.S. IOOS Advisory Committee website at *http://ioos.noaa.gov/community/u-s-ioos-advisory-committee/* for the most up-to-date information including the agenda and dial-in information.

Instructions: The meeting will be open to public participation each day (check agenda on website to confirm times). The Committee expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by the Designated Federal Official by November 22, 2021, to provide sufficient time for Committee review. Written comments received after November 22, 2021, will be distributed to the Committee, but may not be reviewed prior to the meeting date. To submit written comments, please fill out the brief form at *https://forms.gle/qrem9uwCcyjB1vHEA* or email your comments, your name as it appears on your driver's license, and the organization/company affiliation you represent to Laura Gewain, *Laura.Gewain@noaa.gov.*

Special Accomodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Krisa Arzayus, Designated Federal Official by phone (240–533–9455) or email (*Krisa.Arzayus@noaa.gov*) or email Laura Gewain (*Laura.Gewain@noaa.gov*) by November 15, 2021.

FOR FURTHER INFORMATION CONTACT: Krisa Arzayus, Designated Federal Official, U.S. IOOS Advisory Committee, U.S. IOOS Program, 1315 East-West Highway, Silver Spring, MD 20910; Phone 240–533–9455; Fax 301–713–3281; email *krisa.arzayus@noaa.gov* or visit the U.S. IOOS Advisory Committee website at *http://ioos.noaa.gov/community/u-s-ioos-advisory-committee/.*

SUPPLEMENTARY INFORMATION: The Committee was established by the NOAA Administrator as directed by Section 12304 of the Integrated Coastal and Ocean Observation System Act, part of the Omnibus Public Land Management Act of 2009 (Pub. L. 111–11), and reauthorized under the Coordinated Ocean Observations and Research Act of 2020 (Pub. L. No: 116–271). The Committee advises the NOAA Administrator and the Interagency Ocean Observation Committee (IOOC) on matters related to the responsibilities and authorities set forth in section 12302 of the Integrated Coastal and Ocean Observation System Act of 2009 and other appropriate matters as the Under Secretary refers to the Committee for review and advice.

The Committee will provide advice on:

(a) Administration, operation, management, and maintenance of the Integrated Coastal and Ocean Observation System (the System);

(b) expansion and periodic modernization and upgrade of technology components of the System;

(c) identification of end-user communities, their needs for information provided by the System, and the System's effectiveness in disseminating information to end-user communities and to the general public; and

(d) additional priorities, including—

(1) a national surface current mapping network designed to improve fine scale sea surface mapping using high frequency radar technology and other emerging technologies to address national priorities, including Coast Guard search and rescue operation planning and harmful algal bloom forecasting and detection that—

(i) is comprised of existing high frequency radar and other sea surface current mapping infrastructure operated by national programs and regional coastal observing systems;

(ii) incorporates new high frequency radar assets or other fine scale sea surface mapping technology assets, and other assets needed to fill gaps in coverage on United States coastlines; and

(iii) follows a deployment plan that prioritizes closing gaps in high frequency radar infrastructure in the United States, starting with areas demonstrating significant sea surface current data needs, especially in areas where additional data will improve Coast Guard search and rescue models;

(2) fleet acquisition for unmanned maritime systems for deployment and

data integration to fulfill the purposes of this subtitle;

(3) an integrative survey program for application of unmanned maritime systems to the real-time or near real-time collection and transmission of sea floor, water column, and sea surface data on biology, chemistry, geology, physics, and hydrography;

(4) remote sensing and data assimilation to develop new analytical methodologies to assimilate data from the System into hydrodynamic models;

(5) integrated, multi-State monitoring to assess sources, movement, and fate of sediments in coastal regions;

(6) a multi-region marine sound monitoring system to be—

(i) planned in consultation with the Interagency Ocean Observation Committee, the National Oceanic and Atmospheric Administration, the Department of the Navy, and academic research institutions; and

(ii) developed, installed, and operated in coordination with the National Oceanic and Atmospheric Administration, the Department of the Navy, and academic research institutions; and

(e) any other purpose identified by the Administrator or the Council.

Matters to be considered:

The meeting will focus on (1) providing the Committee with programmatic updates from the U.S. IOOS program and the IOOC and (2) presentations and discussion to determine the work plan for the Committee over the next three years. The latest version of the agenda will be posted at *http://ioos.noaa.gov/community/u-s-ioos-advisory-committee/.*

Carl C. Gouldman,

Director, U. S. Integrated Ocean Observing System Office, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–23142 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA936]

Atlantic Highly Migratory Species; Atlantic Shark Fishery Review

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

ACTION: Notice of availability of the Atlantic shark fishery review (SHARE) document; request for comments.

SUMMARY: NMFS announces the availability of the draft SHARE document. As part of the overall review of the current state of the shark fishery, NMFS examined all aspects of commercial and recreational shark fisheries conservation and management, shark depredation, and additional factors affecting the shark fishery. As a comprehensive review of the shark fishery, the SHARE document identifies areas of success and concerns in the fishery and identifies potential future revisions to regulations and management measures. NMFS anticipates that revisions to the regulations and/or management measures would occur via future rulemaking and would include appropriate opportunity for public comment.

DATES: Written comments must be received by January 3, 2022. NMFS will hold one public webinar, at which public comments will be accepted, on December 8, 2021. For specific dates and times, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Electronic copies of this document may be obtained on the internet at: *https://www.fisheries.noaa.gov/action/atlantic-shark-fishery-review-share.*

You may submit comments on this document, identified by NOAA–NMFS–2021–0027, via the Federal e-Rulemaking Portal. Go to *www.regulations.gov,* enter NOAA–NMFS–2021–0027 into the search box, click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Guy DuBeck (*Guy.DuBeck@noaa.gov*) or Karyl Brewster-Geisz (*Karyl.Brewster-Geisz@noaa.gov*) by email, or by phone at (301) 427–8503.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is responsible for the sustainable management of Atlantic Highly Migratory Species (HMS) (16 U.S.C. 1852(a)(3)) and must comply with all applicable provisions of the Act when implementing conservation and management measures for shark stocks and fisheries. Under the Magnuson-Stevens Act, conservation and management measures must prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery (16 U.S.C. 1851(a)(1)). Where a fishery is determined to be in or approaching an overfished condition, NMFS must adopt conservation and management measures to prevent or end overfishing and rebuild the fishery. (16 U.S.C. 1853(a)(10); 1854(e)). In addition, NMFS must, among other things, comply with the Magnuson-Stevens Act's ten National Standards, including a requirement to use the best scientific information available as well as to consider potential impacts on residents of different States, efficiency, costs, fishing communities, bycatch, and safety at sea (16 U.S.C. 1851 (a)(1–10)). Internationally, the International Commission for the Conservation of Atlantic Tunas (ICCAT) has issued recommendations for the conservation of shark species caught in association with ICCAT fisheries, while the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) has passed measures that place requirements or restrictions on the trade of some shark species and shark fins. The purpose of the SHARE document is to analyze trends within the commercial and recreational shark fisheries to identify main areas of success and concerns with conservation and management measures and find ways to improve management of the shark fishery.

Atlantic shark fisheries have been federally managed since 1993. Unlike stock assessments, which focus on abundance of stocks and their status, SHARE focuses on the overall state of fishery to assist in determining next steps for management. NMFS began this review after noticing certain trends in the fishery. In the commercial fishery, trends include reduced landings, a decrease in active vessels, and an increase in shark discards. In the recreational fishery, trends include an increase in catch and release rates, an increase in effort by state-water or shore-based fishermen, and a decrease in targeted pelagic shark trips. Through

the SHARE process, NMFS is exploring different aspects of the Atlantic shark fisheries to improve stability and resiliency within the fisheries and has identified the following objectives:

- Review the current state of the Atlantic shark fishery;
- Identify areas of success in the fishery;
- Identify areas of concern in the fishery; and
- Identify ways to improve the fishery and potential future shark management actions.

As part of SHARE, NMFS reviewed commercial shark fishery vessel permits, trips targeting or retaining sharks, shark landings, dealer permits, and markets. These data indicate that catch of available quota and participation in the commercial shark fishery has dramatically declined from historical levels. In the recreational shark fishery, NMFS reviewed the recent permits with shark endorsements, fishing effort, survey data, and tournament landings. Shark depredation, which occurs when a shark eats or preys upon fish that are caught on fishing gear, has been a growing concern in a wide variety of commercial and recreational fisheries. While the number of reports of depredation have increased, the underlying cause of the increase is uncertain—it could be due to an increase in the number of sharks as stocks rebuild; a learned behavior by sharks as they recognize motors, fishing techniques, or shark feeding locations as a source of food (this learned behavior is found in other animals such as marine mammals); an increase in the number of people using social media to report the depredation; or any combination of the above. Lastly, in the SHARE document, NMFS analyzed additional factors beyond the Federal shark fishery including other fisheries, state shark fin sale prohibitions, and binding international recommendations.

The SHARE document as a whole provides a comprehensive review of the current state of the Atlantic shark fishery, identifies areas of success and concern, and identifies regulations and management measures for potential future revision. Overall, this review has found that NMFS is sustainably managing shark stocks; however, catch and participation in the commercial shark fishery is in decline. This decline is happening despite fishermen having available quotas for many species, and, in most regions, an open season year-round. The review has also identified a need in the recreational fishery to improve species identification that could improve shark fishery data, thus improving management overall. Additionally, it is likely that other fisheries, state shark fin sale prohibitions, and binding international recommendations have directly and indirectly affected fishing effort and landings from 2014 through 2019. Possible changes that could increase the productivity of the commercial shark fishery while remaining consistent with the Magnuson-Stevens Act and the 2006 Consolidated Atlantic HMS Fishery Management Plan and its amendments could include modifications to:

- Vessel permit structure, including shifting incidental permits to open-access permits;
- Commercial vessel retention limits for large coastal shark, blacknose, and other shark management groups;
- Regional and sub-regional quotas to better match regional expectations and opportunities;
- Recreational size and bag limits; and,
- Reporting mechanisms to enhance data collection of recreational shark species and shark depredation events.

NMFS anticipates that revisions to the above management measures would occur via future rulemaking to modify HMS regulations, with appropriate opportunity for public comment. Regardless of timing, NMFS believes changes to the shark fishery are warranted to improve the overall health of the fishery and shark stocks.

Public Webinar

NMFS will consider public comments before finalizing SHARE. Comments on the draft SHARE document may be submitted via *www.regulations.gov,* and comments may also be submitted at the public hearings. NMFS solicits comments on this draft document by January 3, 2022. During this period, NMFS will hold one public webinar on December 8, 2021 (Table 1). Requests for sign language interpretation or other auxiliary aids should be directed to Guy DuBeck at *guy.dubeck@noaa.gov* or 301–427–8503, at least 7 days prior to the meeting.

TABLE 1—DATE AND TIME OF UPCOMING WEBINAR

Venue	Date	Time	Instructions
Webinar	December 21, 2021	2–4 p.m	*Link: https://noaanmfs-meets.webex.com/noaanmfs-meets/j.php?MTID=m62c9fc645e02237b23d3a83349d8c1b8. Meeting number:* 27634061994. *Password:* A26xykq3q3a. *Join by phone:* 1–415–527–5035. *Access code:* 27634061994.

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

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

Dated: October 20, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–23215 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB530]

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

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC's) Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on Wednesday, November 10, 2021, from 9 a.m. to 1 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via webinar. Connection information will be posted prior to the meeting on the to the MAFMC's online calendar at *https://www.mafmc.org/council-events.*

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

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

SUPPLEMENTARY INFORMATION: The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will meet to develop recommendations for 2022 federal waters recreational management measures (*i.e.,* possession limits, fish size limits, and open and closed seasons) for all three species.

Special Accommodations

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

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

Dated: October 19, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–23117 Filed 10–22–21; 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; Trademark Post Registration

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to OMB for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 12, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

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

Title: Trademark Post Registration.

OMB Control Number: 0651–0055.

Forms Numbers:

- PTO Form 1563 (Declaration of Use of Mark in Commerce Under Section 8)
- PTO Form 1573 (Declaration of Incontestability of a Mark Under Section 15)
- PTO Form 1583 (Combined Declaration of Use and Incontestability Under Sections 8 and 15)
- PTO Form 1597 (Section 7 Request)
- PTO Form 1963 (Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Sections 8 and 9)
- PTO Form 2302 (Response to Office Action for Post-Registration Matters)
- PTO Form 2309 (Surrender of Registration for Cancellation)
- PTO Form 2310 (Request to Divide Registration)
- PTO Form 2311 (Section 12(c) Affidavit)

Type of Review: Extension and revision of a currently approved information collection.

Number of Respondents: 219,694 respondents per year.

Estimated Time per Response: The USPTO estimates that it takes the public approximately between 10 minutes (0.17 hours) and 45 minutes (0.75 hours), to complete the information in this information collection. This includes the time to gather the necessary information, prepare the appropriate documents, and submit the completed responses to the USPTO.

Estimated Total Annual Respondent Burden Hours: 113,620 hours.

Estimated Total Annual Non-Hour Cost Burden: $89,646,740.

Needs and Uses: The USPTO administers the Trademark Act, 15 U.S.C. 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

This information collection covers various communications submitted by individuals and businesses to the USPTO occurring after registration of a trademark. One type of communication is a request to amend a registration to delete goods or services that are no longer being used by the registrant or registration owner. Registered marks remain on the register for 10 years and can be renewed, but will be cancelled unless the registration owner files with the USPTO a declaration attesting to the continued use (or excusable non-use) of the mark in commerce, and a renewal application, within specific deadlines. Registration owners may also request to amend or divide a registration, respond to a post-registration Office action, and surrender a registration.

Affected Public: Private Sector; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this 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 information collection or the OMB Control Number 0651–0055.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0055 information request'' in the subject line of the message.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2021–23168 Filed 10–22–21; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0080]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by November 24, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Status of the Forces Survey of Active Duty Members; OMB Control Number 0704–SOFA.

Type of Request: Regular.

Number of Respondents: 16,500.

Responses per Respondent: 1.

Annual Responses: 16,500.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 4,125.

Needs and Uses: The Status of Forces Active Duty Survey (SOFS–A) is an annual DoD-wide large-scale survey of active duty members that is used in evaluating existing policies and programs, establishing baseline measures before implementing new policies and programs, and monitoring the progress of existing policies/programs. The survey assesses topics such as financial well-being, retention intention, stress, tempo, readiness, and suicide awareness. Data are aggregated by appropriate demographics, including Service, paygrade, gender, race/ethnicity, and other indicators. In order to be able to meet reporting requirements for DoD leadership, the Military Services, and Congress, the survey needs to be completed by winter 2021. The legal requirements for the SOFS–A can be found in the FY2016 NDAA, Title VI, Subtitle F, Subpart 661. This legal requirement mandates that the SOFS–A solicit information on financial literacy and preparedness. Results will be used by the Service Secretaries to evaluate and update financial literacy training and will be submitted in a report to the Committees on Armed Services of the Senate and the House of Representatives.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: October 20, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23202 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0104]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Human Resources Activity, 4800 Mark Center Drive, Suite 08F05 Alexandria, VA 22350, LaTarsha Yeargins, 571–372–2089.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Officer Retention and Promotion Barrier Analysis; OMB Control Number 0704–0609.

Needs and Uses: The Fiscal Year (FY) 2021 (FY21) National Defense Authorization Act (NDAA) (Section 551) requires DoD to conduct a barrier analysis to review demographic diversity patterns across the military life cycle, starting with enlistment or accession into the armed forces in order to: (i) Identify barriers to increasing

diversity; (ii) develop and implement plans and processes to resolve or eliminate any barriers to diversity; and (iii) review the progress of the armed forces in implementing previous plans and processes to resolve or eliminate barriers to diversity. This information collection will support the Office for Diversity, Equity, and Inclusion (ODEI) and DoD to contextualize quantitative data obtained via the DoD Total Force Demographics application and collect as part of the FY21 Officer Cohort Analysis and respond to Executive Order (E.O.) Advancing Racial Equity and Support for Underserved Communities Through the Federal Government E.O. 13985.

Affected Public: Individuals or households.

Annual Burden Hours: 500 hours.

Number of Respondents: 340.

Responses per Respondent: 1.

Annual Responses: 340.

Average Burden per Response: 88 minutes.

Frequency: On occasion.

Dated: October 20, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23203 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0110]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of Local Defense Community Cooperation announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of Local Defense Community Cooperation, 2231 Crystal Drive, Arlington, VA 22202 ATTN: Mr. James Holland or call 703–697–2188.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Community Infrastructure Program Grant Proposals; OMB Control Number 0704–0607.

Needs and Uses: Section 2391(d) of Title 10, United States Code (10 U.S.C. 2391), authorizes the Secretary of Defense to, ''make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense, for projects owned by a State or local government, or a not-for-profit, member-owned utility service to address deficiencies in community infrastructure supportive of a military installation.''

The Consolidated Appropriations Act for Fiscal Year 2021 (Pub. L. 116–260) provides $60 million to the Office of Local Defense Community Cooperation (OLDCC) for the Defense Community Infrastructure Program (DCIP). This information collection supports the awarding of grants under DCIP via the initial grant proposal package prepared in accordance to a Federal Funding Opportunity Announcement posted on the *Grants.gov* website. The criteria established for the selection of community infrastructure projects reflects projects consisting of some combination of attributes that will enhance: (i) Military value; (ii) military installation resilience; and/or, (iii) military family quality of life at a military installation.

Affected Public: State, Local or Tribal Government; Not-for-profit Institutions.

Annual Burden Hours: 2,250.

Number of Respondents: 150.

Responses per Respondent: 1.

Annual Responses: 150.

Average Burden per Response: 15 hours.

Frequency: Annually.

Respondents will be State or local governments and not-for-profit, member-owned utility services owning infrastructure outside of, but supporting, a military installation. A Proposal Package shall include the following information: Point of contact; summary of installation need; letter of endorsement from the Commander of the local installation; description of the proposed project with explanation of how it addresses the installation need; demonstration of the technical feasibility of the project; identification of other parties involved in the project; overview and commitment of all funding sources; uses of project funding, including a total project cost estimate with major cost elements broken out for project administration, inspection, construction, utilities, and contingency costs; project schedule demonstrating that the project can commence within 12 months upon receipt of a grant and that the grant funds will be spent steadily and expeditiously once the project commences, and completed no later than 5 years following the obligation of Federal funds; Environmental Approvals; State and Local Planning (if applicable); Evidence of the intended recipient's ability and authority to manage grants; Documentation that the Submitting Official is authorized by the proposer to submit a proposal and subsequently apply for assistance; and National Security Waiver Attestation (if appropriate).

Dated: October 20, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23212 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0107]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: 5-Day information collection notice.

SUMMARY: Consistent with the Paperwork Reduction Act of 1995 and its implementing regulations, this document provides notice DoD is submitting an Information Collection Request to the Office of Management and Budget (OMB) to collect information on incident and case management data on problematic sexual behavior between children and youth as required by the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Section 1089, Policy on Response to Juvenile on Juvenile Problematic Sexual Behavior Committed on Military Installations. This statute requires policy development, data collection, and Family Advocacy Program (FAP) involvement through a multi-disciplinary response to problematic sexual behavior in children and youth (PSB–CY) occurring on military installations. More specifically, the legislation requires the data collection to include a description of the incident, whether a multidisciplinary review by the FAP was completed, whether the incident also involved an investigation by law enforcement or other entity, and whether action was taken to support and assist children, youth, and families in response to the incident and a description of any action taken.

DATES: Comments must be received by November 1, 2021.

ADDRESSES: The Department has requested emergency processing from OMB for this information collection request by 5 days after publication of this notice. Interested parties can access the supporting materials and collection instrument as well as submit comments and recommendations to OMB at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Comments 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.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION: This information collection provides incident and case management data on incidents of problematic sexual behavior between children and youth as required by the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232), Section 1089, Policy on Response to Juvenile on Juvenile Problematic Sexual Behavior Committed on Military Installations. This statute requires policy development, data collection, and Family Advocacy Program (FAP) involvement through a multi-disciplinary response to problematic sexual behavior in children and youth (PSB–CY) occurring on military installations. The purpose of the collection is to determine eligibility for FAP services and to initiate a case record that will inform and support the development and implementation of well-coordinated safety plans, evidence informed support and intervention services, and referrals to specialized care when needed that meet the complex needs of children, youth, and their families involved in incidents of PSB–CY. The PSB–CY Information System is in the final phase of beta testing in anticipation of production release early October 2021 as specified in the system development contract. The PSB–CY development contract ends 12 November. Approval of the emergency processing will allow deployment of the PSB–CY Information System as programmed and contribute to the Department's ability to respond and intervene with appropriate treatment and services to help military-affiliated children, youth, and their families who have been involved in these incidents. Delay of the information collection presents significant risk for a smooth transition, namely the ability for the new managing contractor to take full advantage of current PSB–CY development contractor expertise and help desk support post go-live. Disrupting the transition carries a significant operational risk to support the operations and sustainment of the PSB–CY application, including the high volume of data. MC&FP planned for the PSB–CY development contractor to provide support as part of the transition plan. If information collection and system go-live is not expedited, this transition support will be unavailable.

Title; Associated Form; and OMB Number: Problematic Sexual Behavior in Children and Youth Information System; OMB Control Number 0704–PSBC.

Type of Request: Emergency.

Number of Respondents: 2,000.

Responses per Respondent: 1.

Annual Responses: 2,000.

Average Burden per Response: 1 hour.

Annual Burden Hours: 2,000 hours.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Request for Comments: Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information collected has practical utility; (2) the accuracy of DoD'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.

Dated: October 19, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23120 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0105]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on

respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Human Resources Activity, 4800 Mark Center Drive, Suite 08F05, Alexandria, VA 22350, LaTarsha Yeargins, 571–372–2089.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Experiences, Risk and Protective Factors, and Adolescent Health and Well-Being Survey; OMB Control Number 0704–AWBS.

Needs and Uses: This study is designed to assess the direct and indirect association of military experiences with adolescents' psychosocial adjustment and physical health, academic achievement, and educational/military career aspirations and to identify risk and protective factors that may promote or inhibit positive outcomes among military-connected adolescents and their families. The primary objective of this research project is to study the impact of military service on the adolescent children of service members and veterans enrolled in the Millennium Cohort Study. DoD policy makers and researchers will use findings from analyses of collected survey data to inform prevention and treatment strategies to improve the well-being of military-connected youth and their families.

Affected Public: Individuals or households.

Annual Burden Hours: 4,480 hours.

Number of Respondents: 8,960.

Responses per Respondent: 1.

Annual Responses: 8,960.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Dated: October 20, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23210 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0108]

Proposed Collection; Comment Request

AGENCY: The Office of the Under Secretary of Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Technical Information Center (DTIC) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Technical Information Center, 8725 John J. Kingman Road, Ft. Belvoir, VA 22060–6218 ATTN: Ms. Vakare Valaitis, or call (703) 767–9159.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense User Registration System (DURS); OMB Control Number 0704–0546.

Needs and Uses: DTIC requires all eligible users to be registered for access to DTIC's repository of access-controlled scientific and technical information documents. This system is called the Defense User Registration System, or DURS. The registration of a user enforces validation of an individual's identity, as well as that individual's persona (*i.e.,* whether the individual is DoD, Federal government, or a contractor supporting the DoD or another federal agency) and that individual's authority to access limited and classified documents with distribution controls. A role-based environment based on a user's identification ensures security for DTIC's electronic information collection while the online systems increase availability of information to each user based on his or her mission needs.

Affected Public: Individuals or Households; Business or Other For-Profit; Not-For-Profit Institutions.

Annual Burden Hours: 1,325.

Number of Respondents: 6,625.

Responses per Respondent: 1.

Annual Responses: 6,625.

Average Burden per Response: 12 minutes.

Frequency: On occasion.

Dated: October 20, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23207 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–HA–0106]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Health Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency, ATTN: Zelly Zim, 8111 Gatehouse Road, 229D, Falls Church, VA 22042 or call 571–232–1551.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: TRICARE Young Adult Application; DD Form 2947; OMB Control Number 0720–0049.

Needs and Uses: The Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (FY11), Section 702, aligns TRICARE Program eligibility by providing a means to extend the age of eligibility of TRICARE dependents from age 21 or 23 up to age 26 to allow the purchase of extended dependent medical coverage across existing TRICARE program options (Select and Prime). This is consistent with the intent of the Patient Protection and Affordable Care Act, the implementing Health and Human Services regulations, and the limitations of Chapter 55 of Title 10. Section 702 allows qualified adult children not eligible for medical coverage at age 21 (23 if enrolled in a full-time course of study at an institution of higher learning approved by the Secretary of Defense) and are under age 26 to qualify to purchase medical coverage unless the dependent is enrolled in or eligible to purchase employer sponsored insurance per section 5000A(f)(2) of the Internal Revenue Code of 1986 or is married. The dependents shall be able to purchase either the TRICARE Prime or Select benefits depending on if they meet specific program requirements and the availability of a desired plan in their geographic location.

Affected Public: Individuals or households.

Annual Burden Hours: 677 hours.

Number of Respondents: 2709.

Responses per Respondent: 1.

Annual Responses: 2709.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Dated: October 20, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23204 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0109]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of Local Defense Community Cooperation announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of Local Defense Community Cooperation, 2231 Crystal Drive, Arlington, VA 22202 ATTN: Mr. James Holland or call 703–697–2188.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Manufacturing Community Support Program Grant Proposals; OMB Control Number 0704–0606.

Needs and Uses: The Defense Manufacturing Community Support Program (DMCSP), authorized under Section 846 of the Fiscal Year 2019

National Defense Authorization Act (Pub. L. 115–232), is designed to undertake long-term investments in critical skills, facilities, research and development, and small business support in order to strengthen the national security innovation and manufacturing base. The program also seeks to ensure complementarity of those communities so designated with existing Defense Manufacturing Institutes. Defense Manufacturing Institutes are manufacturing ecosystems established since 2014, with common manufacturing and design challenges revolving around specific technologies. The DMCSP is designed to recognize communities that demonstrate best practices in attracting and expanding defense manufacturing. This information collection is necessary to facilitate the identification of new Defense Manufacturing Communities and the awarding of grants under the DMCSP via a grant proposal package. The proposal package is prepared in accordance to a Federal Funding Opportunity Announcement posted on the *Grants.gov* website.

Affected Public: Businesses or other for-profit; Not-for-profit Institutions; State, Local or Tribal Government.

Annual Burden Hours: 525.

Number of Respondents: 75.

Responses per Respondent: 1.

Annual Responses: 75.

Average Burden per Response: 7 hours.

Frequency: Annually.

Respondents will be institutions of higher education or a consortium of higher education institutions; public or private non-profit consortium of defense industries; and state, local or tribal government organization. The proposal will consist of: (1) Defense Manufacturing Community Designation Concept (slide presentation, 10-slide maximum); (2) Defense Manufacturing Community Designation White Paper (20-page maximum); and (3) Any Necessary Supporting Documentation (25-page maximum). Respondents return the proposal package by uploading electronically on the *Grants.gov* website.

Dated: October 20, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23211 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2021–HQ–0008]

Submission for OMB Review; Comment Request

AGENCY: The Department of the Navy, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by November 24, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Facilities Available for the Construction or Repair of Ships; Standard Form 17; OMB Control Number 0703–0006.

Type of Request: Revision.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 4 hours.

Annual Burden Hours: 800.

Needs and Uses: The information collection is part of a joint effort between the Naval Sea Systems Command (NAVSEA) and the U.S. Maritime Administration (MARAD), to maintain a working data set on active U.S. shipyards. The information collected is critical in providing both organizations with a comprehensive list of U.S. commercial shipyards and their capabilities and capacities.

Affected Public: Businesses or other for profit.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: October 20, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–23206 Filed 10–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: U.S. Department of Education.

ACTION: Notice of an open meeting.

SUMMARY: Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act (FACA) and is intended to notify members of the public of an upcoming National Advisory Council on Indian Education (NACIE) open teleconference meeting. Pursuant to 41 CFR 102–3.150, notice for this meeting is given less than 15 calendar days prior to the meeting due to exceptional circumstances. It is imperative that the Council hold the meeting as scheduled to complete the annual report on the activities of the Council for fiscal year 2021, as required under 20 U.S.C. 7471, and to accommodate the scheduling priorities of the members to ensure a quorum will be present.

DATES: The NACIE open virtual meeting will be held on November 2, 2021 from 1:00–4:00 p.m. (EDT).

FOR FURTHER INFORMATION CONTACT: Angela Hernandez, Designated Federal Official, Office of Elementary and Secondary Education (OESE)/Office of Indian Education (OIE), U.S. Department of Education, 400 Maryland Avenue SW, Room 3W113, Washington, DC 20202. Telephone: 202–205–1909, Email: *Angela.Hernandez@ed.gov.*

SUPPLEMENTARY INFORMATION: Statutory Authority and Function: NACIE is authorized by Section 6141 of the Elementary and Secondary Education Act of 1965. NACIE is established within the U.S. Department of Education to advise the Secretary of Education (Secretary) and the Secretary of Interior on the funding and administration (including the development of regulations, and administrative policies and practices) of any program over which the Secretary has jurisdiction and that includes Indian children or adults as participants or that may benefit Indian children or adults, including any program established under Title VI, Part A of the Elementary and Secondary Education Act. In addition, NACIE advises the White House Initiative on American Indian and Alaska Native Education, in accordance with Section 5(a) of Executive Order 13592. NACIE submits to the Congress each year a report on its activities that includes recommendations that are considered appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.

Meeting Agenda: The purpose of the meeting is to convene NACIE to conduct the following business: (1) Department and OIE updates, (2) updates on Executive actions, and (3) preparation of the FY 2021 Annual Report.

Instructions for Accessing the Meeting: Members of the public may access the NACIE meeting by dial-in listen only access. Up to 100 lines will be available to participants of on a first come, first serve basis. The dial-in phone number for the virtual meeting is 1–415–655–0001 U.S. Toll, access code: 2340 154 0540, and the web link to register to participate via WebEx is *https://manhattan-strategy.webex.com/manhattan-strategy/j.php?RGID=r841388576d00772a51f1a84182cbd11a.*

Public Comment: Members of the public interested in submitting written comments pertaining to the work of NACIE may do so via email to *Angela.Hernandez@ed.gov.* Please note, written comments should pertain to the work of NACIE.

Reasonable Accommodations: The teleconference meeting is accessible to individuals with disabilities. If you will need an auxiliary aid or service for the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice not later than October 21, 2021. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Access to Records of the Meeting: The Department will post the official open meeting report of this meeting on the OESE website at: *https://oese.ed.gov/offices/office-of-indian-education/national-advisory-council-on-indian-education-oie/* 21 days after the meeting. Pursuant to the FACA, the public may also inspect NACIE records at the Office of Indian Education, United States Department of Education, 400 Maryland Avenue SW, Washington, DC 20202, Monday–Friday, 8:30 a.m. to 5:00 p.m. Eastern Time. Please email *Angela.Hernandez@ed.gov* to schedule an appointment. Our ability to provide an inspection opportunity is limited due to potential novel coronavirus (COVID–19) restrictions.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You also may access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: § 6141 of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by Every Student Succeeds Act (ESSA) (20 U.S.C. 7471)

Ian Rosenblum,

Deputy Assistant Secretary for Policy and Programs, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary of the Office of Elementary and Secondary Education.

[FR Doc. 2021–23230 Filed 10–22–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0150]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Non-Title IV Revenue Requirements (90/10)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before December 27, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0150. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection

requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education 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: Student Assistance General Provisions—Non-Title IV Revenue Requirements (90/10).

OMB Control Number: 1845–0096.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 10.

Total Estimated Number of Annual Burden Hours: 5.

Abstract: The regulations in 34 CFR 668.28 provide that a proprietary institution must derive at least 10% of its annual revenue from sources other than Title IV, HEA funds, identifies sanctions for failing to meet this requirement, and otherwise implement the statute. An institution discloses in a footnote to its audited financial statements the amounts of Federal and non-Federal revenues, by category, that it used in calculating its 90/10 ratio (see section 487(d) of the HEA).

The publication of final regulations on September 2, 2020, removed section 668.285(b) regarding Net Present Value in the calculation of the 90/10 ratio and reserved this subparagraph as of the effective date of the regulation, July 1, 2021. With the cancellation of the requirement to calculate the Net Present Value, we are revising the current information collection to estimate the burden for the reporting of the sanction to the Department only.

This request is to revise the currently approved a information collection package, OMB Control Number 1845–0096, to include burden hours based on section 668.28(c) Sanctions. The information collection requirements in the regulations are necessary to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds.

Dated: October 20, 2021.

Kate 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. 2021–23194 Filed 10–22–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0151]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Annual Fire Safety Report

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before December 27, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0151. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education 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: Student Assistance General Provisions—Annual Fire Safety Report.

OMB Control Number: 1845–0097.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 4,310.

Total Estimated Number of Annual Burden Hours: 4,313.

Abstract: The Department of Education regulations at 34 CFR 668.49 require institutions to collect statistics on fires occurring in on-campus student housing facilities, including the number and cause of each fire, the number of injuries related to each fire that required treatment at a medical facility, the number of deaths related to each fire, and the value of property damage caused by each fire. Institutions must also publish an annual fire safety report containing the institution's policies regarding fire safety and the fire statistics information. Further institutions are required to maintain a fire log that records the date, time, nature, and general location of each fire in on-campus student housing facilities. Due to the effects of the COVID–9 pandemic, the Department lacks sufficient data to allow for more

accurate updates to the usage of these regulations. This request is for an extension without change to the reporting requirements contained in the regulations. The collection requirements in the regulations are necessary to meet institutional information reporting to students and staff as well as for reporting to Congress through the Secretary.

Dated: October 20, 2021.

Kate 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. 2021–23195 Filed 10–22–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–2–000]

Gas Transmission Northwest, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on October 4, 2021, Gas Transmission Northwest, LLC (GTN), 700 Louisiana Street, Suite 1300, Houston, TX 77002–2700, filed an application under section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations, requesting authorization to construct and operate its GTN XPress Project (Project) located in Kootenai County, Idaho, Walla Walla County, Washington, and Sherman County, Oregon. The proposed project consists of modifications to its existing No. 5 Athol, No. 7 Starbuck, and No. 10 Kent Compressor Stations and installation of various appurtenant and auxiliary facilities. The proposed Project would allow for open access firm transportation service of 150,000 dekatherms per day (Dth/d) of incremental capacity from GTN's Kingsgate Meter Station to its Malin Meter Station, all as more fully set forth in the application, which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the proposed project should be directed to David A. Alonzo, Manager, Project Authorizations, Gas Transmission Northwest, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas, 77002–2700, or by phone at (832) 320–5477, or by email at *david_alonzo@tcenergy.com*.

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: Complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are two ways to become involved in the Commission's review of this project: You can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on November 9, 2021.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before November 9, 2021.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number (CP22–2–000) in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address below.[2] Your written comments must reference the Project docket number (CP22–2–000).

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov*.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

[1] 18 CFR (Code of Federal Regulations) 157.9.

[2] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[3] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is November 9, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as the your interest in the proceeding. [For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene.] For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number (CP22–2–000) in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf.;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below.[6] Your motion to intervene must reference the Project docket number (CP22–2–000).

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Motions to intervene must be served on the applicant either by mail or email at: 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, or at *david_alonzo@tcenergy.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed [7] motions to intervene are automatically granted by operation of Rule 214(c)(1).[8] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[9] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking The Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on November 9, 2021.

Dated: October 19, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–23220 Filed 10–22–21; 8:45 am]

BILLING CODE 6717–01–P

[3] 18 CFR 385.102(d).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[7] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[8] 18 CFR 385.214(c)(1).

[9] 18 CFR 385.214(b)(3) and (d).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–9–000.
Applicants: PGR 2021 Lessee 2, LLC.
Description: Self-Certification of PGR 2021 Lesee2, LLC.
Filed Date: 10/15/21.
Accession Number: 20211015–5224.
Comment Date: 5 p.m. ET 11/5/21.

Docket Numbers: EG22–10–000.
Applicants: Beulah Solar, LLC.
Description: Self-Certification of EG or FC of Beulah Solar, LLC.
Filed Date: 10/15/21.
Accession Number: 20211015–5227.
Comment Date: 5 p.m. ET 11/5/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3196–002; ER11–2041–016; ER11–2042–016; ER11–2514–004; ER14–1317–010.
Applicants: PEI Power II, LLC, PEI Power Corporation, Sunshine Gas Producers, LLC, Seneca Energy, II LLC, Innovative Energy Systems, LLC.
Description: Notice of Change in Status of PEI Power Corporation, et al.
Filed Date: 10/15/21.
Accession Number: 20211015–5226.
Comment Date: 5 p.m. ET 11/5/21.

Docket Numbers: ER14–1400–001.
Applicants: Seneca Generation, LLC.
Description: Compliance filing: Informational Filing Regarding Upstream Transfer of Ownership to be effective N/A.
Filed Date: 10/18/21.
Accession Number: 20211018–5134.
Comment Date: 5 p.m. ET 11/8/21.

Docket Numbers: ER17–1821–004.
Applicants: Panda Stonewall LLC.
Description: Refund Report: Refund Report Under Docket ER17–1821 to be effective N/A.
Filed Date: 10/18/21.
Accession Number: 20211018–5145.
Comment Date: 5 p.m. ET 11/8/21.

Docket Numbers: ER18–1738–001.
Applicants: Bath County Energy, LLC.
Description: Compliance filing: Informational Filing Regarding

Upstream Transfer of Ownership to be effective N/A.

Filed Date: 10/19/21.

Accession Number: 20211019–5000.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER20–1424–002.

Applicants: Yards Creek Energy, LLC.

Description: Compliance filing: Informational Filing Regarding Upstream Transfer of Ownership to be effective N/A.

Filed Date: 10/18/21.

Accession Number: 20211018–5137.

Comment Date: 5 p.m. ET 11/8/21.

Docket Numbers: ER20–1776–002.

Applicants: Yards Creek Energy, LLC.

Description: Compliance filing: Informational Filing Regarding Upstream Transfer of Ownership to be effective N/A.

Filed Date: 10/19/21.

Accession Number: 20211019–5005.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER21–1215–001.

Applicants: Assembly Solar I, LLC.

Description: Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

Filed Date: 10/19/21.

Accession Number: 20211019–5104.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER21–2449–001.

Applicants: Assembly Solar II, LLC.

Description: Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

Filed Date: 10/19/21.

Accession Number: 20211019–5103.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER21–2499–001.

Applicants: Duke Energy Progress, LLC, Duke Energy Florida, LLC, Duke Energy Carolinas, LLC.

Description: Compliance filing: Duke Energy Progress, LLC submits tariff filing per 35: Compliance Filing—Order No. 676–I to be effective 12/31/9998.

Filed Date: 10/19/21.

Accession Number: 20211019–5120.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–137–000.

Applicants: Basin Electric Power Cooperative.

Description: § 205(d) Rate Filing: Basin Electric Submission of Revised Rate Schedule A to be effective 1/1/2022.

Filed Date: 10/18/21.

Accession Number: 20211018–5135.

Comment Date: 5 p.m. ET 11/8/21.

Docket Numbers: ER22–138–000.

Applicants: Bath County Energy, LLC, Seneca Generation, LLC, Yards Creek Energy, LLC.

Description: Request for Limited Waiver and Expedited Consideration of the 90-day prior notification requirement in the PJM Interconnection LLC Open Access Transmission Tariff, of Bath County Energy, et al.

Filed Date: 10/18/21.

Accession Number: 20211018–5144.

Comment Date: 5 p.m. ET 11/8/21.

Docket Numbers: ER22–139–000.

Applicants: San Diego Gas & Electric Company.

Description: Informational Filing of Transmission Owner Rate Appendix X [Cycle 10] of San Diego Gas & Electric Company.

Filed Date: 10/14/21.

Accession Number: 20211014–5177.

Comment Date: 5 p.m. ET 11/4/21.

Docket Numbers: ER22–140–000.

Applicants: Dominion Energy South Carolina, Inc.

Description: § 205(d) Rate Filing: Columbia Hydro CIAC to be effective 10/7/2021.

Filed Date: 10/19/21.

Accession Number: 20211019–5031.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–141–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX–BT Cantwell Solar (Arroyo Solar) GIA to be effective 9/28/2021.

Filed Date: 10/19/21.

Accession Number: 20211019–5035.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–142–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Peacock Energy Project (Jackalope Solar) GIA to be effective 9/30/2021.

Filed Date: 10/19/21.

Accession Number: 20211019–5043.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–143–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Shakes Solar 5th A&R Generation Interconnection Agreement to be effective 10/5/2021.

Filed Date: 10/19/21.

Accession Number: 20211019–5048.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–144–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX–BRP Antlia BESS 1st A&R Generation Interconnection Agreement to be effective 10/5/2021.

Filed Date: 10/19/21.

Accession Number: 20211019–5055.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–145–000.

Applicants: Avista Corporation.

Description: § 205(d) Rate Filing: Avista Corp OATT Att K Revisions to be effective 1/1/2022.

Filed Date: 10/19/21.

Accession Number: 20211019–5060.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–146–000.

Applicants: New York State Electric & Gas Corporation.

Description: § 205(d) Rate Filing: NYSEG–DCEC Attachment C Annual Update to be effective 1/1/2022.

Filed Date: 10/19/21.

Accession Number: 20211019–5093.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–147–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Double Run Solar (Double Run Solar & Battery) LGIA Filing to be effective 10/4/2021.

Filed Date: 10/19/21.

Accession Number: 20211019–5100.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–148–000.

Applicants: Assembly Solar I, LLC, Assembly Solar II, LLC.

Description: Request for Prospective Tariff Waiver, et al. of Assembly Solar I, LLC.

Filed Date: 10/19/21.

Accession Number: 20211019–5106.

Comment Date: 5 p.m. ET 11/9/21.

Docket Numbers: ER22–149–000.

Applicants: Sagebrush Line, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 12/20/2021.

Filed Date: 10/19/21.

Accession Number: 20211019–5107.

Comment Date: 5 p.m. ET 11/9/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 19, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–23221 Filed 10–22–21; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP21–1178–001.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits tariff filing per 154.205(b): 20211001 Negotiated Rate Filing to be effective 10/1/2021 under RP21–1178.
Filed Date: 10/1/21.
Accession Number: 20211001–5099.
Comment Date: 5 p.m. ET 10/21/21.

Docket Numbers: RP22–55–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Non-Conforming—Leidy South—In-Svc—UGI Utilities to be effective 10/19/2021.
Filed Date: 10/18/21.
Accession Number: 20211018–5067.
Comment Date: 5 p.m. ET 11/1/21.

Docket Numbers: RP22–56–000.
Applicants: Centra Pipelines Minnesota Inc.
Description: § 4(d) Rate Filing: Updated Index Of Shippers Oct 2021 to be effective 12/1/2021.
Filed Date: 10/18/21.
Accession Number: 20211018–5072.
Comment Date: 5 p.m. ET 11/1/21.

Docket Numbers: RP22–57–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Leidy South—Interim Svc—Coterra Energy to be effective 10/19/2021.
Filed Date: 10/18/21.
Accession Number: 20211018–5123.
Comment Date: 5 p.m. ET 11/1/21.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 19, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–23219 Filed 10–22–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0688; FRL–9137–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Allegations of Significant Adverse Reactions to Human Health or the Environment (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''Allegations of Significant Adverse Reactions to Human Health or the Environment'' (EPA ICR Number 1031.12 and OMB Control Number 2070–0017) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR which is currently approved through October 31, 2021. Public comments were previously requested via the **Federal Register** on March 29, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may 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.

DATES: Additional comments may be submitted on or before November 24, 2021.

ADDRESSES: Submit your comments to EPA, referencing Docket ID No. EPA–HQ–OPPT–2015–0688, online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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: Virginia Lee, Data Gathering and Analysis Division (7401M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–4142; email address: *lee.virginia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Under section 8(c) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(c), companies that manufacture, process, or distribute chemicals are required to maintain records of significant adverse reactions to health or the environment alleged to have been caused by such chemicals. Since TSCA section 8(c) includes no automatic reporting provision, EPA can obtain and use the information contained in company files only by inspecting those files or requiring reporting of records that relate to specific substances of concern. Therefore, under certain conditions, and using the provisions found in 40 CFR part 717, EPA may require companies to report such allegations to the Agency. EPA uses such information on a case specific basis to corroborate suspected adverse health or environmental effects of chemicals already under review by EPA. The information is also useful to identify trends of adverse effects across the industry that may not be apparent to any one chemical company. This ICR addresses the information reporting and

recordkeeping requirements found in 40 CFR part 717. Respondents may claim all or part of a notice confidential.

Form Numbers: None.

Respondents/Affected Entities: Companies that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

Respondent's obligation to respond: Mandatory (40 CFR part 717).

Estimated number of respondents: 13,160 (total).

Frequency of response: 1.

Total Estimated burden: 25,527 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total Estimated cost: $4,701,622 (per year) includes $0 annualized capital or operation and maintenance costs.

Changes in the Estimates: There is no change in the estimated annual burden compared with the ICR currently approved by OMB. There is, however, an increase in the estimated total burden cost from $1,987,487 to $4,701,622 that is related to an adjustment in the burden cost calculation associated with projected compliance determination activities. This change is an adjustment.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021–23122 Filed 10–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2021–0513; FRL–9119–01–OCSPP]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by the registrants to voluntarily cancel their registrations of certain products and to amend certain product registrations to terminate uses. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdrew their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been cancelled and uses terminated only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before November 24, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2021–0513, through the Federal eRulemaking Portal at *http://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 or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Submit written withdrawal request by mail to: Registration Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. ATTN: Christopher Green.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Christopher Green, Registration Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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 *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This notice announces receipt by EPA of requests from registrants to cancel and terminate certain uses product registrations. The affected products and the registrants making the requests are identified in Table 1, Table 1A, Table 2 and Table 3 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order canceling and amending the affected registrations.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
279–3125	279	Fury 1.5 EC Insecticide	Zeta-Cypermethrin.
279–3248	279	Z-Cype 0.8 EW Insecticide	Zeta-Cypermethrin.
279–3249	279	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin.
279–3297	279	0.344% F0570 OTC Granular Insecticide	Zeta-Cypermethrin.
279–3298	279	0.258% F0570 OTC Granular Insecticide	Zeta-Cypermethrin.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Active ingredients
279–3299	279	0.129% F0570 OTC Granular Insecticide	Zeta-Cypermethrin.
279–3327	279	Zeta-Cype 0.8EC Insecticide	Zeta-Cypermethrin.
279–3328	279	Zeta-Cype 0.8EW Insecticide	Zeta-Cypermethrin.
279–3381	279	Zeta-Cype 0.8 EC HSL Insecticide	Zeta-Cypermethrin.
2693–190	2693	Micron CSC Super with Bio-Lux Blue	Cuprous oxide & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–197	2693	VC 17M with Biolux Original	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–198	2693	VC 17M with Biolux Red	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
9688–295	9688	Chemsico Fire Ant Killer 6B	Bifenthrin.
33270–12	33270	Tremor	Acetochlor.
34704–887	34704	Cypermethrin 25	Cypermethrin.
34704–897	34704	Cypro Termiticide/Insecticide	Cypermethrin.
42750–106	42750	Acetochlor 4.3 + ATZ 1.7	Atrazine & Acetochlor.
42750–108	42750	Acetochlor 3.1 + ATZ 2.5	Atrazine & Acetochlor.
42750–201	42750	Fluroxypyr + Clopyralid	Fluroxypyr-meptyl & Clopyralid, monoethanolamine salt.
42750–203	42750	Fluroxypyr + 2,4–D	2,4–D, 2-ethylhexyl ester & Fluroxypyr-meptyl.
42750–204	42750	Fluroxypyr 26.2% EC	Fluroxypyr-meptyl.
55467–17	55467	Volunteer 2EC Herbicide	Clethodim.
62719–536	62719	Starane NXTCP	Bromoxynil octanoate & Fluroxypyr-meptyl.
71173–1	71173	Acrocide	Acrolein.
71173–2	71173	AcroCide H Herbicide	Acrolein.
ID–080005	62719	Starane NXT	Bromoxynil octanoate & Fluroxypyr-meptyl.
ID–130010	34704	Colt CF Herbicide	Clopyralid & Fluroxypyr-meptyl.
FL–090011	279	Mustang Insecticide	Zeta-Cypermethrin.
FL–100002	279	Mustang Insecticide	Zeta-Cypermethrin.
KS–120001	55467	Tenkoz Atrazine 4L Herbicide	Atrazine.
NE–130001	279	F9114 EC Insecticide	Zeta-Cypermethrin.
TX–100011	279	Mustang Insecticide	Zeta-Cypermethrin.
TX–100012	279	Mustang Insecticide	Zeta-Cypermethrin.
WI–180008	279	F9114 EC Insecticide	Zeta-Cypermethrin.

TABLE 1A—PRODUCT REGISTRATION WITH PENDING REQUEST FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
100–1431	100	Gramoxone SL 2.0	Paraquat dichloride.

The registrant of the registration listed in Table 1A, has requested the date of March 30, 2022, for the effective date of cancellation.

TABLE 2—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
19713–97	19713	Drexel Linuron 4L	Linuron	Post-harvest, crop stubble, fallow ground stale seedbed (under soybean use directions).
19713–158	19713	Linuron Flake Technical	Linuron	Terrestrial Non- Cropland Uses (such as roadsides and fencerows).
19713–251	19713	Drexel Linuron DF	Linuron	Non-crop weed control (on all non-cropland areas including roadsides and fencerows).
19713–368	19713	Drexel Linuron Technical 2	Linuron	Terrestrial Non-Cropland Uses (such as roadsides and fencerows).

Table 3 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1, Table 1A and Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1, Table 1A and Table 2 of this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA company No.	Company name and address
100	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
2693	International Paint, LLC, 6001 Antoine Drive, Houston, TX 77091.
9688	Chemsico, A Division of United Industries Corp., One Rider Trail Plaza Drive, Suite 300, Earth City, MO 63045–1313.
19713	Drexel Chemical Company, P.O. Box 13327, Memphis, TN 38113–0327.
33270	Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164–0589.
34704	Loveland Products, Inc., P.O. Box 1286, Greeley, CO 80632–1286.
42750	Albaugh, LLC, 1525 NE 36th Street, Ankeny, IA 50021.
55467	Tenkoz, Inc., 1725 Windward Concourse, Suite 410, Alpharetta, GA 30005.
62719	Corteva Agriscience, LLC, 9330 Zionsville Road, Indianapolis, IN 46268.
71173	Multi-Chem Group, LLC—Odessa, 6155 W Murphy St., Odessa, TX 79763–7511.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation or use termination should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for voluntary cancellation and amendments to terminate uses are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations and amendments to terminate uses, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1, Table 1A and Table 2 of Unit II.

For Product 100–1431

For product 100–1431 listed in Table 1A of Unit II, the registrant has requested March 30, 2022, as the effective date of cancellation, registrants will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the effective date of the cancellation, which will be March 30, 2023. Thereafter, registrants will be prohibited from selling or distributing the product identified in Table 1A of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

For all other voluntary product cancellations, listed in Table 1 of Unit II, registrants will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the products identified in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Once EPA has approved product labels reflecting the requested amendments to terminate uses, registrants will be permitted to sell or distribute products under the previously approved labeling for a period of 18 months after the date of **Federal Register** publication of the cancellation order, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products & products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products & terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 15, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2021–23178 Filed 10–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0146; FRL–8682–05–OCSPP]

Certain New Chemicals or Significant New Uses; Statements of Findings for August 2021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Toxic Substances Control Act (TSCA) requires EPA to publish in the **Federal Register** a statement of its findings after its review of certain TSCA

notices when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to premanufacture notices (PMNs), microbial commercial activity notices (MCANs), and significant new use notices (SNUNs) submitted to EPA under TSCA. This document presents statements of findings made by EPA on such submissions during the period from August 1, 2021 to August 31, 2021.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Rebecca Edelstein, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–564–1667 email address: *edelstein.rebecca@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the PMNs addressed in this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0146, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

II. What action is the Agency taking?

This document lists the statements of findings made by EPA after review of notices submitted under TSCA section 5(a) that certain new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment. This document presents statements of findings made by EPA during the period from August 1, 2021 to August 31, 2021.

III. What is the Agency's authority for taking this action?

TSCA section 5(a)(3) requires EPA to review a TSCA section 5(a) notice and make one of the following specific findings:

- The chemical substance or significant new use presents an unreasonable risk of injury to health or the environment;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance or significant new use;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects and the chemical substance or significant new use may present an unreasonable risk of injury to health or the environment;
- The chemical substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance; or
- The chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment.

Unreasonable risk findings must be made without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant under the conditions of use. The term ''conditions of use'' is defined in TSCA section 3 to mean ''the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.''

EPA is required under TSCA section 5(g) to publish in the **Federal Register** a statement of its findings after its review of a TSCA section 5(a) notice when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to PMNs, MCANs, and SNUNs submitted to EPA under TSCA section 5.

Anyone who plans to manufacture (which includes import) a new chemical substance for a non-exempt commercial purpose and any manufacturer or processor wishing to engage in a use of a chemical substance designated by EPA as a significant new use must submit a notice to EPA at least 90 days before commencing manufacture of the new chemical substance or before engaging in the significant new use.

The submitter of a notice to EPA for which EPA has made a finding of ''not likely to present an unreasonable risk of injury to health or the environment'' may commence manufacture of the chemical substance or manufacture or processing for the significant new use notwithstanding any remaining portion of the applicable review period.

IV. Statements of Administrator Findings Under TSCA Section 5(a)(3)(C)

In this unit, EPA provides the following information (to the extent that such information is not claimed as Confidential Business Information (CBI)) on the PMNs, MCANs and SNUNs for which, during this period, EPA has made findings under TSCA section 5(a)(3)(C) that the new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment:

- EPA case number assigned to the TSCA section 5(a) notice.
- Chemical identity (generic name if the specific name is claimed as CBI).
- website link to EPA's decision document describing the basis of the ''not likely to present an unreasonable risk'' finding made by EPA under TSCA section 5(a)(3)(C).

EPA Case No.	Chemical identity	Website link
P–20–0148, ... P–20–0149, ... P–20–0150, ... P–20–0151	Hydroxyalkanoic acid, salt, oxidized (Generic Name).	*https://www.epa.gov/system/files/documents/2021-09/p-20-0148-0151_determination_non-cbi_final_0.pdf.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: October 19, 2021.

Madison Le,

Director, New Chemicals Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2021–23190 Filed 10–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2020–0692; 9179–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Pesticide Environmental Stewardship Program Annual Measures Reporting (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Pesticide Environmental Stewardship Program Annual Measures Reporting, (EPA ICR Number 2415.04, OMB Control Number 2070–0188) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through October 31, 2021. Public comments were previously requested via the **Federal Register** on March 31, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may 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.

DATES: Additional comments may be submitted on or before November 24, 2021.

ADDRESSES: Submit your comments to EPA, referencing Docket ID No. EPA–HQ–OPP–2020–0692, online using *www.regulations.gov* (our preferred method), by email to *siu.carolyn@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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: Carolyn Siu, Mission Support Division (7101M), Office of Program Support, Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (703) 347–0159; email address: *siu.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This ICR covers the information collection activities associated with voluntary participation in EPA's Pesticide Environmental Stewardship Program (PESP). The program uses the information collected to establish partner membership, develop stewardship strategies, measure progress towards stewardship goals, and award incentives. PESP is an EPA partnership program that encourages the use of the integrated pest management (IPM) strategies to reduce pests and pesticide risks. IPM is an approach that involves making the best choices from among a series of pest management practices that are both economical and pose the least possible hazard to people, property, and the environment.

PESP members include pesticide end-user and organizations which focus on training, educating, and/or influencing pesticide users. To become a PESP member, an organization submits an application and a five-year strategy outlining how environmental and human health risk reduction goals will be achieved through IPM implementation and/or education. The program encourages PESP members to track progress towards IPM goals such as: reductions in unnecessary use of pesticides, cost reductions, and knowledge shared about IPM methodologies. Entities participating in PESP also benefit from technical assistance, and through incentives for achievements at different levels.

Form Numbers: 9600–01, 9600–02, and 9600–03.

Respondents/affected entities: Pesticide user companies and organizations, or entities that practice IPM or promote the use of IPM through education and training.

Respondent's obligation to respond: Voluntary (5 CFR 1320.5(d)(2)).

Estimated number of respondents: 461 (total).

Frequency of response: Annual and on occasion.

Total estimated burden: 51,562 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,605,562 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a correction of the number of potential respondents from 419 to 461. There is an increase of 3,897 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase reflects EPA's updating of burden estimates for this collection based on historical information on the number of PESP members. Based on revised estimates, the number of IPM Promoters has decreased, while the number of IPM users has increased, and the number of National IPM users has decreased since the last ICR renewal. Although the estimated burden per response has not changed for any category, the shift in

membership types has resulted in a net increase in the overall burden.

Courtney Kerwin

Director, Regulatory Support Division.

[FR Doc. 2021–23196 Filed 10–22–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0773; FR ID 54214]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 27, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0773.

Title: Sections 2.803, 2.803(c)(2), and 2.1204(a)(11), Marketing and Importing of RF Devices Prior to Equipment Authorization.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 10,000 respondents and 10,000 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping, third-party disclosure requirement, on occasion and one-time reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for thisinformation collection is contained in 47 U.S.C. 154(i), 301, 302a, 303(c), 303(f), and 303(r).

Total Annual Burden: 10,000 hours.

Total Annual Cost: No Cost.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission will submit this revised information collection to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from them.

On September 20, 2021, the Commission published a final rule, ET Docket No. 20–382, FCC 21–72, ''Allowing Earlier Equipment Marketing and Importation Opportunities,'' 86 FR 52088. Among other adopted rules intended to target enhancements to our marketing and importation rules, the Commission amended the 47 CFR part 2 rules that will allow equipment manufacturers to better gauge consumer interest and prepare for new product launches.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2021–23147 Filed 10–22–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1044; FR ID 54628]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 27, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1044.

Title: Review of the *Section 251* Unbundling Obligations of Incumbent

Local Exchange Carriers, CC Docket No. 01–338 and WC Docket No. 04–313, Order on Remand.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions and State, Local or Tribal government.

Number of Respondents and Reponses: 645 respondents; 645 responses.

Estimated Time per Response: 8 hours.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in *47 U.S.C. Section 251* of the Communications Act of 1934, as amended.

Total Annual Burden: 5,160 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit or disclose confidential information. However, in certain circumstances, respondents may voluntarily choose to submit confidential information pursuant to applicable confidentiality rules.

Needs and Uses: In the Order on Remand, the Commission imposed unbundling obligations in a more targeted manner where requesting carriers have undertaken their own facilities-based investments and will be using UNEs (unbundled network elements) in conjunction with self-provisioned facilities. The Commission also eliminated the subdelegation of authority to state commissions adopted in the previous order. Prior to the issuance of the Order, the Commission sought comment on issues relating to combinations of UNEs, called ''enhanced extended links'' (EELs), in order to effectively tailor access to EELs to those carriers seeking to provide significant local usage to end users. In the Order, the Commission adopted three specific service eligibility criteria for access to EELs in accordance with Commission rules.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2021–23145 Filed 10–22–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–22AD; Docket No. CDC–2021–0113]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the Research Data Center (RDC) Proposal for Access to Confidential Data for the National Center for Health Statistics (NCHS). The proposed collection will be used to assess researcher's requests for access to confidential NCHS data for their research projects.

DATES: Written comments must be received on or before December 27, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0113 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

*Please note: All public comment should be submitted through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Research Data Center (RDC) Proposal for Access to Confidential Data for the National Center for Health Statistics—Existing Collection in use without an OMB Control Number—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306(b)(4) of the Public Health Service (PHS) Act (42 U.S.C. 242k(b)(4)), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, receive requests for providing data and statistics to the public. NCHS receives requests

for confidential data from the public through the Research Data Center (RDC) Proposal for Access to Confidential Data. This is a request for approval from OMB to collect information via the RDC proposal over the next three years.

As part of a comprehensive data dissemination program, the Research Data Center (RDC), National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), requires prospective researchers who need access to confidential data to complete a research proposal. Researchers self-select whether they need access to confidential data to answer their research questions. The RDC requires the researcher to complete a research proposal so NCHS understands the research proposed, whether confidential data are available to address the research questions, how the confidential data will be used, and what data outputs the researcher needs to satisfy their project. The completed proposal is sent to NCHS for adjudication on whether the proposed research is possible.

To capture the information needed to adjudicate researchers' need for access to confidential NCHS data, CDC requests OMB approval for a total estimated annual burden total of 330 hours (990 hours for a three-year clearance period). The resulting information will be for NCHS internal use. There is no cost to respondents other than their time to complete the proposal.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
Researcher	Research Data Center proposal	110	1	3	330
Total					330

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–23186 Filed 10–22–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting of the Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board). This meeting is open to the public, limited only by the number of audio conference lines and internet conference accesses available, which is 200 combined. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcomed to listen to the meeting by joining a teleconference line and/or computer connection (information below).

DATES: The meeting will be held on December 8, 2021, from 1:00 p.m. to 6:00 p.m., EST, and December 9, 2021, from 1:00 p.m. to 4:00 p.m., EST. A public comment session will be held on December 8, 2021 at 5:00 p.m., EST, and will conclude at 6:00 p.m., EST, or following the final call for public comment, whichever comes first.

Written comments must be received on or before December 1, 2021.

ADDRESSES: You may submit comments by mail to: Sherri Diana, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226.

Meeting Information: The USA toll-free dial-in numbers are: +1 669 254 5252 US (San Jose); +1 646 828 7666 US (New York); +1 551 285 1373 US; +1 669 216 1590 US (San Jose); The Meeting ID is: 161 731 2093 and the Passcode is: 45481965; Web conference by Zoom meeting connection: *https://cdc.zoomgov.com/j/1617312093?pwd=eDREUG5JaGl6Y1Z2YUVyNnJmYllHUT09.*

FOR FURTHER INFORMATION CONTACT: Rashaun Roberts, Ph.D., Designated Federal Officer, NIOSH, CDC, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226, Telephone: (513) 533–6800, Toll Free: 1(800) CDC–INFO, Email: *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC.

The Advisory Board's charter was issued on August 3, 2001, renewed at appropriate intervals, rechartered on March 22, 2020, and will terminate on March 22, 2022.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Considered: The agenda will include discussions on the following: NIOSH Program Update; Department of Labor Program Update; Department of Energy Program Update; Pinellas Plant (SEC Petition #256) Evaluation Report; SEC Petitions Update; Procedures Review Finalization/Document Approvals; Subcommittee on Dose Reconstruction Reviews Update, and a Board Work Session. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–23223 Filed 10–22–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–22–0530]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) Dose Reconstruction Interviews and Forms to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on July 12, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

EEOICPA Dose Reconstruction Interviews and Forms (OMB Control No. 0920–0530, Exp. 1/31/2022)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384–7385) was enacted. This Act established a federal compensation program for employees of the Department of Energy (DOE) and certain of its contractors, subcontractors and vendors, who have suffered cancers and other designated illnesses as a result of exposures sustained in the production and testing of nuclear weapons.

Executive Order 13179, issued on December 7, 2000, delegated authorities assigned to the President under the Act to the Departments of Labor, Health and Human Services, Energy, and Justice. The Department of Health and Human Services (DHHS) was delegated the responsibility of establishing methods for estimating radiation doses received by eligible claimants with cancer applying for compensation. NIOSH is applying the following methods to estimate the radiation doses of individuals applying for compensation.

In performance of its dose reconstruction responsibilities, under the Act, NIOSH is providing voluntary interview opportunities to claimants (or their survivors) individually, and providing them with the opportunity to assist NIOSH in documenting the work history of the employee by characterizing the actual work tasks performed. In addition, NIOSH and the claimant may identify incidents that may have resulted in undocumented radiation exposures, characterizing radiological protection and monitoring practices, and identification of co-workers and other witnesses as may be necessary to confirm undocumented information. In this process, NIOSH uses a computer assisted telephone interview (CATI) system, which allows interviews to be conducted more efficiently and quickly as opposed to a paper-based interview instrument. Both interviews are voluntary and failure to participate in either or both interviews will not have a negative effect on the claim, although voluntary participation may assist the claimant by adding important information that may not be otherwise available.

There are no changes to the questions contained in the package, or the estimated burden hours. NIOSH uses the data collected in this process to complete an individual dose reconstruction that accounts, as fully as possible, for the radiation dose incurred by the employee in the line of duty for DOE nuclear weapons production programs. After dose reconstruction, NIOSH also performs a brief, voluntary final interview with the claimant to explain the results and to allow the claimant to confirm or question the records NIOSH has compiled. This will also be the final opportunity for the claimant to supplement the dose reconstruction record.

At the conclusion of the dose reconstruction process, the claimant submits a form to confirm that there is no further information to provide to NIOSH about the claim at this time. The form notifies the claimant that signing the form allows NIOSH to forward a dose reconstruction report to DOL and to the claimant, and closes the record on

data used for the dose reconstruction. Signing this form does not indicate that the claimant agrees with the outcome of the dose reconstruction. The dose reconstruction results will be supplied to the claimant and to the DOL, the agency that will utilize them as one part of its determination of whether the claimant is eligible for compensation under the Act.

Total annualized burden is estimated to be 3900 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Claimant	Initial Interview	3600	1	1
Claimant	Conclusion Form OCAS–1	3600	1	5/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–23182 Filed 10–22–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–1260; Docket No. CDC–2021–0114]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''Maritime Illness Database and Reporting System (MIDRS).'' The purpose of this data collection is to provide U.S.-bound passenger vessel operators an electronic reporting system to assist with their legal requirement to notify CDC of the number of passengers and crew members onboard their ship who have reportable acute gastroenteritis (AGE) as defined by federal quarantine regulations.

DATES: CDC must receive written comments on or before December 27, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0114 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Maritime Illness Database and Reporting System (MIDRS) (OMB Control No. 0920–1260, Exp. 04/30/2022)—Extension—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this Extension Information Collection Request (ICR) is to request a three-year Paperwork Reduction Act (PRA) clearance for CDC's Maritime Illness Database and Reporting System (MIDRS) surveillance system.

Operationally, CDC has divided the responsibilities for enforcing foreign quarantine regulations between the Vessel Sanitation Program (VSP) and the Division of Global Migration and Quarantine (DGMQ). VSP takes the lead on overseeing acute gastroenteritis (AGE) illness surveillance and outbreak investigation activities on passenger ships using MIDRS, while DGMQ monitors all non-AGE illnesses and

deaths on passenger vessels as well as all diseases of public health concern on all other conveyances with international itineraries bound for the U.S. under ''Foreign Quarantine Regulations (42 CFR part 71)'' (OMB Control No. 0920–0134, Exp. 03/31/2022).

The MIDRS data collection system consists of a surveillance system that receives information electronically through a web-based reporting portal; data can also be submitted by phone, email, or fax, and entered into MIDRS by VSP. AGE cases reported to MIDRS are totals for the entire voyage and do not represent the number of active AGE cases at any given port of call or at disembarkation. The AGE log, 72-hour food/activity history and other required documentation are completed and maintained on the ship.

Data collected will allow VSP to quickly detect AGE outbreaks, provide epidemiologic and sanitation guidance to stop the outbreak, craft public health recommendations to prevent future outbreaks, and monitor AGE illness trends to identify important changes over time.

There are two types of respondents for this data collection: Cruise ship medical staff or other designated personnel who report AGE cases, and AGE cases who provide information for the 72-hour food/activity histories. Of note, VSP will not receive any information from or about the AGE cases; this information is collected and owned by the cruise line and maintained on the ship as part of the AGE case's medical record. VSP reviews these records during operational inspections to confirm they are available if needed, and if there is an AGE outbreak or report of unusual AGE illness for a particular voyage.

The total annualized time burden requested is 1,537 burden hours. A summary of the estimated annualized burden hours is shown in the table below. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Cruise ship medical staff or other designated personnel.	71.21(c) Gastrointestinal Illnesses reports 24 and 4 hours before arrival (MIDRS).	250	10	3/60	125
	71.21(c) Recordkeeping—Gastrointestinal Illnesses reports 24 and 4 hours before arrival (MIDRS).	250	1	1/60	4
	71.21(c) AGE Logs	250	10	10/60	417
	71.21(c) Recordkeeping—medical records (AGE Logs).	250	1	1/60	4
	71.21(c) Interviews with AGE crew case cabin mates and immediate contacts to determine AGE illness status and documentation of interview dates/times.	250	3	5/60	63
	71.21(c) Recordkeeping—medical records (Interviews with AGE crew case cabin mates and immediate contacts to determine AGE illness status and documentation of interview dates/times).	250	1	1/60	4
	71.21(c) Documentation of 3-day pre-embarkation AGE illness assessment for all crew members.	250	5	3/60	63
	71.21(c) Recordkeeping—medical records (Documentation of 3-day pre-embarkation AGE illness assessment for all crew members).	250	1	1/60	4
	71.21(c) Documentation of date/time of last symptom and clearance to return to work for food and nonfood employees.	250	1	3/60	12
	71.21(c) Recordkeeping—medical records (Documentation of date/time of last symptom and clearance to return to work for food and nonfood employees).	250	1	1/60	4
	71.21(c) Recordkeeping—medical records (72 hour food/activity histories).	250	1	1/60	4
AGE passenger and crew cases.	71.21(c) 72-hour food/activity history	5,000	1	10/60	833
Total					1,537

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science,Centers for Disease Control and Prevention.

[FR Doc. 2021–23187 Filed 10–22–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–6091–N]

RIN 0938–ZB70

Medicare, Medicaid, and Children's Health Insurance Programs; Provider Enrollment Application Fee Amount for Calendar Year 2022

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces a $631.00 calendar year (CY) 2022 application fee for institutional providers that are initially enrolling in the Medicare or Medicaid program or the Children's Health Insurance Program (CHIP); revalidating their Medicare, Medicaid, or CHIP enrollment; or adding a new Medicare practice location. This fee is required with any enrollment application submitted on or after January 1, 2022 and on or before December 31, 2022.

DATES: The application fee announced in this notice is effective on January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Frank Whelan, (410) 786–1302.

SUPPLEMENTARY INFORMATION:

I. Background

In the February 2, 2011 **Federal Register** (76 FR 5862), we published a final rule with comment period titled ''Medicare, Medicaid, and Children's Health Insurance Programs; Additional Screening Requirements, Application Fees, Temporary Enrollment Moratoria, Payment Suspensions and Compliance Plans for Providers and Suppliers.'' This rule finalized, among other things, provisions related to the submission of application fees as part of the Medicare, Medicaid, and CHIP provider enrollment processes. As provided in section 1866(j)(2)(C)(i) of the Social Security Act (the Act) and in 42 CFR 424.514, ''institutional providers'' that are initially enrolling in the Medicare or Medicaid programs or CHIP, revalidating their enrollment, or adding a new Medicare practice location are required to submit a fee with their enrollment application. An ''institutional provider'' for purposes of Medicare is defined at § 424.502 as ''any provider or supplier that submits a paper Medicare enrollment application using the CMS–855A, CMS–855B (not including physician and non-physician practitioner organizations), CMS–855S, CMS–20134, or associated internet-based PECOS enrollment application.'' As we explained in the February 2, 2011 final rule (76 FR 5914), in addition to the providers and suppliers subject to the application fee under Medicare, Medicaid-only and CHIP-only institutional providers would include nursing facilities, intermediate care facilities for persons with intellectual disabilities (ICF/IID), psychiatric residential treatment facilities; they may also include other institutional provider types designated by a state in accordance with their approved state plan.

As indicated in § 424.514 and § 455.460, the application fee is not required for either of the following:

- A Medicare physician or non-physician practitioner submitting a CMS–855I.
- A prospective or revalidating Medicaid or CHIP provider—

++ Who is an individual physician or non-physician practitioner; or

++ That is enrolled as an institutional provider in Title XVIII of the Act or another state's Title XIX or XXI plan and has paid the application fee to a Medicare contractor or another state.

II. Provisions of the Notice

Section 1866(j)(2)(C)(i)(I) of the Act established a $500 application fee for institutional providers in calendar year (CY) 2010. Consistent with section 1866(j)(2)(C)(i)(II) of the Act, § 424.514(d)(2) states that for CY 2011 and subsequent years, the preceding year's fee will be adjusted by the percentage change in the consumer price index (CPI) for all urban consumers (all items; United States city average, CPI–U) for the 12-month period ending on June 30 of the previous year. Each year since 2011, accordingly, we have published in the **Federal Register** an announcement of the application fee amount for the forthcoming CY based on the formula noted previously. Most recently, in the November 23, 2020 **Federal Register** (85 FR 74724), we published a notice announcing a fee amount for the period of January 1, 2021 through December 31, 2021 of $599.00. The $599.00 fee amount for CY 2021 was used to calculate the fee amount for 2022 as specified in § 424.514(d)(2).

According to Bureau of Labor Statistics (BLS) data, the CPU–U increase for the period of July 1, 2020 through June 30, 2021 was 5.4 percent. As required by § 424.514(d)(2), the preceding year's fee of $599 will be adjusted by 5.4 percent. This results in a CY 2022 application fee amount of $631.35 ($599 × 1.054). As we must round this to the nearest whole dollar amount, the resultant application fee amount for CY 2022 is $631.00.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995. However, it does reference previously approved information collections. The Forms CMS–855A, CMS–855B, and CMS–855I are approved under OMB control number 0938–0685; the Form CMS–855S is approved under OMB control number 0938–1056.

IV. Regulatory Impact Statement

A. Background and Review Requirements

We have examined the impact of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). As explained in this section of the notice, we estimate that the total cost of the increase in the application fee will not exceed $100 million. Therefore, this notice does not reach the $100 million

economic threshold and is not considered a major notice.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. As we stated in the RIA for the February 2, 2011 final rule with comment period (76 FR 5952), we do not believe that the application fee will have a significant impact on small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this notice would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2021, that threshold was approximately $158 million. The Agency has determined that there will be minimal impact from the costs of this notice, as the threshold is not met under the UMRA.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. Since this notice does not impose substantial direct costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

B. Costs

The costs associated with this notice involve the increase in the application fee amount that certain providers and suppliers must pay in CY 2022. The CY 2022 cost estimates are as follows:

1. Medicare

Based on CMS data, we estimate that in CY 2022 approximately—

- 10,214 newly enrolling institutional providers will be subject to and pay an application fee; and
- 42,117 revalidating institutional providers will be subject to and pay an application fee.

Using a figure of 52,331 (10,214 newly enrolling + 42,117 revalidating) institutional providers, we estimate an increase in the cost of the Medicare application fee requirement in CY 2022 of $1,674,592 (or 52,331 × $32 (or $631 minus $599)) from our CY 2021 projections.

2. Medicaid and CHIP

Based on CMS and state statistics, we estimate that approximately 30,000 (9,000 newly enrolling + 21,000 revalidating) Medicaid and CHIP institutional providers will be subject to an application fee in CY 2022. Using this figure, we project an increase in the cost of the Medicaid and CHIP application fee requirement in CY 2022 of $960,000 (or 30,000 × $32 (or $631 minus $599)) from our CY 2021 projections.

3. Total

Based on the foregoing, we estimate the total increase in the cost of the application fee requirement for Medicare, Medicaid, and CHIP providers and suppliers in CY 2022 to be $2,634,592 ($1,674,592 + $960,000) from our CY 2021 projections.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: October 19, 2021.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2021–23143 Filed 10–22–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel; U24.

Date: December 10, 2021.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Video Assisted Meeting.

Contact Person: Manana Sukhareva, Ph.D., Director, Office of Scientific Review, NIBIB/NIH, 6707 Democracy Boulevard, Suite 920, Bethesda, MD 20892–5496, 301–451–3397, *sukharem@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–23134 Filed 10–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Secretary; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Interagency Pain Research Coordinating Committee.

The meeting will be open to the public. Individuals who plan to participate and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Interagency Pain Research Coordinating Committee.

Date: November 22, 2021.

Time: 10:00 a.m. to 4:00 p.m. Eastern Time (ET).

Agenda: The meeting will cover committee business items including updates on pain workforce enhancement and pain research concepts. It will include follow up of IPRCC recommendations and member updates.

Webcast Live: http://videocast.nih.gov/.

Deadline: Submission of intent to submit written/electronic statement for comments: Monday, November 15th, by 5:00 p.m. ET.

Place: National Institutes of Health, Building 31, 31 Center Drive Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Linda L. Porter, Ph.D., Director, Office of Pain Policy and Planning, Office of the Director, National Institute of Neurological Disorders and Stroke, NIH, 31 Center Drive, Room 8A31, Bethesda, MD 20892, Phone: (301) 451–4460, Email: *Linda.Porter@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

The meeting will be open to the public via NIH Videocast *https://videocast.nih.gov/.* Visit the IPRCC website for more information: *http://iprcc.nih.gov.* Agenda and any additional information for the meeting will be posted when available.

Dated: October 19, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–23191 Filed 10–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; NHLBI Institutional Training Mechanism Study Section.

Date: December 10, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Lindsay M. Garvin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–Y, Bethesda, MD 20892, (301) 827–7911, *lindsay.garvin@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 19, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–23192 Filed 10–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Project: Minority AIDS Initiative-Management Reporting Tools (MAI–MRTs)—(OMB No. 0930–0357)—Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention (CSAP) is requesting from the Office of Management and Budget (OMB) approval for the revised Minority AIDS Initiative (MAI) monitoring tools, which includes both youth and adult questionnaires as well as the quarterly progress report. This renewal includes the inclusion of new cohorts.

The cohorts of grantees funded by the MAI and included in this clearance request are:

- Capacity Building Initiative 2017
- Capacity Building Initiative 2018
- Prevention Navigators 2017
- Prevention Navigators 2019
- Prevention Navigators 2020
- Prevention Navigators 2021

The target population for the MAI grantees will be at-risk minority adolescents and young adults. All MAI grantees are expected to report their monitoring data using SAMHSA's Strategic Prevention Framework (SPF) to target minority populations, as well as other high-risk groups residing in communities of color with high prevalence of Substance Abuse and HIV/AIDS. The primary objectives of the monitoring tools include:

- Assess the success of the MAI in reducing risk factors and increasing protective factorsassociated with the transmission of the Human Immunodeficiency Virus (HIV), Hepatitis C Virus (HCV), and other sexually transmitted diseases (STD).
- Measure the effectiveness of evidence-based programs and infrastructure development activities such as: Outreach and training, mobilization of key stakeholders, substance abuse and HIV/AIDS counseling and education, testing, referrals to appropriate medical treatment and/or other intervention strategies (*i.e.,* cultural enrichment activities, educational and vocational resources, social marketing campaigns, and computer-based curricula).
- Investigate intervention types and features that yield the best outcomes for specific population groups.
- Assess the extent to which access to health care was enhanced for population groups and individuals vulnerable to behavioral health disparities residing in communities targeted by funded interventions.
- Assess the process of adopting and implementing the SPF with the target populations.

TABLE 1—ESTIMATES OF ANNUALIZED HOUR BURDEN

Type of respondent activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Quarterly Progress Report	197	4	732	4	2,928

TABLE 1—ESTIMATES OF ANNUALIZED HOUR BURDEN—Continued

Type of respondent activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Adult questionnaire	10,000	2	20,000	.20	4,000
Youth questionnaire	2,500	2	5,000	.20	1000
Total	12,697		25,732		7,928

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.

Carlos Graham,

Reports Clearance Officer.

[FR Doc. 2021–23185 Filed 10–22–21; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0016]

Meetings To Implement Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Announcement of meetings.

SUMMARY: The Federal Emergency Management Agency (FEMA) is holding a series of meetings to implement the Voluntary Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic.

DATES: The first meeting took place on Tuesday, October 12, 2021, from 10:00 a.m. to 12 p.m. Eastern Time (ET). The second meeting took place on Thursday, October 14, 2021, from 10:30 a.m. to 11 a.m. ET. The third meeting took place on Thursday, October 21, 2021, from 10:30 a.m. to 11 a.m. ET. The fourth meeting will take place on Thursday, October 28, 2021, from 10:30 a.m. to 11 a.m. ET. The fifth meeting will take place on Thursday, November 4, 2021, from 10:30 a.m. to 11 a.m. ET.

FOR FURTHER INFORMATION CONTACT: Robert Glenn, Office of Business, Industry, Infrastructure Integration, via email at *OB3I@fema.dhs.gov* or via phone at (202) 212–1666.

SUPPLEMENTARY INFORMATION: Notice of these meetings is provided as required by section 708(h)(8) of the Defense Production Act (DPA), 50 U.S.C. 4558(h)(8), and consistent with 44 CFR part 332.

The DPA authorizes the making of ''voluntary agreements and plans of action'' with representatives of industry, business, and other interests to help provide for the national defense.[1] The President's authority to facilitate voluntary agreements with respect to responding to the spread of COVID–19 within the United States was delegated to the Secretary of Homeland Security in Executive Order 13911.[2] The Secretary of Homeland Security further delegated this authority to the FEMA Administrator.[3]

On August 17, 2020, after the appropriate consultations with the Attorney General and the Chairman of the Federal Trade Commission, FEMA completed and published in the **Federal Register** a ''Voluntary Agreement, Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic'' (Voluntary Agreement).[4] Unless terminated earlier, the Voluntary Agreement is effective until August 17, 2025, and may be extended subject to additional approval by the Attorney General after consultation with the Chairman of the Federal Trade Commission. The Agreement may be used to prepare for or respond to any pandemic, including COVID–19, during that time.

On December 7, 2020, the first plan of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Personal Protective Equipment (PPE) to Respond to COVID–19 (PPE Plan of Action)—was finalized.[5] The PPE Plan of Action established several sub-committees under the Voluntary Agreement, focusing on different aspects of the PPE Plan of Action.

On May 24, 2021, four additional plans of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Diagnostic Test Kits and other Testing Components to respond to COVID–19, the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Drug Products, Drug Substances, and Associated Medical Devices to respond to COVID–19, the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Medical Devices to respond to COVID–19, and the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Medical Gases to respond to COVID–19—were finalized.[6] These plans of action established several sub-committees under the Voluntary Agreement, focusing on different aspects of each plan of action.

The meetings were chaired by the FEMA Administrator's delegates from the Office of Response and Recovery (ORR) and Office of Policy and Program Analysis (OPPA), attended by the Attorney General's delegates from the U.S. Department of Justice, and attended by the Chairman of the Federal Trade Commission's delegates. In implementing the Voluntary Agreement, FEMA adheres to all procedural requirements of 50 U.S.C. 4558 and 44 CFR part 332.

Meeting Objectives: The objectives of the meetings are as follows:

1. Meet the Sub-Committee for Oxygen under the Medical Gases Plan of Action to establish priorities related to the COVID–19 response under the Voluntary Agreement.

[1] 50 U.S.C. 4558(c)(1).

[2] 85 FR 18403 (Apr. 1, 2020).

[3] DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020); DHS Delegation Number 09052 Rev. 00 (Jan. 3, 2017).

[4] 85 FR 50035 (Aug. 17, 2020). The Attorney General, in consultation with the Chairman of the Federal Trade Commission, made the required finding that the purpose of the voluntary agreement may not reasonably be achieved through an agreement having less anticompetitive effects or without any voluntary agreement and published the finding in the **Federal Register** on the same day. 85 FR 50049 (Aug. 17, 2020).

[5] *See* 85 FR 78869 (Dec. 7, 2020). *See also* 85 FR 79020 (Dec. 8, 2020).

[6] *See* 86 FR 27894 (May 24, 2021). *See also* 86 FR 28851 (May 28, 2021).

2. Gather Sub-Committee Participants and Attendees to ask targeted questions for situational awareness related to the Sub-Committee for Oxygen.

3. Identify potential Objectives and Actions that should be completed under the Sub-Committee for Oxygen.

4. Identify pandemic-related information gaps and areas that merit sharing by holding recurring meetings of the Sub-Committee for Oxygen with key stakeholders.

Meetings Closed to the Public: By default, the DPA requires meetings held to implement a voluntary agreement or plan of action be open to the public.[7] However, attendance may be limited if the Sponsor [8] of the voluntary agreement finds that the matter to be discussed at a meeting falls within the purview of matters described in 5 U.S.C. 552b(c), such as trade secrets and commercial or financial information.

The Sponsor of the Voluntary Agreement, the FEMA Administrator, found that these meetings to implement the Voluntary Agreement involved matters which fall within the purview of matters described in 5 U.S.C. 552b(c) and the meetings are therefore closed to the public.

Specifically, these meetings may require participants to disclose trade secrets or commercial or financial information that is privileged or confidential. Disclosure of such information allows for meetings to be closed to the public pursuant to 5 U.S.C. 552b(c)(4).

The success of the Voluntary Agreement depends wholly on the willing participation of the private sector participants. Failure to close these meetings to the public could reduce active participation by the signatories due to a perceived risk that sensitive company information could be prematurely released to the public. A premature public disclosure of a private sector participant's information could reduce trust and support for the Voluntary Agreement.

A resulting loss of support by the participants for the Voluntary Agreement would significantly frustrate the implementation of the Agency's objectives. Thus, these meeting closures are permitted pursuant to 5 U.S.C. 552b(c)(9)(B).

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–23226 Filed 10–22–21; 8:45 am]

BILLING CODE 9111–19–P

[7] *See* 50 U.S.C. 4558(h)(7).

[8] ''[T]he individual designated by the President in subsection (c)(2) [of section 708 of the DPA] to administer the voluntary agreement, or plan of action.'' 50 U.S.C. 4558(h)(7).

DEPARTMENT OF HOMELAND SECURITY

[Docket Number–DHS–2021–0037]

Agency Information Collection Activities: Office of the Immigration Detention Ombudsman Intake Form

AGENCY: Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments; Office of the Immigration Detention Ombudsman Intake Form, 1601–0030, extension without change.

SUMMARY: The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until November 24, 2021. This process is conducted in accordance with 5 CFR 1320.1.

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 specific information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security's (DHS) Office of the Immigration Detention Ombudsman (OIDO) is an independent office tasked with resolving individual complaints from or about individuals in immigration detention regarding the potential violation of immigration detention standards or other potential misconduct. OIDO was established by Congress (Sec. 106 of the Consolidated Appropriations Act, 2020, Pub. L. 116–93). Its intake form is intended for use by individuals wishing to submit a complaint to OIDO. Information collected will provide the office with details about the allegations the submitter seeks to have OIDO address.

The information collected on this form will allow OIDO to identify: (1) The individual submitting the complaint and their contact information; (2) the detained individual who is the subject of the complaint; (3) the government-owned or contracted facility where the individual is or was detained and for how long; and (4) relevant details about the complaint. All of this information will be used by OIDO to investigate, resolve, and if appropriate, provide redress.

The use of this form is the most efficient means for collecting and processing the required data. Initially, collection will be via a paper form, which may be obtained from OIDO staff conducting routine visits in detention facilities. The form will also be available for download from the OIDO website. The PDF form will be able to be completed online, printed out, and submitted to OIDO by email, mail, or fax, or handed to a staff member in a detention facility.

After approval of the form described in this supporting statement, an electronic version will be developed so that submitters may complete and file via the OIDO website. The paper version will continue to be available; it will be noted on the form that using the paper method may result in processing delays for OIDO to complete data entry.

This information collection does not have an impact on small businesses or other small entities.

If this information is not collected, OIDO will not be able to accomplish its Congressional mandate to provide assistance to individuals who may be affected by misconduct, excessive force, or other violations of law or detention standards.

The assurance of confidentiality provided to the respondents for this information collection is based on the forthcoming Privacy Impact Assessment for the Immigration Detention Ombudsman Case Management System (ID–CMS) (June 21,2021). Additionally, the information collected is covered by DHS/ALL–020 Department of Homeland Security Internal Affairs, April 28, 2014, 79 FR 23361 and DHS/ALL–025 Law Enforcement Authority in Support of the Protection of Property Owned, Occupied, or Secured by the Department of Homeland Security System of Records, June 14, 2017, 82 FR 27274.

This information collection was constructed in compliance with regulations and authorities under the purview of the DHS Privacy Office, DHS OCIO, DHS Records Management, and OMB regulations regarding data collection, use, sharing, storage, information security, and retrieval of information.

There are no changes to the information being collected and there is no change to the estimated burden associated with this collection.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security (DHS).

Title: Office of the Immigration Detention Ombudsman Intake Form.

OMB Number: 1601–0030.

Frequency: Every 3 years.

Affected Public: Members of the Public or non-government organizations.

Number of Respondents: 30,000.

Estimated Time per Respondent: 1.

Total Burden Hours: 30,000.

Robert Dorr,

Executive Director, Business Management Directorate.

[FR Doc. 2021–23137 Filed 10–22–21; 8:45 am]

BILLING CODE 9112–FL–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7038–N–20]

60-Day Notice of Proposed Information Collection: Requisition for Disbursements of Sections 202 & 811 Capital Advance/Loan Funds OMB No.: 2502–0187

AGENCY: Office of the Assistant Secretary for Housing–Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* December 27, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Katina Washington, Program Analyst, Multifamily Housing Programs, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email: *Katina.X.Washington@hud.gov* or telephone 202–402–2651. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Requisition for Disbursement of Sections 202 & 811 Capital Advance/ Loan Funds.

OMB Approval Number: 2502–0187.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Form Numbers: HUD–92403–CA and HUD–92403–EH.

Description of the need for the information and proposed use: Owner entities submit requisitions to HUD during construction to obtain Section 202/811 capital advance/loan funds. This collection helps to identify the owner, project, type of disbursement, items covered, name of the depository, and account number. This 30-Day Notice corresponds with the 60-Day Notice published on 5/22/19.

Respondents: Affected Public.

Estimated Number of Respondents: 178.

Estimated Number of Responses: 356.

Frequency of Response: 4.

Average Hours per Response: .50.

Total Estimated Burden: 178.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Janet M. Golrick,

Acting, Chief of Staff for the Office of Housing–Federal Housing Administration.

[FR Doc. 2021–23197 Filed 10–22–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–LE–2021–0112; FF09L00200–FX–LE18110900000; OMB Control Number 1018–0129]

Agency Information Collection Activities; Captive Wildlife Safety Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 27, 2021.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods:

• *Internet (preferred): http://www.regulations.gov.* Follow the

instructions for submitting comments on Docket No. FWS–HQ–LE–2021–0112.

• *Email: Info_Coll@fws.gov.* Please reference Office of Management and Budget (OMB) Control Number 1018–0129 in the subject line of your comments.

• *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether 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. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Captive Wildlife Safety Act (CWSA; Pub. L. 108–191, 16 U.S.C. 3371 note, and 16 U.S.C. 3372 note) amended the Lacey Act (16 U.S.C. 3371 *et seq.;* 18 U.S.C. 42–43) by making it illegal to import, export, buy, sell, transport, receive, or acquire, in interstate or foreign commerce, live lions, tigers, leopards, snow leopards, clouded leopards, cheetahs, jaguars, or cougars, or any hybrid combination of any of these species, unless certain exceptions are met. The CWSA was signed into law in 2003 and enforcement began on September 17, 2007. There are several exemptions to the prohibitions of the CWSA, including accredited wildlife sanctuaries. There is no requirement for wildlife sanctuaries to submit applications to qualify for the accredited wildlife sanctuary exemption. Wildlife sanctuaries themselves will determine if they qualify. As a matter of routine, we do not inspect or follow up on wildlife sanctuaries unless we have cause for concern. To qualify, they must meet all of the following criteria:

• Obtain approval by the U.S. Internal Revenue Service (IRS) as a corporation that is exempt from taxation under section 501(a) of the IRS Code of 1986 (Pub. L. 99–514), which is described in sections 501(c)(3) and 170(b)(1)(A)(vi) of that code.

• Do not engage in commercial trade in the prohibited wildlife species, including offspring, parts, and products.

• Do not propagate the prohibited wildlife species.

• Have no direct contact between the public and the prohibited wildlife species.

The basis for this information collection is the recordkeeping requirement that we place on accredited wildlife sanctuaries. We require accredited wildlife sanctuaries to maintain complete and accurate records of any possession, transportation, acquisition, disposition, importation, or exportation of the prohibited wildlife species as defined in the CWSA (see title 50 of the Code of Federal Regulations (CFR) at part 14, subpart K). Records must be up to date and include: (1) Names and addresses of persons to or from whom any prohibited wildlife species has been acquired, imported, exported, purchased, sold, or otherwise transferred; and (2) dates of these transactions. Accredited wildlife sanctuaries must:

• Maintain these records for 5 years.

• Make these records accessible to Service officials for inspection at reasonable hours.

• Copy these records for Service officials, if requested.

Title of Collection: Captive Wildlife Safety Act, 50 CFR 14.250–14.255.

OMB Control Number: 1018–0129.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Accredited wildlife sanctuaries.

Total Estimated Number of Annual Respondents: 750.

Total Estimated Number of Annual Responses: 750.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 750.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Ongoing.

Total Estimated Annual Nonhour Burden Cost: $300.

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.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2021–23177 Filed 10–22–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2021–0071; FXES11140800000–212]

Endangered and Threatened Species; Receipt of an Incidental Take Permit Application and Habitat Conservation Plan; Santa Ana Avenue Project, City of Rialto, San Bernardino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for an incidental take permit to take the federally listed Delhi Sands flower-loving fly under the Endangered Species Act (ESA). The permit application includes a proposed low-effect habitat conservation plan (HCP). In accordance with the requirements of the National Environmental Policy Act (NEPA), we have prepared a draft low-effect screening form supporting our preliminary determination that the proposed action qualifies as a categorical exclusion under NEPA. We invite comments from the public and Federal, Tribal, State, and local governments on the permit application, proposed low-effect HCP, and draft NEPA compliance documentation.

DATES: To ensure consideration, please send your written comments on or before November 24, 2021.

ADDRESSES:

Obtaining Documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–R8–ES–2021–0071 at *http://www.regulations.gov*.

Submitting Comments: You may submit comments by one of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R8–ES–2021–0071.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2021–0071; U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

We request that you send comments by only one of the methods described above.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Cleary-Rose, Division Supervisor, Carlsbad Fish and Wildlife Office, 760–322–2070. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service (FRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, received an application from Rialto Project Owner, Marshall P. Wilkinson (applicant), for an incidental take permit under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permit would authorize take of the federally endangered Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*), incidental to grading and paving, on approximately 4 acres in the City of Rialto in San Bernardino County, California.

The proposed project will impact an estimated 0.67 acres of habitat occupied by Delhi Sands flower-loving fly. We are requesting comments on the permit application and on our preliminary determination that the proposed HCP qualifies as a low-effect HCP, eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*). The basis for this determination is discussed in our draft NEPA compliance documentation, which is also available for public review.

Project

The project area is located on a 4-acre site in the City of Rialto in San Bernardino County, California. The applicant requests a 5-year incidental take permit for permanent impacts to 0.67 acres of occupied Delhi Sands flower-loving fly habitat. The applicant proposes to mitigate impacts through the conservation of 1 acre of occupied Delhi Sands flower-loving fly habitat off site at the Colton Dune Conservation Bank in San Bernardino County, or other Service-approved entity. The off-site mitigation area provides higher quality habitat than that found on the project site and will be conserved, managed, and monitored in perpetuity.

Our Preliminary Determination

The Service has made a preliminary determination that the project, including grading, paving, and the proposed mitigation, would individually and cumulatively have a minor or negligible effect on the Delhi Sands flower-loving fly and the human environment. Therefore, we have preliminarily concluded that the incidental take permit for this project would qualify for categorical exclusion, and that the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210.

A low-effect HCP is one that would result in:

- Minor or negligible effects on federally listed, proposed, and candidate species and their habitats;
- Minor or negligible effects on other environmental values or resources; and
- Impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources.

Next Steps

We will evaluate the proposed HCP and any comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, we will issue the permit to the applicant for incidental take of the Delhi Sands flower-loving fly.

Public Availability of Comments

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.

Authority

We provide this notice under section 10(c) (16 U.S.C. 1539 *et seq.*) of the ESA and NEPA regulations at 40 CFR 1506.6.

Scott Sobiech,

Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. 2021–23163 Filed 10–22–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Wieneberger AG, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Wienerberger AG, et al.,* Civil Action No. 1:21–cv–02555. On October 1, 2021, the United States filed a Complaint alleging that General Shale's proposed acquisition of Meridian's manufacturing and distribution assets would violate section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires General Shale to divest three

manufacturing plants and 14 distribution yards.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be submitted in English and directed to Jay Owen, Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite8 700, Washington, DC 20530 (email address: *jay.owen@usdoj.gov*).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division, Department of Justice.

United States District Court for the District of Columbia

United States of America, United States Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 8700, Washington, DC 20530, Plaintiff, v. *Wienerberger AG, Wienerbergerplatz 1, 1100 Wien, Austria, General Shale Brick, Inc., 3015 Bristol Hwy., Johnson City, Tennessee 37601, LSF9 Stardust Super Holdings, L.P., Washington Mall, 7 Reid Street, Suite 304, Hamilton, Bermuda HM 11, Boral Limited, Level 18, 15 Blue Street, North Sydney, NSW 2060, Australia,* and *Meridian Brick LLC, 6455 Shiloh Rd., Alpharetta, Georgia 30005,* Defendants.

Civil Action No.: 1:21–cv–02555 (CRC)

Complaint

The United States of America (''United States''), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against Defendants Wienerberger AG, its North American subsidiary General Shale Brick, Inc. (''General Shale''), Meridian Brick LLC (''Meridian''), and Meridian's parent companies Boral Limited and LSF9 Stardust Super Holdings, L.P. to enjoin General Shale's proposed acquisition of Meridian. The United States alleges as follows:

I. Nature of the Action

1. General Shale's proposed acquisition of its rival, Meridian, would combine two of the largest residential brick manufacturers in numerous markets across the midwestern and southern United States. General Shale and Meridian compete daily to supply a variety of residential brick to customers ranging from local homebuilders to national construction companies. As a result of the transaction, homebuilders of all types likely will pay higher prices, face reduced innovation, and receive lower quality products for their residential brick supply.

2. In numerous markets across the United States, General Shale and Meridian are the two most significant suppliers of residential brick or two of only a few such suppliers. Homebuilders, particularly in certain areas of Alabama, Indiana, Kentucky, Michigan, Ohio, and Tennessee depend on competition between General Shale and Meridian to ensure a supply of quality brick at competitive prices.

3. Not only has competition between General Shale and Meridian driven residential brick prices down, it has also fostered product innovation that has resulted in new products and the broad portfolio that each firm offers today. For example, competition between these firms has resulted in the introduction of new color mixes, textures, and facing styles, as well as more efficient and environmentally sustainable production processes.

4. By eliminating competition between General Shale and Meridian, the proposed acquisition would result in higher prices, reduced innovation, and lower quality in the markets for the design, manufacture, and sale of residential brick. Accordingly, General Shale's acquisition of Meridian would violate Section 7 of the Clayton Act, 15 U.S.C. 18, and therefore should be enjoined.

II. The Parties and the Transaction

5. General Shale is a Delaware corporation headquartered in Johnson City, Tennessee. It is a leading U.S. producer of building material solutions and one of North America's largest brick, stone, and concrete block manufacturers. General Shale operates 11 production facilities in 10 states and provinces. It also has a network of 21 sales locations and more than 200 affiliated distributors in North America.

6. Wienerberger AG, an Austrian corporation, is General Shale's parent company. Based in Vienna, Austria, it is one of the world's largest building materials manufacturers. Wienerberger AG operates manufacturing and distribution facilities for brick and other construction materials in three continents, including in North America through General Shale. In 2020, Wienerberger AG's North American business generated revenues of approximately $370 million, 78% of which was derived from brick sales, including residential brick sales.

7. Meridian is a Delaware limited liability company. Headquartered in Alpharetta, Georgia, Meridian manufactures and sells construction materials, including commercial and residential brick and masonry materials. Meridian is the largest brick supplier in the United States. During fiscal year 2020, it generated revenues of over $400 million, which primarily came from brick sales, including residential brick sales. Meridian and its sister company Meridian Brick Canada Ltd. make up the Meridian Group, which operates 20 manufacturing facilities and 27 distribution centers throughout North America. The Meridian Group is directly and indirectly owned by Boral Limited (''Boral'') and LSF9 Stardust Super Holdings, L.P. Boral is an Australian public company that produces and supplies building and construction materials primarily in North America and Australia. Boral and LSF9 Stardust Super Holdings, L.P. formed Meridian as a joint venture in 2016.

8. On December 18, 2020, General Shale announced its intention to acquire Meridian from Boral and LSF9 Stardust Super Holdings, L.P. as part of a total transaction valued at approximately $250 million.

III. Jurisdiction and Venue

9. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. 25, as amended, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

10. Defendants' activities substantially affect interstate commerce. They manufacture and sell residential brick directly to customers and through third-party distributors throughout the southern and midwestern United States. This Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

11. Defendants have consented to venue and personal jurisdiction in this judicial district. Venue is proper in this district under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391(b)(3) and (c)(2) for Meridian and

General Shale, and venue is proper for LSF9 Stardust Super Holdings, L.P., Boral Limited, and Wienerberger AG under 28 U.S.C. 1391(c)(3).

IV. Relevant Markets

A. Product Market: Residential Brick

12. Residential brick is a type of exterior cladding that is used to protect homes and other buildings from weather and the elements. It comes in various sizes and colors and is primarily comprised of shale or red clay that has been fired in a kiln. Residential brick of each color and size is manufactured in a substantially similar process, with minor adjustments in the amount of clay or type of color additives used to make a particular brick model. Indeed, although residential brick comes in varying sizes (*e.g.,* modular, queen, and king) and colors (*e.g.,* red, white, or grey), all residential brick volumes are measured in Standard Brick Equivalents (''SBE'').[1]

13. Residential brick is distinct from commercial brick. Residential brick is less expensive than commercial brick due to different manufacturing processes. In particular, commercial brick is made by a process called through-body extrusion. Through-body extrusion entails a rigorous coloring process that ensures uniform coloring throughout the body of the brick. This achieves the higher color quality required of commercial brick. By contrast, residential brick is often colored only on the outer portion of the brick, and the residential brick manufacturing process requires fewer additives and other costly inputs.

14. Residential brick must meet standard specifications for residential use that are set by the American Society for Testing and Materials (''ASTM''). These standards require certain durability and load capabilities that differentiate residential brick from decorative paving brick as well as ''thin'' brick, which is a fraction of the thickness of residential brick and has lower structural requirements because it is ornamental.

15. Residential brick is distinct from other types of exterior cladding. It has both performance characteristics (such as durability and structural integrity) and aesthetic traits that distinguish it from products such as siding and other exterior claddings. Customers who prefer the look of residential brick, or whose projects require the unique properties of residential brick, cannot reasonably turn to alternative exterior cladding solutions.

16. Because of these unique characteristics, substitution away from residential brick in the event of a small but significant increase in price by a hypothetical monopolist of residential brick would be insufficient to make such a price increase unprofitable. Accordingly, residential brick is a line of commerce, or relevant product market, for purposes of analyzing the effects of the proposed acquisition under Section 7 of the Clayton Act.

B. The Relevant Geographic Markets Are Local

17. Residential brick is generally transported by truck. Transportation costs can be substantial and typically range from 15% to 30% of the total price of residential brick. As a result, the geographic markets for residential brick tend to be local, with the specific geographic boundaries of any local market also determined by road infrastructure, traffic conditions, and natural conditions, such as mountain ranges that impose significantly higher fuel costs on the transportation of residential brick to customers in local markets.

18. The transaction would likely harm competition for residential brick in the following Metropolitan Statistical Areas (''MSAs'')[2]: (1) Nashville, Tennessee; (2) Memphis, Tennessee; (3) Huntsville, Alabama; (4) Lexington, Kentucky; (5) Louisville, Kentucky; (6) Indianapolis, Indiana; (7) Detroit, Michigan; and (8) Cincinnati, Ohio.

19. In each of these relevant markets, a small but significant increase in price by a hypothetical monopolist of residential brick would not be defeated by substitution to commercial brick or other claddings, other construction materials, or by arbitrage—*i.e.,* a buyer cannot purchase outside the MSA and transport the residential bricks itself without incurring prohibitive transportation costs. Accordingly, the sale of residential brick in each of these MSAs constitutes a relevant market for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

V. Anticompetitive Effects

20. The proposed transaction would significantly increase concentration in the relevant markets and harm consumers by eliminating the substantial head-to-head competition that currently exists between General Shale and Meridian.

21. For each relevant market, General Shale and Meridian are among the top suppliers of residential brick by volume sold and have a competitive advantage because of the proximity of their manufacturing facilities to customers in each relevant market. Further, only two or three significant competitors, including General Shale and Meridian, supply each relevant market. Other residential brick suppliers face significantly higher transportation costs to serve these markets and thus have limited competitive significance. Competition between General Shale and Meridian has also spurred product innovation that has yielded higher quality and a variety of innovative residential brick products, including new colors, textures, and facing styles.

22. Homebuilders and other customers in the relevant markets thus rely on competition between General Shale and Meridian to supply a variety of quality residential brick at competitive prices. By eliminating this competition, the proposed transaction would likely lead to higher prices and reduced investment in innovation and quality.

A. The Nashville, Tennessee MSA

23. In 2020, Tennessee was the second-largest brick consuming state in the United States. General Shale and Meridian supplied approximately 54% of the total brick volume sold in Tennessee in 2020. General Shale and Meridian are particularly important suppliers for the Nashville MSA, where they are the top two suppliers of residential brick by volume and face only each other as significant competitors. General Shale and Meridian are the only significant suppliers of residential brick that operate brick manufacturing facilities located within 150 miles of Nashville, and no other significant supplier has a manufacturing facility located within 200 miles.

B. The Memphis, Tennessee MSA

24. General Shale and Meridian are also important suppliers of residential brick for the Memphis MSA, where they face only one other significant competitor. These three firms are the only significant suppliers that operate brick manufacturing facilities within

[1] The American Society for Testing and Materials has established a standard brick size for construction uses, which is referred to as the standard brick equivalent or ''SBE.'' Residential brick of different sizes is converted to SBE units when sold for purposes of measuring the volume sold.

[2] An MSA is a geographical region defined by the Office of Management and Budget for use by federal statistical agencies, such as the Census Bureau. It is based on the concept of a core area with a large concentrated population, plus adjacent communities having close economic and social ties to the core. For the purposes of this Complaint, it includes the dense central business districts in the named cities as well as the adjacent, connected communities.

200 miles of Memphis, and no other significant supplier of residential brick has a facility located within 350 miles.

C. The Huntsville, Alabama MSA

25. Alabama consumed the fifth most bricks of any state in the nation in 2020. General Shale and Meridian are two of the top three residential brick suppliers in Alabama and combined supplied over 43% of the total brick volume sold in Alabama in 2020. General Shale and Meridian are particularly important suppliers for the Huntsville MSA, where they are two of the top three residential brick suppliers by volume and face only one other significant competitor. These three firms are the only significant suppliers that operate a residential brick manufacturing facility located within 125 miles of Huntsville.

D. The Lexington, Kentucky MSA

26. General Shale and Meridian supplied over 50% of the total brick volume sold in Kentucky in 2020. General Shale and Meridian are particularly important suppliers for the Lexington MSA, where they are the two largest suppliers of residential brick by volume and face only each other as significant competitors. General Shale and Meridian are the only significant residential brick suppliers located within 50 miles of Lexington; the next closest residential brick manufacturer is over 230 miles away.

E. The Louisville, Kentucky MSA

27. General Shale and Meridian are also important residential brick suppliers for the Louisville MSA. In the Louisville MSA, the proposed acquisition would reduce the number of significant competitors for residential brick from three to two, as the merging parties own two of the three brick manufacturing facilities located within 200 miles of Louisville. Following the transaction, the third-closest significant residential brick manufacturer would be located over 300 miles away.

F. The Indianapolis, Indiana MSA

28. General Shale and Meridian are the top two suppliers of residential brick to customers in Indiana. In 2020, they combined to supply over 45% of the total brick volume sold in the state. General Shale and Meridian are particularly important suppliers of residential brick for the Indianapolis MSA, where they face only one other significant competitor. These three firms are the only significant suppliers that operate a residential brick manufacturing facility located within 100 miles of Indianapolis, with the next closest competitor located almost 350 miles away.

G. The Detroit, Michigan MSA

29. General Shale and Meridian are the first and third largest suppliers of brick to customers in Michigan. In 2020, General Shale and Meridian supplied 45% of the total brick volume sold in the state. General Shale and Meridian are particularly important suppliers for the Detroit MSA, where they are the top two competitors for residential brick by volume. In this market, the proposed acquisition would reduce the number of significant suppliers for residential brick from three to two with these three firms being the only significant suppliers that operate residential brick manufacturing facilities within 375 miles of Detroit.

H. The Cincinnati, Ohio MSA

30. General Shale and Meridian are the top two residential brick suppliers to customers in Ohio. In 2020, General Shale and Meridian supplied 28% of the total brick volume sold in the state. General Shale and Meridian are particularly important suppliers for the Cincinnati MSA, where they are the top two competitors for residential brick by volume and face only one other significant supplier. These three firms are the only significant suppliers with residential brick manufacturing facilities located within 200 miles of Cincinnati, and no other significant manufacturer has a facility within 350 miles.

VI. Entry

31. Entry into the relevant markets would be costly and time-consuming and is unlikely to prevent the harm to competition that is likely to result from the proposed transaction. The time and expense required to construct manufacturing facilities, acquire necessary equipment, develop product formulas, and overcome regulatory obstacles, such as obtaining building and usage permits and ensuring environmental and workplace safety compliance, would take years of planning and significant financial investment.

32. Additionally, repositioning by a commercial brick manufacturer is unlikely to mitigate the harm that would result from the proposed transaction. Switching from producing commercial brick to producing residential brick would come at a significant opportunity cost as commercial brick sales generally yield a higher profit margin than residential brick. Accordingly, it is unlikely that a manufacturer of commercial brick would be incentivized to switch to supplying residential brick.

VII. Violations Alleged

33. General Shale's proposed acquisition of Meridian is likely to substantially lessen competition in each of the relevant markets for the design, manufacture, and sale of residential brick set forth above in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

34. Unless enjoined, the acquisition likely would have the following anticompetitive effects, among others, in the relevant markets:

(a) Actual and potential competition between General Shale and Meridian would be eliminated;

(b) competition generally would be substantially lessened; and

(c) prices for the relevant products would likely increase, and innovation and the quality of those products likely would decline.

VIII. Request for Relief

35. The United States request that this Court:

(a) Adjudge and decree General Shale's proposed acquisition of Meridian to be unlawful and in violation of Section 7 of the Clayton Act, 15 U.S.C. 18;

(b) preliminarily and permanently enjoin Defendants and all persons acting on their behalf from consummating the proposed acquisition by General Shale of Meridian or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine Meridian with the operations of General Shale;

(c) award the United States the costs for this action; and

(d) grant the United States such other relief as the Court deems just and proper.

Dated: October 1, 2021.

Respectfully Submitted,

For Plaintiff United States:

Richard A. Powers,
Acting Assistant Attorney General, Antitrust Division.

Kathleen S. O'Neill,
Senior Director of Investigations and Litigation, Antitrust Division.

Jay D. Owen,
Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division.

Soyoung Choe,
Acting Assistant Chief, Defense, Industrials, and Aerospace Section, Antitrust Division.

Daniel J. Monahan, Jr.*
Stephen A. Harris,

Matthew C. Fellows (D.C. Bar #1736656), *Trial Attorneys, United States Department of Justice, Antitrust Division, Defense, Industrials, and Aerospace Section, 450 Fifth Street NW, Suite 8700, Washington, DC 20530, Telephone: (202) 598–8774, Facsimile: (202) 514–9033, Email: Daniel.Monahan@usdoj.gov*.
*Lead Attorney to be Noticed.

United States District Court, for the District of Columbia

United States of America, Plaintiff, v. *Wienerberger AG, General Shale Brick, Inc., Boral Limited, LSF9 Stardust Super Holdings, L.P., Meridian Brick LLC,* Defendants.

Civil Action No.: 1:21–cv–02555 (CRC)

Proposed Final Judgment

Whereas, Plaintiff, United States of America, filed its Complaint on October 1, 2021;

And whereas, the United States and Defendants, Wienerberger AG, General Shale Brick, Inc., Boral Limited, LSF9 Stardust Super Holdings, L.P., and Meridian Brick LLC, have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

And whereas, Defendants agree to make a divestiture to remedy the loss of competition alleged in the Complaint;

And whereas, Defendants represent that the divestiture and other relief required by this Final Judgment can and will be made and that Defendants will not later raise a claim of hardship or difficulty as grounds for asking the Court to modify any provision of this Final Judgment;

Now therefore, it is *ordered, adjudged, and decreed*:

I. Jurisdiction

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''Boral'' means Defendant Boral Limited, an Australian public company with its headquarters in North Sydney, Australia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''General Shale'' means Defendant General Shale Brick, Inc, a subsidiary of Wienerberger and a Delaware corporation with its headquarters in Johnson City, Tennessee, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Meridian'' means Defendant Meridian Brick LLC, a joint venture between Boral and LSF9 and a Delaware limited liability company with its headquarters in Alpharetta, Georgia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''LSF9'' means Defendant LSF9 Stardust Super Holdings, L.P., a Bermuda limited partnership with its principal place of business in Hamilton, Bermuda, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. ''Wienerberger'' means Wienerberger AG, an Austrian corporation with its headquarters in Wien, Austria, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

F. ''RemSom'' means RemSom LLC, a South Carolina limited liability company with its headquarters in Columbia, South Carolina, its successors and assigns, and its subsidiaries (including US Brick, LLC), divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

G. ''Acquirer'' means RemSom or another entity approved by the United States in its sole discretion to which Defendants divest the Divestiture Assets.

H. ''Divestiture Assets'' means all of Defendants' rights, titles, and interests in and to:

1. The manufacturing facilities and mines listed in Appendix A;

2. the distribution yards and stores listed in Appendix B;

3. all property and assets, tangible and intangible, wherever located, relating to or used in connection with the manufacturing facilities and mines listed in Appendix A or the distribution yard and stores listed in Appendix B, including:

a. All other real property, including fee simple interests, real property leasehold interests and renewal rights thereto, improvements to real property, and options to purchase any adjoining or other property, together with all buildings, facilities, and other structures;

b. all tangible personal property, including fixed assets, machinery and manufacturing equipment, tools, vehicles, inventory, materials, office equipment and furniture, computer hardware, and supplies;

c. all contracts, contractual rights, and customer and distributor relationships, and all other agreements, commitments, and understandings, including supply agreements, teaming agreements, leases, and all outstanding offers or solicitations to enter into a similar arrangement;

d. all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations issued or granted by any governmental organization, and all pending applications or renewals;

e. all records and data, including (a) customer and distributor lists, accounts, sales, and credits records, (b) production, repair, maintenance, and performance records, (c) manuals and technical information Defendants provide to their own employees, customers, distributors, suppliers, agents, or licensees, (d) records and research data concerning historic and current research and development activities, including designs of experiments and the results of successful and unsuccessful designs and experiments, and (e) drawings, blueprints, and designs;

f. all intellectual property owned, licensed, or sublicensed, either as licensor or licensee, including (a) patents, patent applications, and inventions and discoveries that may be patentable, (b) registered and unregistered copyrights and copyright applications, and (c) registered and unregistered trademarks, trade dress, service marks, trade names, and trademark applications; and

g. all other intangible property, including (a) commercial names and d/b/a names, (b) technical information, (c) computer software and related documentation, know-how, trade secrets, design protocols, specifications for materials, specifications for parts, specifications for devices, safety procedures (*e.g.,* for the handling of materials and substances), quality assurance and control procedures, (d) design tools and simulation capabilities, and (e) rights in internet websites and internet domain names.

Provided, however, that the assets specified in Paragraphs II.H.3.a–g above do not include the assets identified in Appendix C or any trademarks, trade names, service marks, or service names containing the names ''General Shale,'' ''Meridian,'' ''Watsontown,''

''Columbus,'' ''Arriscraft,'' or ''Wienerberger''.

I. ''Divestiture Date'' means the date on which the Divestiture Assets are divested to Acquirer pursuant to this Final Judgment.

J. ''Including'' means including, but not limited to.

K. ''Relevant Personnel'' means all full-time, part-time, or contract employees of General Shale or Meridian, located at one of the facilities, mines, yards, or stores included in the Divestiture Assets at any time between January 1, 2019, and the Divestiture Date. *Provided, however,* Relevant Personnel does not include employees of Defendants that the United States, in its sole discretion, deems to be primarily engaged in human resources, legal, or other general or administrative support functions. The United States, in its sole discretion, will resolve any disagreement relating to which employees are Relevant Personnel.

L. ''Transaction'' means the proposed acquisition of Meridian by General Shale.

III. Applicability

A. This Final Judgment applies to Boral, General Shale, Meridian, LSF9, and Wienerberger, as defined above, and all other persons in active concert or participation with any Defendant who receive actual notice of this Final Judgment.

B. If, prior to complying with Section IV and Section V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of business units that include the Divestiture Assets, Defendants must require any purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from Acquirer.

IV. Divestiture

A. Defendants Wienerberger, General Shale, and Meridian are ordered and directed, within 30 calendar days after the Court's entry of the Asset Preservation Stipulation and Order in this matter, to divest the Divestiture Assets in a manner consistent with this Final Judgment to RemSom or another Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed 60 calendar days in total and will notify the Court of any extensions.

B. Defendants Wienerberger, General Shale, and Meridian must use best efforts to divest the Divestiture Assets as expeditiously as possible. Defendants must take no action that would jeopardize the completion of the divestiture ordered by the Court, including any action to impede the permitting, operation, or divestiture of the Divestiture Assets.

C. Unless the United States otherwise consents in writing, divestiture pursuant to this Final Judgment must include the entire Divestiture Assets and must be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by Acquirer as part of a viable, ongoing business of the design, manufacture, and sale of residential bricks and that the divestiture to Acquirer will remedy the competitive harm alleged in the Complaint.

D. The divestiture must be made to an Acquirer that, in the United States' sole judgment, has the intent and capability, including the necessary managerial, operational, technical, and financial capability, to compete effectively in the design, manufacture, and sale of residential bricks.

E. The divestiture must be accomplished in a manner that satisfies the United States, in its sole discretion, that none of the terms of any agreement between Acquirer and Defendants Wienerberger, General Shale, and Meridian gives those Defendants the ability unreasonably to raise Acquirer's costs, to lower Acquirer's efficiency, or otherwise interfere in the ability of Acquirer to compete effectively in the design, manufacture, and sale of residential bricks.

F. In the event Defendants Wienerberger, General Shale, and Meridian are attempting to divest the Divestiture Assets to an Acquirer other than RemSom, Defendants Wienerberger, General Shale, and Meridian promptly must make known, by usual and customary means, the availability of the Divestiture Assets. Defendants Wienerberger, General Shale, and Meridian must inform any person making an inquiry relating to a possible purchase of the Divestiture Assets that the Divestiture Assets are being divested in accordance with this Final Judgment and must provide that person with a copy of this Final Judgment. Defendants Wienerberger, General Shale, and Meridian must offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets that are customarily provided in a due diligence process; *provided, however,* that Defendants Wienerberger, General Shale, and Meridian need not provide information or documents subject to the attorney-client privilege or work-product doctrine. Defendants Wienerberger, General Shale, and Meridian must make all information and documents available to the United States at the same time that the information and documents are made available to any other person.

G. Defendants Wienerberger, General Shale, and Meridian must provide prospective Acquirers with (1) access to make inspections of the Divestiture Assets; (2) access to all environmental, zoning, and other permitting documents and information relating to the Divestiture Assets; and (3) access to all financial, operational, or other documents and information relating to the Divestiture Assets that would customarily be provided as part of a due diligence process. Defendants Wienerberger, General Shale, and Meridian also must disclose all encumbrances on any part of the Divestiture Assets, including on intangible property.

H. Defendants Wienerberger, General Shale, and Meridian must cooperate with and assist Acquirer in identifying and, at the option of Acquirer, in hiring all Relevant Personnel, including:

1. Within 10 business days following the filing of the Complaint in this matter, Defendants Wienerberger, General Shale, and Meridian must identify all Relevant Personnel to Acquirer and the United States, including by providing organization charts covering all Relevant Personnel.

2. Within 10 business days following receipt of a request by Acquirer or the United States, Defendants Wienerberger, General Shale, and Meridian must provide to Acquirer and the United States additional information relating to Relevant Personnel, including name, job title, reporting relationships, past experience, responsibilities, training and educational histories, relevant certifications, and job performance evaluations. Defendants Wienerberger, General Shale, and Meridian must also provide to Acquirer and the United States information relating to current and accrued compensation and benefits of Relevant Personnel, including most recent bonuses paid, aggregate annual compensation, current target or guaranteed bonus, if any, any retention agreement or incentives, and any other payments due, compensation or benefit accrued, or promises made to the Relevant Personnel. If Defendants Wienerberger, General Shale, and Meridian are barred by any applicable law from providing any of this information, those Defendants must provide, within 10 business days following receipt of the request, the requested information to the full extent

permitted by law and also must provide a written explanation of the inability of Defendants Wienerberger, General Shale, and Meridian to provide the remaining information, including specifically identifying the provisions of the applicable laws.

3. At the request of Acquirer, Defendants Wienerberger, General Shale, and Meridian must promptly make Relevant Personnel available for private interviews with Acquirer during normal business hours at a mutually agreeable location.

4. Defendants must not interfere with any effort by Acquirer to employ any Relevant Personnel. Interference includes offering to increase the compensation or improve the benefits of Relevant Personnel unless (a) the offer is part of a company-wide increase in compensation or improvement in benefits that was announced prior to the December 18, 2020, or (b) the offer is approved by the United States in its sole discretion. Defendants' obligations under this Paragraph will expire 180 days after the Divestiture Date.

5. For Relevant Personnel who elect employment with Acquirer within 180 days of the Divestiture Date, Defendants must waive all non-compete and non-disclosure agreements; vest and pay to the Relevant Personnel (or to Acquirer for payment to the employee) on a prorated basis any bonuses, incentives, other salary, benefits or other compensation fully or partially accrued at the time of the transfer of the employee to Acquirer; vest any unvested pension and other equity rights; and provide all other benefits that those Relevant Personnel otherwise would have been provided had the Relevant Personnel continued employment with Defendants, including any retention bonuses or payments. Defendants may maintain reasonable restrictions on disclosure by Relevant Personnel of Defendants' proprietary non-public information that is unrelated to the design, manufacture, and sale of residential bricks and not otherwise required to be disclosed by this Final Judgment.

6. For a period of 12 months from the Divestiture Date, Defendants Wienerberger, General Shale, and Meridian may not solicit to rehire Relevant Personnel who were hired by Acquirer within 180 days of the Divestiture Date unless (a) an individual is terminated or laid off by Acquirer or (b) Acquirer agrees in writing that Defendants Wienerberger, General Shale, and Meridian may solicit to re-hire that individual. Nothing in this Paragraph prohibits Defendants Wienerberger, General Shale, and Meridian from advertising employment openings using general solicitations or advertisements and re-hiring Relevant Personnel who apply for an employment opening through a general solicitation or advertisement.

I. Defendants Wienerberger, General Shale, and Meridian must warrant to Acquirer that (1) the Divestiture Assets will be operational and without material defect on the date of their transfer to Acquirer; (2) there are no material defects in the environmental, zoning, or other permits relating to the operation of the Divestiture Assets; and (3) all encumbrances on any part of the Divestiture Assets, including on intangible property, have been disclosed. Following the sale of the Divestiture Assets, Defendants must not undertake, directly or indirectly, challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

J. Defendants Wienerberger, General Shale, and Meridian must assign, subcontract, or otherwise transfer all contracts, agreements, and customer and distributor relationships (or portions of such contracts, agreements, and relationships) included in the Divestiture Assets, including all supply and sales contracts to Acquirer; *provided, however,* that for any contract or agreement that requires the consent of another party to assign, subcontract, or otherwise transfer, Defendants Wienerberger, General Shale, and Meridian must use best efforts to accomplish the assignment, subcontracting, or transfer. Defendants must not interfere with any negotiations between Acquirer and a contracting party.

K. Defendants Wienerberger, General Shale, and Meridian must use best efforts to assist Acquirer to obtain all necessary licenses, registrations, and permits to operate the Divestiture Assets. Until Acquirer obtains the necessary licenses, registrations, and permits, Defendants Wienerberger, General Shale, and Meridian must provide Acquirer with the benefit of the licenses, registrations, and permits of Defendants Wienerberger, General Shale, and Meridian to the full extent permissible by law.

L. At the option of Acquirer, and subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendants Wienerberger, General Shale, and Meridian must enter into a contract to provide transition services for back office, human resources, accounting, employee health and safety, and information technology services and support for a period of up to 12 months on terms and conditions reasonably related to market conditions for the provision of the transition services. Any amendment to or modification of any provision of a contract to provide transition services is subject to approval by the United States, in its sole discretion. The United States, in its sole discretion, may approve one or more extensions of any contract for transition services, for a total of up to an additional six months. If Acquirer seeks an extension of the term of any contract for transition services, Defendants Wienerberger, General Shale, and Meridian must notify the United States in writing at least three months prior to the date the contract expires. Acquirer may terminate a contract for transition services, or any portion of a contract for transition services, without cost or penalty at any time upon commercially reasonable written notice. The employee(s) of Defendants Wienerberger, General Shale, and Meridian tasked with providing transition services must not share any competitively sensitive information of Acquirer with any other employee of Defendants Wienerberger, General Shale, and Meridian.

M. If any term of an agreement between Defendants Wienerberger, General Shale, and Meridian and Acquirer, including an agreement to effectuate the divestiture required by this Final Judgment, varies from a term of this Final Judgment, to the extent that Defendants Wienerberger, General Shale, and Meridian cannot fully comply with both, this Final Judgment determines the obligations of Defendants Wienerberger, General Shale, and Meridian.

V. Appointment of Divestiture Trustee

A. If Defendants Wienerberger, General Shale, and Meridian have not divested the Divestiture Assets within the period specified in Paragraph IV.A, Defendants Wienerberger, General Shale, and Meridian must immediately notify the United States of that fact in writing. Upon application of the United States, which Defendants may not oppose, the Court will appoint a divestiture trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a divestiture trustee by the Court, only the divestiture trustee will have the right to sell the Divestiture Assets. The divestiture trustee will have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States, in its sole discretion, at a price and on terms obtainable

through reasonable effort by the divestiture trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and will have other powers as the Court deems appropriate. The divestiture trustee must sell the Divestiture Assets as quickly as possible.

C. Defendants Wienerberger, General Shale, and Meridian may not object to a sale by the divestiture trustee on any ground other than malfeasance by the divestiture trustee. Objections by Defendants Wienerberger, General Shale, and Meridian must be conveyed in writing to the United States and the divestiture trustee within 10 calendar days after the divestiture trustee has provided the notice of proposed divestiture required by Section VI.

D. The divestiture trustee will serve at the cost and expense of Defendants Wienerberger, General Shale, and Meridian pursuant to a written agreement, on terms and conditions, including confidentiality requirements and conflict of interest certifications, approved by the United States in its sole discretion.

E. The divestiture trustee may hire at the cost and expense of Defendants Wienerberger, General Shale, and Meridian any agents or consultants, including investment bankers, attorneys, and accountants, that are reasonably necessary in the divestiture trustee's judgment to assist with the divestiture trustee's duties. These agents or consultants will be accountable solely to the divestiture trustee and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion.

F. The compensation of the divestiture trustee and agents or consultants hired by the divestiture trustee must be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement that provides the divestiture trustee with incentives based on the price and terms of the divestiture and the speed with which it is accomplished. If the divestiture trustee and Defendants Wienerberger, General Shale, and Meridian are unable to reach agreement on the divestiture trustee's compensation or other terms and conditions of engagement within 14 calendar days of the appointment of the divestiture trustee by the Court, the United States, in its sole discretion, may take appropriate action, including by making a recommendation to the Court. Within three business days of hiring an agent or consultant, the divestiture trustee must provide written notice of the hiring and rate of compensation to Defendants Wienerberger, General Shale, and Meridian and the United States.

G. The divestiture trustee must account for all monies derived from the sale of the Divestiture Assets sold by the divestiture trustee and all costs and expenses incurred. Within 30 calendar days of the Divestiture Date, the divestiture trustee must submit that accounting to the Court for approval. After approval by the Court of the divestiture trustee's accounting, including fees for unpaid services and those of agents or consultants hired by the divestiture trustee, all remaining money must be paid to Defendants Wienerberger, General Shale, and Meridian and the trust will then be terminated.

H. Defendants Wienerberger, General Shale, and Meridian must use best efforts to assist the divestiture trustee to accomplish the required divestiture. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendants Wienerberger, General Shale, and Meridian must provide the divestiture trustee and agents or consultants retained by the divestiture trustee with full and complete access to all personnel, books, records, and facilities of the Divestiture Assets. Defendants Wienerberger, General Shale, and Meridian also must provide or develop financial and other information relevant to the Divestiture Assets that the divestiture trustee may reasonably request. Defendants must not take any action to interfere with or to impede the divestiture trustee's accomplishment of the divestiture.

I. The divestiture trustee must maintain complete records of all efforts made to sell the Divestiture Assets, including by filing monthly reports with the United States setting forth the divestiture trustee's efforts to accomplish the divestiture ordered by this Final Judgment. The reports must include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets and must describe in detail each contact.

J. If the divestiture trustee has not accomplished the divestiture ordered by this Final Judgment within six months of appointment, the divestiture trustee must promptly provide the United States with a report setting forth: (1) The divestiture trustee's efforts to accomplish the required divestiture; (2) the reasons, in the divestiture trustee's judgment, why the required divestiture has not been accomplished; and (3) the divestiture trustee's recommendations for completing the divestiture. Following receipt of that report, the United States may make additional recommendations to the Court. The Court thereafter may enter such orders as it deems appropriate to carry out the purpose of this Final Judgment, which may include extending the trust and the term of the divestiture trustee's appointment by a period requested by the United States.

K. The divestiture trustee will serve until divestiture of all Divestiture Assets is completed or for a term otherwise ordered by the Court.

L. If the United States determines that the divestiture trustee is not acting diligently or in a reasonably cost-effective manner, the United States may recommend that the Court appoint a substitute divestiture trustee.

VI. Notice of Proposed Divestiture

A. Within two business days following execution of a definitive agreement with an Acquirer other than RemSom to divest the Divestiture Assets, Defendants Wienerberger, General Shale, and Meridian or the divestiture trustee, whichever is then responsible for effecting the divestiture, must notify the United States of the proposed divestiture. If the divestiture trustee is responsible for completing the divestiture, the divestiture trustee also must notify Defendants Wienerberger, General Shale, and Meridian. The notice must set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets.

B. Within 15 calendar days of receipt by the United States of the notice required by Paragraph VI.A, the United States may request from Defendants Wienerberger, General Shale, and Meridian, the proposed Acquirer, other third parties, or the divestiture trustee additional information concerning the proposed divestiture, the proposed Acquirer, and other prospective Acquirers. Defendants Wienerberger, General Shale, and Meridian and the divestiture trustee must furnish the additional information requested within 15 calendar days of the receipt of the request unless the United States provides written agreement to a different period.

C. Within 45 calendar days after receipt of the notice required by

Paragraph VI.A or within 20 calendar days after the United States has been provided the additional information requested pursuant to Paragraph VI.B, whichever is later, the United States will provide written notice to Defendants Wienerberger, General Shale, and Meridian and any divestiture trustee that states whether the United States, in its sole discretion, objects to the proposed Acquirer or any other aspect of the proposed divestiture. Without written notice that the United States does not object, a divestiture may not be consummated. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to the limited right to object to the sale under Paragraph V.C of this Final Judgment. Upon objection by Defendants Wienerberger, General Shale, and Meridian pursuant to Paragraph V.C, a divestiture by the divestiture trustee may not be consummated unless approved by the Court.

D. No information or documents obtained pursuant to this Section may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand-jury proceedings, for the purpose of evaluating a proposed Acquirer or securing compliance with this Final Judgment, or as otherwise required by law.

E. In the event of a request by a third party for disclosure of information under the Freedom of Information Act, 5 U.S.C. 552, the United States Department of Justice's Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Persons submitting information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire ten years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

F. If at the time that a person furnishes information or documents to the United States pursuant to this Section, that person represents and identifies in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States must give that person ten calendar days' notice before divulging the material in any legal proceeding (other than a grand-jury proceeding).

VII. Financing

Defendants may not finance all or any part of Acquirer's purchase of all or part of the Divestiture Assets.

VIII. Asset Preservation

Defendants must take all steps necessary to comply with the Asset Preservation Stipulation and Order entered by the Court.

IX. Affidavits

A. Within 20 calendar days of the filing of the Complaint in this matter, and every 30 calendar days thereafter until the divestiture required by this Final Judgment has been completed, Defendant Wienerberger must deliver to the United States an affidavit, signed by Defendant Wienerberger's Chief Executive Officer and General Counsel, Defendant General Shale must deliver to the United States an affidavit, signed by Defendant General Shale's Chief Executive Officer and Chief Financial Officer, and Defendant Meridian must deliver to the United States an affidavit signed by Defendant Meridian's Chief Executive Officer and Chief Financial Officer, describing in reasonable detail the fact and manner of that Defendant's compliance with this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

B. In the event Defendants Wienerberger, General Shale, and Meridian are attempting to divest the Divestiture Assets to an Acquirer other than RemSom, each affidavit required by Paragraph IX.A must include: (1) The name, address, and telephone number of each person who, during the preceding 30 calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, an interest in the Divestiture Assets and describe in detail each contact with such persons during that period; (2) a description of the efforts Defendants Wienerberger, General Shale, and Meridian have taken to solicit buyers for and complete the sale of the Divestiture Assets and to provide required information to prospective Acquirers; and (3) a description of any limitations placed by Defendants Wienerberger, General Shale, and Meridian on information provided to prospective Acquirers. Objection by the United States to information provided by Defendants Wienerberger, General Shale, and Meridian to prospective Acquirers must be made within 14 calendar days of receipt of the affidavit, except that the United States may object at any time if the information set forth in the affidavit is not true or complete.

C. Defendants Wienerberger, General Shale, and Meridian must keep all records of any efforts made to divest the Divestiture Assets until one year after the Divestiture Date.

D. Within 20 calendar days of the filing of the Complaint in this matter, Defendant Wienerberger, Defendant General Shale, and Defendant Meridian must deliver to the United States an affidavit signed by each Defendant's Chief Executive Officer and Chief Financial Officer, that describes in reasonable detail all actions that Defendants have taken and all steps that Defendants Wienerberger, General Shale, and Meridian have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

E. If a Defendant makes any changes to the actions and steps described in affidavits provided pursuant to Paragraph IX.D, the Defendant must, within 15 calendar days after any change is implemented, deliver to the United States an affidavit describing those changes.

F. Defendants Wienerberger, General Shale, and Meridian must keep all records of any efforts made to comply with Section VIII until one year after the Divestiture Date.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or of related orders such as the Asset Preservation Stipulation and Order or of determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, and reasonable notice to Defendants, Defendants must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. to have access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of

Defendants relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, Defendants must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

C. No information or documents obtained by the United States pursuant to this Section may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand jury proceedings, for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. In the event of a request by a third party for disclosure of information under the Freedom of Information Act, 5 U.S.C. 552, the Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Defendants submitting information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire ten years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

E. If at the time that Defendants furnish information or documents to the United States pursuant to this Section, Defendants represent and identify in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States must give Defendants ten (10) calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

XI. Notification

A. Unless a transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), Defendants Wienerberger, General Shale, and Meridian may not, without first providing at least 30 calendar days advance notification to the United States, directly or indirectly acquire any assets of or any interest, including a financial, security, loan, equity, or management interest, in an entity involved in the design, manufacture, or sale of residential bricks in Alabama, Indiana, Kentucky, Michigan, Ohio, or Tennessee during the term of this Final Judgment.

B. Defendants Wienerberger, General Shale, and Meridian must provide the notification required by this Section in the same format as, and in accordance with the instructions relating to, the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations, as amended, except that the information requested in Items 5 through 8 of the instructions must be provided only about the design, manufacture, and sale of residential bricks in the United States.

C. Notification must be provided at least 30 calendar days before acquiring any assets or interest and must include, beyond the information required by the instructions, the names of the principal representatives who negotiated the transaction on behalf of each party, and all management or strategic plans discussing the proposed transaction. If, within the 30 calendar days following notification, representatives of the United States make a written request for additional information, Defendants Wienerberger, General Shale, and Meridian may not consummate the proposed transaction until 30 calendar days after submitting all requested information.

D. Early termination of the waiting periods set forth in this Section may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section must be broadly construed, and any ambiguity or uncertainty relating to whether to file a notice under this Section must be resolved in favor of filing notice.

XII. No Reacquisition

Defendants Wienerberger, General Shale, and Meridian may not reacquire any part of or any interest in the Divestiture Assets during the term of this Final Judgment without prior authorization of the United States.

XIII. Retention of Jurisdiction

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. Enforcement of Final Judgment

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendants agree that in a civil contempt action, a motion to show cause, or a similar action brought by the United States relating to an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore the competition the United States alleges was harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that Defendants have violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

D. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that a Defendant violated this Final Judgment before it expired, the United States may file an action against that Defendant in this Court requesting that the Court order: (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure the Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section.

XV. Expiration of Final Judgment

Unless the Court grants an extension, this Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and continuation of this Final Judgment is no longer necessary or in the public interest.

XVI. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16]

_____

United States District Judge

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Wienerberger AG, General Shale Brick, Inc., LSF9 Stardust Super Holdings, L.P., Boral Limited*, and *Meridian Brick LLC*, Defendants.

Civil Action No.: 1:21–cv–02555 (CRC)

Competitive Impact Statement

In accordance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the ''APPA'' or ''Tunney Act''), the United States of America files this Competitive Impact Statement related to the proposed Final Judgment filed in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On December, 18, 2020, General Shale Brick, Inc. (''General Shale''), a subsidiary of Wienerberger AG, announced its intention to acquire Meridian Brick LLC (''Meridian'') from Meridian's parent companies, Boral Limited and LSF9 Stardust Super Holdings, L.P. as part of a total transaction valued at approximately $250 million. The United States filed a civil antitrust Complaint on October 1, 2021, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to substantially lessen competition for the design, manufacture, and sale of residential brick in eight geographic markets in the midwestern and southern United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

At the same time the Complaint was filed, the United States filed a proposed Final Judgment and an Asset Preservation Stipulation and Order (''Stipulation and Order''), which are designed to remedy the loss of competition alleged in the Complaint.

Under the proposed Final Judgment, which is explained more fully below, Defendants are required to divest specified residential brick manufacturing and sales assets located within seven states.

Under the terms of the Stipulation and Order, Defendants must take certain steps to ensure that the assets that must be divested are operated as ongoing, economically viable, competitive assets for the design, manufacture, and sale of residential brick and must take all other actions to preserve and maintain the full economic viability, marketability, and competitiveness of the assets to be divested. On October 5, 2021, the Court entered the Stipulation and Order.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

On December 18, 2020, General Shale announced its intention to acquire Meridian from Boral Limited and LSF9 Stardust Super Holdings, L.P. in a total transaction valued at approximately $250 million.

General Shale is a Delaware corporation headquartered in Johnson City, Tennessee. It is a leading U.S. producer of building material solutions and one of North America's largest brick, stone, and concrete block manufacturers. General Shale operates 11 production facilities in 10 states and provinces. It also has a network of 21 sales locations and more than 200 affiliated distributors in North America.

Wienerberger AG is General Shale's parent company. Based in Vienna, Austria, it is one of the world's largest building materials manufacturers. Wienerberger AG operates manufacturing and distribution facilities for brick and other construction materials in three continents, including in North America through its subsidiary General Shale. In 2020, Wienerberger AG's North American business generated revenues of approximately $370 million, 78% of which was derived from brick sales, including residential brick sales.

Meridian is a Delaware limited liability company headquartered in Alpharetta, Georgia. Meridian manufactures and sells construction materials, including commercial and residential brick and masonry materials. Meridian is the largest brick supplier in the United States. During the fiscal year 2020, Meridian generated over $400 million in revenues, primarily from brick sales, including residential brick sales. Meridian and its sister company Meridian Brick Canada Ltd. make up the Meridian Group. The Meridian Group is directly and indirectly owned by Boral Limited and LSF9 Stardust Super Holdings, L.P. Boral Limited and LSF9 Stardust Super Holdings, L.P. formed Meridian as a joint venture in 2016.

B. Relevant Product Market: Residential Brick

Residential brick is a type of exterior cladding that is used to protect homes and other buildings from weather and the elements. It comes in various sizes and colors and is primarily comprised of shale or red clay that has been fired in a kiln. Residential brick of each color and size is manufactured in a substantially similar process, with minor adjustments in the amount of clay or type of color additives used to make a particular brick model. Indeed, although residential brick comes in varying sizes (*e.g.,* modular, queen, and king) and colors (*e.g.,* red, white, or grey), all residential brick volumes are

measured in Standard Brick Equivalents (''SBE'').[3]

Residential brick is distinct from commercial brick. Residential brick is less expensive than commercial brick due to different manufacturing processes. In particular, commercial brick is made by a process called through-body extrusion. Through-body extrusion entails a rigorous coloring process that ensures uniform coloring throughout the body of the brick. This achieves the higher color quality required of commercial brick. By contrast, residential brick is often colored only on the outer portion of the brick, and the residential brick manufacturing process requires fewer additives and other costly inputs.

Residential brick must meet standard specifications for residential use that are set by the American Society for Testing and Materials (''ASTM''). These standards require certain durability and load capabilities that differentiate residential brick from decorative paving brick as well as ''thin'' brick, which is a fraction of the thickness of residential brick and has lower structural requirements because it is ornamental.

Residential brick is distinct from other types of exterior cladding. It has both performance characteristics (such as durability and structural integrity) and aesthetic traits that distinguish it from products such as siding and other exterior claddings. Customers who prefer the look of residential brick, or whose projects require the unique properties of residential brick, cannot reasonably turn to alternative exterior cladding solutions.

As alleged in the Complaint, because of these unique characteristics, substitution away from residential brick in the event of a small but significant increase in price by a hypothetical monopolist of residential brick would be insufficient to make such a price increase unprofitable. Accordingly, residential brick is a line of commerce, or relevant product market, for purposes of analyzing the effects of the proposed acquisition under Section 7 of the Clayton Act.

C. The Relevant Geographic Markets Are Local

Residential brick is generally transported by truck. Transportation costs can be substantial and typically range from 15% to 30% of the total price of residential brick. As a result, the Complaint alleges the geographic markets for residential brick tend to be local, with the specific geographic boundaries of any local market also determined by road infrastructure, traffic conditions, and natural conditions, such as mountain ranges that impose significantly higher fuel costs on the transportation of residential brick to customers in local markets.

As alleged in the Complaint, the transaction would likely harm competition for residential brick in the following Metropolitan Statistical Areas (''MSAs''):[4] (1) Nashville, Tennessee; (2) Memphis, Tennessee; (3) Huntsville, Alabama; (4) Lexington, Kentucky; (5) Louisville, Kentucky; (6) Indianapolis, Indiana; (7) Detroit, Michigan; and (8) Cincinnati, Ohio.

In each of these relevant markets, the Complaint alleges a small but significant increase in price by a hypothetical monopolist of residential brick would not be defeated by substitution to commercial brick or other claddings, other construction materials, or by arbitrage—*i.e.,* a buyer cannot purchase outside the MSA and transport the residential bricks itself without incurring prohibitive transportation costs. Accordingly, the sale of residential brick in each of these MSAs constitutes a relevant market for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

D. Anticompetitive Effects of the Proposed Transaction

The Complaint alleges the proposed transaction would significantly increase concentration in the relevant markets and harm consumers by eliminating the substantial head-to-head competition that currently exists between General Shale and Meridian.

For each relevant market, General Shale and Meridian are among the top suppliers of residential brick by volume sold and have a competitive advantage because of the proximity of their manufacturing facilities to customers in each relevant market. Further, only two or three significant competitors, including General Shale and Meridian, supply each relevant market. Other residential brick suppliers face significantly higher transportation costs to serve these markets and thus have limited competitive significance. Competition between General Shale and Meridian has also spurred product innovation that has yielded higher quality and a variety of innovative residential brick products, including new colors, textures, and facing styles.

As alleged in the Complaint, homebuilders and other customers in the relevant markets thus rely on competition between General Shale and Meridian to supply a variety of quality residential brick at competitive prices. By eliminating this competition, the proposed transaction would likely lead to higher prices and reduced investment in innovation and quality.

1. The Nashville, Tennessee MSA

In 2020, Tennessee was the second-largest brick consuming state in the United States. General Shale and Meridian supplied approximately 54% of the total brick volume sold in Tennessee in 2020. General Shale and Meridian are particularly important suppliers for the Nashville MSA, where they are the top two suppliers of residential brick by volume and face only each other as significant competitors. General Shale and Meridian are the only significant suppliers of residential brick that operate brick manufacturing facilities located within 150 miles of Nashville, and no other significant supplier has a manufacturing facility located within 200 miles.

2. The Memphis, Tennessee MSA

General Shale and Meridian are also important suppliers of residential brick for the Memphis MSA, where they face only one other significant competitor. These three firms are the only significant suppliers that operate brick manufacturing facilities within 200 miles of Memphis, and no other significant supplier of residential brick has a facility located within 350 miles.

3. The Huntsville, Alabama MSA

Alabama consumed the fifth most bricks of any state in the nation in 2020. General Shale and Meridian are two of the top three residential brick suppliers in Alabama and combined supplied over 43% of the total brick volume sold in Alabama in 2020. General Shale and Meridian are particularly important suppliers for the Huntsville MSA, where they are two of the top three residential brick suppliers by volume and face only one other significant competitor. These three firms are the only significant suppliers that operate a residential brick manufacturing facility located within 125 miles of Huntsville.

[3] The American Society for Testing and Materials has established a standard brick size for construction uses, which is referred to as the standard brick equivalent or ''SBE.'' Residential brick of different sizes is converted to SBE units when sold for purposes of measuring the volume sold.

[4] An MSA is a geographical region defined by the Office of Management and Budget for use by federal statistical agencies, such as the Census Bureau. It is based on the concept of a core area with a large concentrated population, plus adjacent communities having close economic and social ties to the core. For the purposes of the Complaint, it includes the dense central business districts in the named cities as well as the adjacent, connected communities.

4. The Lexington, Kentucky MSA

General Shale and Meridian supplied over 50% of the total brick volume sold in Kentucky in 2020. General Shale and Meridian are particularly important suppliers for the Lexington MSA, where they are the two largest suppliers of residential brick by volume and face only each other as significant competitors. General Shale and Meridian are the only significant residential brick suppliers located within 50 miles of Lexington; the next closest residential brick manufacturer is over 230 miles away.

5. The Louisville, Kentucky MSA

General Shale and Meridian are also important residential brick suppliers for the Louisville MSA. In the Louisville MSA, the proposed acquisition would reduce the number of significant competitors for residential brick from three to two, as the merging parties own two of the three brick manufacturing facilities located within 200 miles of Louisville. Following the transaction, the third-closest significant residential brick manufacturer would be located over 300 miles away.

6. The Indianapolis, Indiana MSA

General Shale and Meridian are the top two suppliers of residential brick to customers in Indiana. In 2020, they combined to supply over 45% of the total brick volume sold in the state. General Shale and Meridian are particularly important suppliers of residential brick for the Indianapolis MSA, where they face only one other significant competitor. These three firms are the only significant suppliers that operate a residential brick manufacturing facility located within 100 miles of Indianapolis, with the next closest competitor located almost 350 miles away.

7. The Detroit, Michigan MSA

General Shale and Meridian are the first and third largest suppliers of brick to customers in Michigan. In 2020, General Shale and Meridian supplied 45% of the total brick volume sold in the state. General Shale and Meridian are particularly important suppliers for the Detroit MSA, where they are the top two competitors for residential brick by volume. In this market, the proposed acquisition would reduce the number of significant suppliers for residential brick from three to two with these three firms being the only significant suppliers that operate residential brick manufacturing facilities within 375 miles of Detroit.

8. The Cincinnati, Ohio MSA

General Shale and Meridian are the top two residential brick suppliers to customers in Ohio. In 2020, General Shale and Meridian supplied 28% of the total brick volume sold in the state. General Shale and Meridian are particularly important suppliers for the Cincinnati MSA, where they are the top two competitors for residential brick by volume and face only one other significant supplier. These three firms are the only significant suppliers with residential brick manufacturing facilities located within 200 miles of Cincinnati, and no other significant manufacturer has a facility within 350 miles.

E. Difficulty of Entry

As alleged in the Complaint, entry of new competitors into the relevant residential brick markets would be costly, time consuming, and is unlikely to prevent the harm to competition that is likely to result if the proposed transaction were to proceed unremedied. The time and expense required to construct manufacturing facilities, acquire necessary equipment, develop product formulas, and overcome various regulatory hurdles would take years of planning and significant financial investment.

Additionally, repositioning by a commercial brick manufacturer is also unlikely to lessen the harm that would likely result from the proposed transaction. This is because commercial brick yields higher profit margin than residential brick, and, accordingly, such a switch would come at a significant opportunity cost that commercial brick manufacturers are unlikely to be incentivized to make.

III. Explanation of the Proposed Final Judgment

The relief required by the proposed Final Judgment will remedy the loss of competition alleged in the Complaint by establishing an independent and economically viable competitor in the design, manufacture, and sale of residential brick in the eight geographic markets alleged in the Complaint.

A. The Divestiture Assets

Paragraph IV(A) of the proposed Final Judgment requires Defendants, within 30 days after the entry of the Stipulation and Order by the Court, to divest the Divestiture Assets (capitalized terms are defined in the proposed Final Judgment) to RemSom, LLC or an alternative acquirer acceptable to the United States, in its sole discretion. The assets must be divested in such a way as to satisfy the United States in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business that can compete effectively in the design, manufacture, and sale of residential brick in the eight geographic markets alleged in the Complaint (proposed Final Judgment Paragraphs IV(C) and (D)). Defendants Wienerberger AG, General Shale, and Meridian must use best efforts to divest the Divestiture Assets expeditiously and may not take actions that would jeopardize the completion of the divestiture (proposed Final Judgment Paragraph IV(B)).

The Divestiture Assets are defined at Paragraph II(H) of the proposed Final Judgment. The Divestiture Assets are defined to include three manufacturing facilities, 14 Distribution Yards, and six mines, identified in Appendices A and B. The Divestiture Assets also include all tangible and intangible property and assets related or used in connection with the manufacturing facilities, mines, and Distribution Yards, except for the assets identified in Appendix C of the proposed Final Judgment and any trademarks, trade names, service marks, or service names containing the names ''General Shale,'' ''Meridian,'' ''Watsontown,'' ''Columbus,'' ''Arriscraft,'' or ''Wienerberger.'' The Divestiture Assets include all of the assets necessary for the Acquirer to operate an economically viable business that will remedy the harm that the United States allege would otherwise result from the transaction.

B. Divestiture Provisions

The proposed Final Judgment contains several provisions to facilitate the transition of the Divestiture Assets to the Acquirer. First, Paragraph IV(J) of the proposed Final Judgment facilitates the transfer of customers and other contractual relationships to the Acquirer. Defendants Wienerberger AG, General Shale, and Meridian must transfer all contracts, agreements, and relationships included in the Divestiture Assets to the Acquirer and must make best efforts to assign, subcontract, or otherwise transfer contracts or agreements that require the consent of another party before assignment, subcontracting, or other transfer.

Second, Paragraph IV(K) requires Defendants Wienerberger AG, General Shale, and Meridian to use their best efforts to assist the Acquirer in obtaining all of the licenses, registrations, and permits necessary to operate the Divestiture Assets. Paragraph IV(K) further requires Defendants Wienerberger AG, General Shale, and Meridian to provide the Acquirer with the benefit of Defendants

Wienerberger AG's, General Shale's, and Meridian's licenses, registrations, and permits to the full extent permissible by law until the Acquirer obtains the necessary licenses, registrations, and permits.

Third, Paragraph IV(L) of the proposed Final Judgment requires Defendants Wienerberger AG, General Shale, and Meridian, at the option of the Acquirer, and subject to the approval by the United States in its sole discretion, on or before the date of the divestiture, to enter into an agreement to provide transition services for back office, human resources, accounting, employee health and safety, and information technology services and support for the Divestiture Assets for a period of up to 12 months. The Acquirer may terminate the transition services agreement, or any portion of it, without cost or penalty at any time upon commercially reasonable written notice. The paragraph further provides that if the Acquirer seeks an extension of the term of any contract for transition services, Defendants Wienerberger AG, General Shale, and Meridian must notify the United States in writing at least three months prior to the date the contract expires. Paragraph IV(L) also provides that employees of Defendants Wienerberger AG, General Shale, and Meridian tasked with supporting this agreement must not share any competitively sensitive information of the Acquirer with any other employee of Defendants Wienerberger AG, General Shale, and Meridian.

The proposed Final Judgment also contains provisions intended to facilitate efforts by the Acquirer to hire certain employees. Specifically, Paragraph IV(H) of the proposed Final Judgment requires Defendants Wienerberger AG, General Shale, and Meridian to provide the Acquirer and the United States with organization charts and information relating to these employees and to make them available for interviews. It also provides that all Defendants must not interfere with any negotiations by the Acquirer to hire these employees. In addition, for employees who elect employment with the Acquirer, Defendants must waive all non-compete and non-disclosure agreements, vest and pay on a prorated basis any bonuses, incentive, other salary, benefits or other compensation fully or partially accrued at the time the employee transfers to the Acquirer, vest any unvested pension and other equity rights, and provide all other benefits that those employees otherwise would have been provided had those employees continued employment with Defendants, including but not limited to any retention bonuses or payments. This paragraph further provides that the Defendants Wienerberger AG, General Shale, and Meridian may not solicit to hire any employees who elect employment with the Acquirer, unless that individual is terminated or laid off by the Acquirer or the Acquirer agrees in writing that the Defendants Wienerberger AG, General Shale, and Meridian may solicit or hire that individual. The non-solicitation period runs for 12 months from the date of the divestiture. This paragraph does not prohibit Defendants Wienerberger AG, General Shale, and Meridian from advertising employment openings using general solicitations or advertisements and rehiring employees who apply for a position through a general solicitation or advertisement.

C. Divestiture Trustee

If Defendants Wienerberger AG, General Shale, and Meridian do not accomplish the divestiture within the period prescribed in Paragraph IV(A) of the proposed Final Judgment, Section V of the proposed Final Judgment provides that the Court will appoint a divestiture trustee selected by the United States to effect the divestiture. If a divestiture trustee is appointed, the proposed Final Judgment provides that Defendants Wienerberger AG, General Shale, and Meridian must pay all costs and expenses of the trustee. The divestiture trustee's compensation must be structured so as to provide an incentive for the trustee based on the price and terms obtained and the speed with which the divestiture is accomplished. After the divestiture trustee's appointment becomes effective, the trustee must provide monthly reports to the United States setting forth his or her efforts to accomplish the divestiture. If the divestiture has not been accomplished within six months of the divestiture trustee's appointment, the United States may make recommendations to the Court, which will enter such orders as appropriate, in order to carry out the purpose of the Final Judgment, including by extending the trust or the term of the divestiture trustee's appointment by a period requested by the United States.

D. Other Provisions

Section XI of the proposed Final Judgment requires Defendants Wienerberger AG, General Shale, and Meridian, unless a transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), to not directly or indirectly acquire any assets of or any interest, including a financial, security, loan, equity, or management interest, in an entity involved in the design, manufacture, and sale of residential brick in Alabama, Indiana, Kentucky, Michigan, Ohio, or Tennessee without first providing at least 30 calendar days advance notification to the United States. Pursuant to the proposed Final Judgment, during the term of the proposed Final Judgment, Defendants Wienerberger AG, General Shale, and Meridian must notify the United States of such acquisitions as it would for a required HSR Act filing, as specified in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations. The proposed Final Judgment further provides for waiting periods and opportunities for the United States to obtain additional information analogous to the provisions of the HSR Act before such acquisitions can be consummated. Requiring notification of any such acquisition will permit the United States, as relevant, to assess the competitive effects of that acquisition before it is consummated and, if necessary, seek to enjoin the transaction.

The proposed Final Judgment also contains provisions designed to promote compliance with and make enforcement of the Final Judgment as effective as possible. Paragraph XIV(A) provides that the United States retains and reserves all rights to enforce the Final Judgment, including the right to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance with the Final Judgment with the standard of proof that applies to the underlying offense that the Final Judgment addresses.

Paragraph XIV(B) provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment is intended to remedy the loss of competition the United States alleges would otherwise be caused by the transaction. Defendants agree that they will abide by the proposed Final Judgment and that they may be held in contempt of the Court for failing to comply with any provision of the proposed Final Judgment that is stated

specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XIV(C) provides that if the Court finds in an enforcement proceeding that a Defendant has violated the Final Judgment, the United States may apply to the Court for an extension of the Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the Final Judgment, Paragraph XIV(C) provides that, in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved before litigation, the Defendant must reimburse the United States for attorneys' fees, experts' fees, and other costs incurred in connection with that effort to enforce this Final Judgment, including the investigation of the potential violation.

Paragraph XIV(D) states that the United States may file an action against a Defendant for violating the Final Judgment for up to four years after the Final Judgment has expired or been terminated. This provision is meant to address circumstances such as when evidence that a violation of the Final Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or been terminated or when there is not sufficient time for the United States to complete an investigation of an alleged violation until after the Final Judgment has expired or been terminated. This provision, therefore, makes clear that, for four years after the Final Judgment has expired or been terminated, the United States may still challenge a violation that occurred during the term of the Final Judgment.

Finally, Section XV of the proposed Final Judgment provides that the Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and continuation of the Final Judgment is no longer necessary or in the public interest.

IV. Remedies Available to Potential Private Plaintiffs

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment neither impairs nor assists the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of the Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, the comments and the United States' responses will be published in the **Federal Register** unless the Court agrees that the United States instead may publish them on the U.S. Department of Justice, Antitrust Division's internet website.

Written comments should be submitted in English to: Jay D. Owen, Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

As an alternative to the proposed Final Judgment, the United States considered a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against General Shale's acquisition of Meridian. The United States is satisfied, however, that the relief required by the proposed Final Judgment will remedy the anticompetitive effects alleged in the Complaint, preserving competition for the design, manufacture, and sale of residential brick in the eight geographic markets alleged in the Complaint. Thus, the proposed Final Judgment achieves all or substantially all of the relief the United States would have obtained through litigation but avoids the time, expense, and uncertainty of a full trial on the merits.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

Under the Clayton Act and APPA, proposed Final Judgments, or ''consent decrees,'' in antitrust cases brought by the United States are subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

> (A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney

Act settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a proposed Final Judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable'').

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not ''make de novo determination of facts and issues.'' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted). ''The court should bear in mind the *flexibility* of the public interest inquiry: the court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Microsoft,* 56 F.3d at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' (internal citations omitted)); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '' *Microsoft,* 56 F.3d at 1461 (*quoting W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, Pub. L. 108–237 § 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: October19, 2021

Respectfully submitted,

For Plaintiff United States of America:

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APPENDIX A

1. General Shale's Mooresville, IN manufacturing facility at 148 Sycamore Lane, Mooresville, IN 46158;
2. General Shale's Edwards Mine, at West Merriman Road, Mooresville, IN;
3. Meridian's Gleason, TN manufacturing facility at 4970 Old State Highway 22, Gleason, TN 38229;
4. Meridian's Rich Mine at 179 Cypress Lane, Gleason TN;
5. Meridian's Collins Mine at 1300 Finch Road, Gleason, TN;
6. Meridian's Lease agreement for the Wingo Mine, Humphrey Road, Hickman, KY;
7. Meridian's Bessemer, AL manufacturing facility at 8250 Hopewell Road SE, Bessemer, AL 35022;
8. Meridian's Vulcan Mine at Vulcan Road SE, Bessemer, AL 35022; and
9. Meridian's Centreville Mine, Parcel 1 and Parcel 2 Highway 5, Brent, AL 35034.

APPENDIX B

1. General Shale's Mooresville, IN distribution yard located at 148 Sycamore Lane, Mooresville, IN 46158;

2. General Shale's Evansville, IN distribution yard located at 3401 Mt Vernon Ave, Evansville, IN 47712;
3. General Shale's Sterling Heights, MI distribution yard located at 42374 Mound Rd, Sterling Heights, MI 48314;
4. General Shale's Whitmore Lake, MI distribution yard located at 6556 Whitmore Lake Rd, Whitmore Lake, MI 48189;
5. Meridian's Bessemer AL distribution yard located at 8250 Hopewell Road SE, Bessemer, AL 35022;
6. Meridian's Clarksville, TN distribution yard located at 181 Terminal Road, Clarksville, TN 37040
7. Meridian's Florence, AL distribution yard located at 3309 Hough Road, Florence, AL 35630;
8. Meridian's Huntsville, AL distribution yard located at 154 Slaughter Rd, Madison, AL 35758;
9. Meridian's Knoxville, TN distribution yard located at 641 Corporate Point Way, Knoxville, TN 37932
10. Meridian's Memphis, TN distribution yard located at 9525 Macon Road, Cordova, TN 38016;
11. Meridian's Nashville, TN distribution yard located at 7140 Centennial Place, Nashville, TN 37209;
12. Meridian's Nashville, TN leased property located at 7230 Centennial Place, Nashville, TN 37209;
13. Meridian's Pelham Store located at Pelham Town Center, 381 Huntley Pkwy, Pelham, AL 35124; and
14. Meridian's Tupelo, MS distribution yard located at 1735 McCullough Blvd., Tupelo, MS 38801.

APPENDIX C: List of Retained Assets

1. With respect to the Centennial (Nashville), Tennessee Distribution Yard only, all equipment used in or related to Meridian's ''tint center'' operations for its stucco business;
2. With respect to the Whitmore Lake (Detroit), Michigan Distribution Yard, one trailer with a purchase order dated February 11, 2021; and
3. With respect to the Mooresville Plant, the non-essential real property, being approximately 78+/− acres, Parcel 55–05–12–400–003.000–005, Morgan County, Indiana.

[FR Doc. 2021–23205 Filed 10–22–21; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Neenah Enterprises, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Neenah Enterprises, Inc., U.S. Holdings, Inc., and U.S. Foundry and Manufacturing Corporation,* Civil Action No. 1:21–cv–02701. On October 14, 2021, the United States filed a Complaint alleging that Neenah Enterprises' proposed acquisition of substantially all of the assets of U.S. Holdings' subsidiary US Foundry would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Defendants to divest all rights, titles, and interests in over 500 gray iron municipal casting patterns used across eleven states.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be submitted in English and directed to Jay Owen, Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division, Department of Justice.

United States District Court for the District of Columbia

United States of America, U.S. Department of Justice Antitrust Division, 450 Fifth Street NW, Suite 8700, Washington, DC 20530, Plaintiff, v. *Neenah Enterprises, Inc., 2021 Brooks Avenue, Neenah, WI 54956; U.S. Holdings, Inc., 3200 W 84th Street Hialeah, FL 33018*; and *U.S. Foundry and Manufacturing Corporation 8351 NW 93rd Street, Medley, FL 33166*, Defendants.

Case No. 1:21-cv-02701

Complaint

The United States of America (''United States''), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against Defendants Neenah Enterprises, Inc. (''NEI''), U.S. Holdings, Inc., and its wholly-owned subsidiary U.S. Foundry and Manufacturing Corporation (''US Foundry''), to enjoin the proposed acquisition of US Foundry by NEI. The United States complains and alleges as follows:

I. Nature of the Action

1. Pursuant to a purchase agreement dated March 9, 2021, NEI proposes to acquire substantially all of the assets of U.S. Holdings' subsidiary US Foundry for approximately $110 million. Today, the Defendants compete vigorously across several states in the design, production, and sale of gray iron municipal castings that are used as manhole covers and frames, grates, and drains.

2. NEI and US Foundry are two of only three significant suppliers of gray iron municipal castings in eleven eastern and southern states (collectively, and as defined in paragraph 15, *infra,* the ''overlap states''). Competition between NEI and US Foundry has driven down prices, increased the quality, and reduced the delivery times for gray iron municipal castings sold in the overlap states. The proposed acquisition would eliminate this competition and likely lead to higher prices, lower quality, and slower delivery times.

3. As a result, the proposed acquisition would substantially lessen competition for the design, production, and sale of gray iron municipal castings in the overlap states in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

II. Defendants and the Transaction

4. NEI is a corporation headquartered in Neenah, Wisconsin, that specializes in the design, production, and sale of gray and ductile iron castings at two foundries in Neenah, Wisconsin, and Lincoln, Nebraska. NEI's Lincoln foundry produces exclusively gray iron municipal castings. NEI also offers forging, machining, and assembly of key components for heavy truck, agriculture, and industrial uses. NEI had 2020 revenues of $343.3 million, of which approximately $152 million was derived from gray iron municipal castings.

5. U.S. Holdings, based in Hialeah, Florida, is a holding company with two major subsidiaries, US Foundry and Eagle Metal Processing and Recycling, Inc. US Foundry has one iron foundry located in Medley, Florida, that makes gray iron municipal castings. US Foundry had 2020 revenues of approximately $90 million, of which approximately $73 million was derived from gray iron municipal castings.

6. On March 9, 2021, NEI and U.S. Holdings signed an agreement under which NEI will acquire US Foundry and

additional assets from U.S Holdings for $110 million.

III. Jurisdiction and Venue

7. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. 25, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

8. Defendants design and produce gray iron municipal castings for manhole covers and frames, grates, and drains, sold for use throughout several of the United States, and their activities in these areas substantially affect interstate commerce. This Court therefore has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

9. Defendants have consented to venue and personal jurisdiction in this judicial district. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. 22, and under 28 U.S.C. 1391(b) and (c).

IV. Gray Iron Municipal Castings

A. Background

10. Gray iron municipal castings are molded iron products produced at iron foundries and include products such as manhole covers and frames, drainage grates, inlets, and tree grates. Many of these castings are used by governmental and private customers to provide access to subterranean utility systems such as those for gas, sewage, and water management, and as such, these castings are necessary components for construction and infrastructure projects.

11. Gray iron municipal castings are customized to a purchaser's specifications for the physical characteristics of these products, including strength, width, length, and any distinguishing marks, such as municipal logos. Customer specifications are used by the manufacturer to make a reusable pattern that is an exact replica of the final product. During the casting process, reusable patterns are pressed into a sand mold box to create an impression in the sand. After the pattern is removed, molten iron is poured into the sand mold to create the casting. The casting is then removed, cooled, and finished by shot-blasting or other machining before being shipped to the customer.

12. Gray iron municipal castings are used most often in construction and infrastructure projects, with smaller volumes used for maintenance or repair purposes. A state department of transportation (''DOT''), county, or municipality typically determines the specifications of the gray iron municipal castings that can be used in projects within its authority. Municipalities and counties often adopt the relevant DOT's technical specifications, and commercial projects may choose to adopt DOT specifications even when not required. A DOT, county, or municipality also may have a qualified product list that identifies approved patterns and manufacturers for specific gray iron municipal castings.

B. Relevant Product and Geographic Market

1. Product Market: Gray Iron Municipal Castings

13. There are no functional or economic substitutes for gray iron municipal castings, which are customized according to unique specifications designed to meet the customer's goals of subterranean access or water drainage as part of an integrated and possibly complex public infrastructure project. For example, a state DOT will specify the exact dimensions and structural requirements of each casting for all DOT construction products. Other customers, such as counties or municipalities within a state, will often use state DOT specifications for size and structural integrity, but will further customize their gray iron municipal castings by including the town name or other distinguishing marks on the casting or by specifying custom shapes for lifting holes. These customer-specified requirements mean that gray iron municipal castings made for a particular project or municipality typically cannot be used on other projects or in other areas.

14. Because there are no reasonable substitutes for gray iron municipal castings, a hypothetical monopolist of gray iron municipal castings could profitably impose a small but significant increase in price without losing significant sales to alternative products. The sale of gray iron municipal castings therefore constitutes a line of commerce within the meaning of Section 7 of the Clayton Act, 15 U.S.C. 18.

2. Geographic Market: Overlap States

15. In Alabama, Florida, Georgia, Indiana, Maryland, New Jersey, New York, North Carolina, South Carolina, Tennessee, and Virginia (the ''overlap states''), both NEI and US Foundry have committed significant capital to develop the specific patterns for gray iron municipal castings used by customers in those states and have made substantial investments to develop an efficient distribution network in those states for their gray iron municipal castings.

16. Because the custom design of a casting means a buyer cannot successfully use gray iron municipal castings designed for projects outside the overlap states for projects within the overlap states, customers cannot buy gray iron municipal castings designed for projects outside the overlap states to avoid a higher price charged by foundries designing castings for projects within the overlap states.

17. A hypothetical monopolist of gray iron municipal castings sold to customers in the overlap states could thus profitably impose a small but significant increase in the price of gray iron municipal castings without losing significant sales to product substitution or arbitrage. The sale of gray iron municipal castings to customers in the overlap states therefore constitutes a relevant market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. 18.

V. Anticompetitive Effects of the Proposed Transaction

18. NEI and US Foundry compete for sales of gray iron municipal castings primarily on the basis of price, quality, and speed of delivery. This competition has resulted in lower prices, higher quality, and shorter delivery times. This competition has been particularly important for customers in the overlap states where NEI and US Foundry compete vigorously today.

19. In the overlap states, NEI and US Foundry have developed hundreds of approved designs and patterns and are two of only three firms with a significant presence in the design, production, and sale of gray iron municipal castings. Both firms consistently bid on customer contracts in the overlap states, and customers use the competition between the two firms to obtain lower prices, higher quality, and shorter delivery times.

20. While other firms occasionally compete for contracts in the overlap states, these fringe competitors typically have a small presence and are unlikely to replace the competition lost as a result of the proposed transaction. In particular, other than NEI, US Foundry, and one other firm, smaller competitors have not invested the time and money to develop, seek approval for, and produce the hundreds of patterns necessary to compete for projects in the overlap states nor have they invested in distribution for castings within those states. As a result, these smaller competitors are severely disadvantaged because they cannot price competitively due to the fact that they must first design and seek approval for new patterns in order to bid for projects in

the overlap states, and they cannot deliver gray iron municipal castings in as timely a manner as NEI and US Foundry.

21. Because of the limited competitive significance of these fringe participants, a merged NEI/US Foundry would be faced with only one significant alternate supplier in the overlap states. Faced with limited competition, the merged firm likely would have the incentive and ability to increase prices, lower quality, and increase delivery times. The proposed acquisition, therefore, likely would substantially lessen competition in the design, production, and sale of gray iron municipal castings in the overlap states in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

VI. Difficulty of Entry

22. New production facilities, sales infrastructure, and distribution networks for gray iron municipal castings require a substantial investment in both capital equipment and human resources. To be competitively viable, a new entrant would need to construct a foundry or establish production lines at an existing foundry capable of manufacturing the castings, as well as establish a system of regional distribution. This process would be capital intensive and likely take years to complete.

23. Similarly, a firm currently making gray iron municipal castings for use outside the overlap states is unlikely to expand into the overlap states. This is because such an entrant would not have proven or approved designs and patterns or established local distribution. It is highly unlikely that new entrants or firms thinking of geographic expansion would invest the time and money needed to create a portfolio of new, as-yet unapproved designs and patterns of sufficient scale to compete in the overlap states on the speculative possibility of attracting enough new business to justify the investment.

24. As a result, entry or expansion into the market for gray iron municipal castings in the overlap states would not be timely, likely, or sufficient to defeat the anticompetitive effects likely to result from the combination of NEI and US Foundry.

VII. Violations Alleged

25. NEI's proposed acquisition of US Foundry likely would substantially lessen competition in the design, production, and sale of gray iron municipal castings in the eleven overlap states listed above, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

26. Unless enjoined, the proposed acquisition would likely have the following anticompetitive effects, among others, related to the relevant market:

a. A substantial lessening of competition for gray iron municipal castings in the overlap states;

b. an elimination of actual and potential head-to-head competition between NEI and US Foundry for the design, production, and sale of gray iron municipal castings in the overlap states; and

c. prices for gray iron municipal castings in the overlap states would increase, the quality of those castings would decrease, and delivery times would increase.

VIII. Request for Relief

27. The United States requests that this Court:

a. Adjudge and decree NEI's proposed acquisition of US Foundry to be unlawful and in violation of Section 7 of the Clayton Act, 15 U.S.C. 18;

b. preliminarily and permanently enjoin and restrain Defendants and all persons acting on their behalf from consummating the proposed acquisition of US Foundry by NEI, or from entering into or carrying out any other contract, agreement, plan, or understanding which would combine US Foundry's gray iron municipal castings business with NEI;

c. award the United States its costs for this action; and

d. award the United States such other and further relief as the Court deems just and proper.

Dated: October 14, 2021.

Respectfully submitted,

Counsel for Plaintiff United States:

/s/Richard A. Powers
Richard A. Powers,
Acting Assistant Attorney General, Antitrust Division.

/s/Kathleen S. O'Neill
Kathleen S. O'Neill,
Senior Director of Investigations and Litigation, Antitrust Division.

/s/Jay D. Owen
Jay D. Owen,
Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division.

/s/Soyoung Choe
Soyoung Choe,
Acting Assistant Chief, Defense, Industrials, and Aerospace Section, Antitrust Division.

/s/Bashiri Wilson
* Bashiri Wilson (D.C. Bar # 998075)
James K. Foster
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Trial Attorneys, Defense, Industrials, and Aerospace Section, Antitrust Division, 450 Fifth Street NW, Suite 8700, Washington, DC 20530, Telephone: (202) 476–0432, Email: bashiri.wilson@usdoj.gov.

** Lead Attorney To Be Noticed.*

United States District Court for the District of Columbia

United States of America, Plaintiff, *v. Neenah Enterprises, Inc., U.S. Holdings, Inc., and U.S. Foundry and Manufacturing Corporation,* Defendants.

Case No. 1:21–cv–02701

Proposed Final Judgment

Whereas, Plaintiff, United States of America, filed its Complaint on October 14, 2021;

And whereas, the United States and Defendants, Neenah Enterprises, Inc. (''NEI''), U.S. Holdings, Inc. (''U.S. Holdings''), and U.S. Foundry and Manufacturing Corporation (''US Foundry'') have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

And whereas, Defendants agree to make a divestiture to remedy the loss of competition alleged in the Complaint;

And whereas, Defendants represent that the divestiture and other relief required by this Final Judgment can and will be made and that Defendants will not later raise a claim of hardship or difficulty as grounds for asking the Court to modify any provision of this Final Judgment;

Now therefore, it is *Ordered, Adjudged, and Decreed*:

I. Jurisdiction

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''NEI'' means Defendant Neenah Enterprises, Inc., a Delaware corporation with its headquarters in Neenah, Wisconsin, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''US Foundry'' means Defendant U.S. Foundry and Manufacturing Corporation, a Florida corporation with its headquarters in Medley, Florida, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''U.S. Holdings'' means Defendant U.S. Holdings, Inc., a Florida corporation with its headquarters in Hialeah, Florida, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''D&L Foundry'' means D&L Foundry, Inc., a Washington corporation with its headquarters in Moses Lake, Washington, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. ''Acquirer'' means D&L Foundry or another entity approved by the United States in its sole discretion to which Defendants divest the Divestiture Assets.

F. ''Divestiture Patterns'' means the patterns listed in Appendix A.

G. ''Divestiture Assets'' means all of Defendants' rights, titles, and interests in and to

1. the Divestiture Patterns;

2. all drawings, measurements, and specifications relating to or used in connection with the Divestiture Patterns; and

3. all licenses, permits, certifications, approvals, consents, registrations, waivers, authorizations, and all pending applications or renewals for the same, relating to or used in connection with the Divestiture Patterns, including those issued or granted by any governmental entity or organization

H. ''Divestiture Date'' means the date on which the Divestiture Assets are divested to Acquirer pursuant to this Final Judgment.

I. ''Including'' means including, but not limited to.

J. ''Transaction'' means the proposed acquisition by NEI of certain assets from U.S. Holdings, pursuant to a purchase agreement dated March 9, 2021, between NEI and U.S. Holdings.

III. Applicability

A. This Final Judgment applies to NEI, U.S. Holdings, and US Foundry, as defined above, and all other persons in active concert or participation with any Defendant who receive actual notice of this Final Judgment.

B. If, prior to complying with Section IV and Section V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or business units that include the Divestiture Assets, Defendants must require any purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from Acquirer.

IV. Divestiture

A. Defendants are ordered and directed, within 30 calendar days after the Court's entry of the Asset Preservation Stipulation and Order in this matter, to divest the Divestiture Assets in a manner consistent with this Final Judgment to D&L Foundry or another Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed 60 calendar days in total and will notify the Court of any extensions.

B. Defendants must use best efforts to divest the Divestiture Assets as expeditiously as possible. Defendants must take no action that would jeopardize the completion of the divestiture ordered by the Court, including any action to impede the permitting, operability, or divestiture of the Divestiture Assets.

C. Unless the United States otherwise consents in writing, divestiture pursuant to this Final Judgment must include the entire Divestiture Assets and must be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by Acquirer as part of a viable, ongoing business of the design, production, and sale, including distribution, of gray iron municipal castings and that the divestiture to Acquirer will remedy the competitive harm alleged in the Complaint.

D. The divestiture must be made to an Acquirer that, in the United States' sole judgment, has the intent and capability, including the necessary managerial, operational, technical, and financial capability, to compete effectively in the design, production, and sale, including distribution, of gray iron municipal castings.

E. The divestiture must be accomplished in a manner that satisfies the United States, in its sole discretion, that none of the terms of any agreement between Acquirer and Defendants gives Defendants the ability unreasonably to raise Acquirer's costs, to lower Acquirer's efficiency, or otherwise interfere in the ability of Acquirer to compete effectively in the design, production, and sale, including distribution, of gray iron municipal castings.

F. In the event Defendants are attempting to divest the Divestiture Assets to an Acquirer other than D&L Foundry, Defendants promptly must make known, by usual and customary means, the availability of the Divestiture Assets. Defendants must inform any person making an inquiry relating to a possible purchase of the Divestiture Assets that the Divestiture Assets are being divested in accordance with this Final Judgment and must provide that person with a copy of this Final Judgment. Defendants must offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets that are customarily provided in a due diligence process; *provided, however,* that Defendants need not provide information or documents subject to the attorney-client privilege or work-product doctrine. Defendants must make all information and documents available to the United States at the same time that the information and documents are made available to any other person.

G. Defendants must provide prospective Acquirers with (1) access to make inspections of the Divestiture Assets; (2) access to permitting documents and information relating to the Divestiture Assets; and (3) access to all financial, operational, or other documents and information relating to the Divestiture Assets that would customarily be provided as part of a due diligence process. Defendants also must disclose all encumbrances on any part of the Divestiture Assets, including on intangible property.

H. Defendants must warrant to Acquirer that (1) the Divestiture Assets will be operable and without material defect on the date of their transfer to Acquirer; (2) there are no material defects in the permits relating to the operability of the Divestiture Assets; and (3) Defendants have disclosed all encumbrances on any part of the Divestiture Assets, including on intangible property. Following the sale of the Divestiture Assets, Defendants must not undertake, directly or indirectly, challenges to the permits relating to the operation of the Divestiture Assets.

I. Defendants must use best efforts to assist Acquirer to obtain all necessary licenses, registrations, and permits to design, produce, and sell gray iron municipal castings using the Divestiture Patterns. Until Acquirer obtains the necessary licenses, registrations, and permits for the Divestiture Patterns, Defendants must provide Acquirer with the benefit of Defendants' licenses, registrations, and permits to the full extent permissible by law.

J. If any term of an agreement between Defendants and Acquirer, including an agreement to effectuate the divestiture required by this Final Judgment, varies from a term of this Final Judgment, to

the extent that Defendants cannot fully comply with both, this Final Judgment determines Defendants' obligations.

V. Appointment of Divestiture Trustee

A. If Defendants have not divested the Divestiture Assets within the period specified in Paragraph IV.A, Defendants must immediately notify the United States of that fact in writing. Upon application of the United States, which Defendants may not oppose, the Court will appoint a divestiture trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a divestiture trustee by the Court, only the divestiture trustee will have the right to sell the Divestiture Assets. The divestiture trustee will have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States, in its sole discretion, at a price and on terms obtainable through reasonable effort by the divestiture trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and will have other powers as the Court deems appropriate. The divestiture trustee must sell the Divestiture Assets as quickly as possible.

C. Defendants may not object to a sale by the divestiture trustee on any ground other than malfeasance by the divestiture trustee. Objections by Defendants must be conveyed in writing to the United States and the divestiture trustee within ten calendar days after the divestiture trustee has provided the notice of proposed divestiture required by Section VI.

D. The divestiture trustee will serve at the cost and expense of Defendants pursuant to a written agreement, on terms and conditions, including confidentiality requirements and conflict of interest certifications, approved by the United States in its sole discretion.

E. The divestiture trustee may hire at the cost and expense of Defendants any agents or consultants, including investment bankers, attorneys, and accountants, that are reasonably necessary in the divestiture trustee's judgment to assist with the divestiture trustee's duties. These agents or consultants will be accountable solely to the divestiture trustee and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion.

F. The compensation of the divestiture trustee and agents or consultants hired by the divestiture trustee must be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement that provides the divestiture trustee with incentives based on the price and terms of the divestiture and the speed with which it is accomplished. If the divestiture trustee and Defendants are unable to reach agreement on the divestiture trustee's compensation or other terms and conditions of engagement within 14 calendar days of the appointment of the divestiture trustee by the Court, the United States, in its sole discretion, may take appropriate action, including by making a recommendation to the Court. Within three business days of hiring an agent or consultant, the divestiture trustee must provide written notice of the hiring and rate of compensation to Defendants and the United States.

G. The divestiture trustee must account for all monies derived from the sale of the Divestiture Assets sold by the divestiture trustee and all costs and expenses incurred. Within 30 calendar days of the Divestiture Date, the divestiture trustee must submit that accounting to the Court for approval. After approval by the Court of the divestiture trustee's accounting, including fees for unpaid services and those of agents or consultants hired by the divestiture trustee, all remaining money must be paid to Defendants and the trust will then be terminated.

H. Defendants must use best efforts to assist the divestiture trustee to accomplish the required divestiture. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendants must provide the divestiture trustee and agents or consultants retained by the divestiture trustee with full and complete access to all personnel, books, records, and facilities of the Divestiture Assets. Defendants also must provide or develop financial and other information relevant to the Divestiture Assets that the divestiture trustee may reasonably request. Defendants must not take any action to interfere with or to impede the divestiture trustee's accomplishment of the divestiture.

I. The divestiture trustee must maintain complete records of all efforts made to sell the Divestiture Assets, including by filing monthly reports with the United States setting forth the divestiture trustee's efforts to accomplish the divestiture ordered by this Final Judgment. The reports must include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets and must describe in detail each contact.

J. If the divestiture trustee has not accomplished the divestiture ordered by this Final Judgment within six months of appointment, the divestiture trustee must promptly provide the United States with a report setting forth: (1) The divestiture trustee's efforts to accomplish the required divestiture; (2) the reasons, in the divestiture trustee's judgment, why the required divestiture has not been accomplished; and (3) the divestiture trustee's recommendations for completing the divestiture. Following receipt of that report, the United States may make additional recommendations to the Court. The Court thereafter may enter such orders as it deems appropriate to carry out the purpose of this Final Judgment, which may include extending the trust and the term of the divestiture trustee's appointment by a period requested by the United States.

K. The divestiture trustee will serve until divestiture of all Divestiture Assets is completed or for a term otherwise ordered by the Court.

L. If the United States determines that the divestiture trustee is not acting diligently or in a reasonably cost-effective manner, the United States may recommend that the Court appoint a substitute divestiture trustee.

VI. Notice of Proposed Divestiture

A. Within two business days following execution of a definitive agreement with an Acquirer other than D&L Foundry to divest the Divestiture Assets, Defendants or the divestiture trustee, whichever is then responsible for effecting the divestiture, must notify the United States of the proposed divestiture. If the divestiture trustee is responsible for completing the divestiture, the divestiture trustee also must notify Defendants. The notice must set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets.

B. Within 15 calendar days of receipt by the United States of the notice required by Paragraph VI.A, the United States may request from Defendants, the proposed Acquirer, other third parties, or the divestiture trustee additional information concerning the proposed divestiture, the proposed Acquirer, and other prospective Acquirers. Defendants

and the divestiture trustee must furnish the additional information requested within 15 calendar days of the receipt of the request unless the United States provides written agreement to a different period.

C. Within 45 calendar days after receipt of the notice required by Paragraph VI.A or within 20 calendar days after the United States has been provided the additional information requested pursuant to Paragraph VI.B, whichever is later, the United States will provide written notice to Defendants and any divestiture trustee that states whether the United States, in its sole discretion, objects to the proposed Acquirer or any other aspect of the proposed divestiture. Without written notice that the United States does not object, a divestiture may not be consummated. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph V.C of this Final Judgment. Upon objection by Defendants pursuant to Paragraph V.C, a divestiture by the divestiture trustee may not be consummated unless approved by the Court.

D. No information or documents obtained pursuant to this Section may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand-jury proceedings, for the purpose of evaluating a proposed Acquirer or securing compliance with this Final Judgment, or as otherwise required by law.

E. In the event of a request by a third party for disclosure of information under the Freedom of Information Act, 5 U.S.C. 552, the United States Department of Justice's Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Persons submitting information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire ten years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

F. If at the time that a person furnishes information or documents to the United States pursuant to this Section, that person represents and identifies in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States must give that person ten calendar days' notice before divulging the material in any legal proceeding (other than a grand-jury proceeding).

VII. Financing

Defendants may not finance all or any part of Acquirer's purchase of all or part of the Divestiture Assets.

VIII. Asset Preservation

Defendants must take all steps necessary to comply with the Asset Preservation Stipulation and Order entered by the Court.

IX. Affidavits

A. Within 20 calendar days of the filing of the Complaint in this matter, and every 30 calendar days thereafter until the divestiture required by this Final Judgment has been completed, each Defendant must deliver to the United States an affidavit, signed by each Defendant's Chief Financial Officer and General Counsel, describing in reasonable detail the fact and manner of that Defendant's compliance with this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

B. In the event Defendants are attempting to divest the Divestiture Assets to an Acquirer other than D&L Foundry, each affidavit required by Paragraph IX.A must include: (1) The name, address, and telephone number of each person who, during the preceding 30 calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, an interest in the Divestiture Assets and describe in detail each contact with such persons during that period; (2) a description of the efforts Defendants have taken to solicit buyers for and complete the sale of the Divestiture Assets and to provide required information to prospective Acquirers; and (3) a description of any limitations placed by Defendants on information provided to prospective Acquirers. Objection by the United States to information provided by Defendants to prospective Acquirers must be made within 14 calendar days of receipt of the affidavit, except that the United States may object at any time if the information set forth in the affidavit is not true or complete.

C. Defendants must keep all records of any efforts made to divest the Divestiture Assets until one year after the Divestiture Date.

D. Within 20 calendar days of the filing of the Complaint in this matter, each Defendant must deliver to the United States an affidavit signed by that Defendant's Chief Financial Officer and General Counsel, that describes in reasonable detail all actions that Defendant has taken and all steps that Defendant has implemented on an ongoing basis to comply with Section VIII of this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

E. If a Defendant makes any changes to the actions and steps described in affidavits provided pursuant to Paragraph IX.D., the Defendant must, within 15 calendar days after any change is implemented, deliver to the United States an affidavit describing those changes.

F. Defendants must keep all records of any efforts made to comply with Section VIII until one year after the Divestiture Date.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or of related orders such as the Asset Preservation Stipulation and Order or of determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, and reasonable notice to Defendants, Defendants must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. To have access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the

Assistant Attorney General for the Antitrust Division, Defendants must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

C. No information or documents obtained pursuant to this Section may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand jury proceedings, for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. In the event of a request by a third party for disclosure of information under the Freedom of Information Act, 5 U.S.C. 552, the Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Defendants submitting information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire ten years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

E. If at the time that Defendants furnish information or documents to the United States pursuant to this Section, Defendants represent and identify in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States must give Defendants ten calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of or any interest in the Divestiture Assets during the term of this Final Judgment without prior authorization of the United States.

XII. Retention of Jurisdiction

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Enforcement of Final Judgment

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendants agree that in a civil contempt action, a motion to show cause, or a similar action brought by the United States relating to an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore the competition the United States alleges was harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that Defendants have violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

D. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that a Defendant violated this Final Judgment before it expired, the United States may file an action against that Defendant in this Court requesting that the Court order: (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure the Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section.

XIV. Expiration of Final Judgment

Unless the Court grants an extension, this Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and continuation of this Final Judgment is no longer necessary or in the public interest.

XV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

_____

United States District Judge

Appendix A—Divested Patterns

Reference state	Description	From	Reference No.
Alabama	Trench Grate Frame Drag	Neenah	D55550509.
Alabama	Trench Grate Frame Cope	Neenah	D55550510.
Alabama	Trench Grate Lid/Grate Drag	Neenah	D55550515.
Alabama	Trench Grate Lid/Grate Drag	Neenah	D55550516.
Alabama	Trench Grate Lid/Grate Drag	Neenah	D55550517.
Alabama	Trench Grate Lid/Grate Drag	Neenah	D55550519.

Reference state	Description	From	Reference No.
Alabama	Trench Grate Lid/Grate Drag	Neenah	D55550525.
Alabama	Trench Grate Lid/Grate Drag	Neenah	D55550527.
Alabama	Trench Grate Lid/Grate Drag	Neenah	D55550528.
Alabama	Trench Grate Lid/Grate Cope	Neenah	Flat Back Cope.
Florida	Tree Grate Frame Drag	Neenah	D85006060.
Florida	Tree Grate Frame Cope	Neenah	K85006060.
Florida	Tree Grate Frame Cope	Neenah	K85004848.
Florida	Tree Grate Lid/Grate Drag	Neenah	D87070001.
Florida	Tree Grate Lid/Grate Drag	Neenah	D87080017.
Florida	Tree Grate Lid/Grate Drag	Neenah	D87060009.
Florida	Tree Grate Lid/Grate Cope	Neenah	K87070002.
Florida	Tree Grate Lid/Grate Cope	Neenah	K87080017.
Florida	Tree Grate Lid/Grate Cope	Neenah	K87060009.
Florida	Ring and Cover Frame Drag	Neenah	D00004135.
Florida	Ring and Cover Frame Drag	Neenah	D00004139.
Florida	Ring and Cover Frame Drag	Neenah	D55550230.
Florida	Ring and Cover Frame Cope	Neenah	K14700001.
Florida	Ring and Cover Frame Cope	Neenah	K96025042.
Florida	Ring and Cover Frame Cope	Neenah	K55550273.
Florida	Ring and Cover Lid/Grate Drag	Neenah	D99993104.
Florida	Ring and Cover Lid/Grate Drag	Neenah	D99992467.
Florida	Ring and Cover Lid/Grate Drag	Neenah	D55550625.
Florida	Ring and Cover Lid/Grate Cope	Neenah	K99993105.
Florida	Ring and Cover Lid/Grate Cope	Neenah	K99992465.
Florida	Ring and Cover Lid/Grate Cope	Neenah	K55550626.
Florida	Frame, Grate & Hood Frame Drag	Neenah	D99999939.
Florida	Frame, Grate & Hood Frame Cope	Neenah	K32900009.
Florida	Frame, Grate & Hood Lid/Grate Drag	Neenah	D99991297.
Florida	Frame, Grate & Hood Lid/Grate Cope	Neenah	K99991298.
Florida	Frame, Grate & Hood Other Cope	Neenah	D30670003.
Florida	Frame, Grate & Hood Other Drag	Neenah	K32957002.
Florida	Trench Frame and Grate Frame Drag	Neenah	D55550509.
Florida	Trench Frame and Grate Frame Cope	Neenah	D55550510.
Florida	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550515.
Florida	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550516.
Florida	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550519.
Florida	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550525.
Florida	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550527.
Florida	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550528.
Florida	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550529.
Florida	Trench Frame and Grate Lid/Grate Drag	Neenah	D49903267.
Florida	Trench Frame and Grate Lid/Grate Cope	Neenah	Flat Back Cope.
Georgia	Grate Lid/Grate Drag	Neenah	D22224977.
Georgia	Grate Lid/Grate Cope	Neenah	K22224978.
Georgia	Tree Grate Frame Drag	Neenah	D85006060.
Georgia	Tree Grate Frame Cope	Neenah	K85006060.
Georgia	Tree Grate Lid/Grate Drag	Neenah	D87120001.
Georgia	Tree Grate Lid/Grate Drag	Neenah	D87420002A.
Georgia	Tree Grate Lid/Grate Cope	Neenah	K87120001.
Georgia	Tree Grate Lid/Grate Cope	Neenah	K87420002.
Georgia	Tree Grate Other Cope	Neenah	D99991154.
Georgia	Tree Grate Other Drag	Neenah	K99991155.
Georgia	Ring Frame Drag	Neenah	D99992454.
Georgia	Ring Frame Cope	Neenah	K99992453.
Georgia	Ring Lid/Grate Drag	Neenah	D22229077.
Georgia	Ring Lid/Grate Cope	Neenah	K22229083.
Georgia	Ring and Cover Frame Drag	Neenah	D00004130.
Georgia	Ring and Cover Frame Drag	Neenah	D99992455.
Georgia	Ring and Cover Frame Cope	Neenah	K00004130.
Georgia	Ring and Cover Frame Cope	Neenah	K99992453.
Georgia	Ring and Cover Lid/Grate Drag	Neenah	D99992464.
Georgia	Ring and Cover Lid/Grate Drag	Neenah	D99992475.
Georgia	Ring and Cover Lid/Grate Cope	Neenah	K99992463.
Georgia	Ring and Cover Lid/Grate Cope	Neenah	K99992474.
Georgia	Frame, Grate & Hood Frame Drag	Neenah	D00004141.
Georgia	Frame, Grate & Hood Frame Drag	Neenah	D55551479.
Georgia	Frame, Grate & Hood Frame Cope	Neenah	K00004141.
Georgia	Frame, Grate & Hood Frame Cope	Neenah	K55551478.
Georgia	Frame, Grate & Hood Lid/Grate Drag	Neenah	D99992445.
Georgia	Frame, Grate & Hood Lid/Grate Drag	Neenah	D22212304.
Georgia	Frame, Grate & Hood Lid/Grate Cope	Neenah	K99992444.
Georgia	Frame, Grate & Hood Lid/Grate Cope	Neenah	K22212305.
Georgia	Frame, Grate & Hood Other Cope	Neenah	D00004132.
Georgia	Frame, Grate & Hood Other Drag	Neenah	K00004132.

Reference state	Description	From	Reference No.
Georgia	Trench Frame and Grate Frame Drag	Neenah	D55550509.
Georgia	Trench Frame and Grate Frame Cope	Neenah	D55550510.
Georgia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550515.
Georgia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550516.
Georgia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550517.
Georgia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550519.
Georgia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550525.
Georgia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550527.
Georgia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550528.
Georgia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550529.
Georgia	Trench Frame and Grate Lid/Grate Cope	Neenah	Flat Back Cope.
North Carolina	Tree Grate Frame Drag	Neenah	D85006060.
North Carolina	Tree Grate Frame Cope	Neenah	K85006060.
North Carolina	Tree Grate Frame Cope	Neenah	K85004848/7272.
North Carolina	Tree Grate Lid/Grate Drag	Neenah	D87070001.
North Carolina	Tree Grate Lid/Grate Drag	Neenah	D88150001.
North Carolina	Tree Grate Lid/Grate Cope	Neenah	K87070002.
North Carolina	Tree Grate Lid/Grate Cope	Neenah	K88150001.
North Carolina	Trench Frame and Grate Frame Drag	Neenah	D55550509.
North Carolina	Trench Frame and Grate Frame Cope	Neenah	D55550510.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550515.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550516.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550517.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550518.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550519.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550525.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550527.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550528.
North Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550541.
North Carolina	Trench Frame and Grate Lid/Grate Cope	Neenah	Flat Back Cope.
South Carolina	Tree Grate Frame Drag	Neenah	D85006060.
South Carolina	Tree Grate Frame Cope	Neenah	K85006060.
South Carolina	Tree Grate Frame Cope	Neenah	K85004848.
South Carolina	Tree Grate Lid/Grate Drag	Neenah	D87120001.
South Carolina	Tree Grate Lid/Grate Drag	Neenah	D87420001.
South Carolina	Tree Grate Lid/Grate Cope	Neenah	K87120001.
South Carolina	Tree Grate Other Cope	Neenah	D99991154.
South Carolina	Tree Grate Other Drag	Neenah	K99991155.
South Carolina	Trench Frame and Grate Frame Drag	Neenah	D55550509.
South Carolina	Trench Frame and Grate Frame Cope	Neenah	D55550510.
South Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550515.
South Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550516.
South Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550517.
South Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550525.
South Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550527.
South Carolina	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550528.
South Carolina	Trench Frame and Grate Lid/Grate Cope	Neenah	Flat Back Cope.
Virginia	Ring and Cover Frame Drag	Neenah	D99991598.
Virginia	Ring and Cover Frame Drag	Neenah	D55550230.
Virginia	Ring and Cover Frame Cope	Neenah	K99991597.
Virginia	Ring and Cover Frame Cope	Neenah	K55550273.
Virginia	Ring and Cover Lid/Grate Drag	Neenah	D55550751.
Virginia	Ring and Cover Lid/Grate Drag	Neenah	D55550625.
Virginia	Ring and Cover Lid/Grate Cope	Neenah	K55550752.
Virginia	Ring and Cover Lid/Grate Cope	Neenah	K55550626.
Virginia	Trench Frame and Grate Lid/Grate Frame Drag	Neenah	D55550509.
Virginia	Trench Frame and Grate Lid/Grate Frame Cope	Neenah	D55550510.
Virginia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550515.
Virginia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550516.
Virginia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550517.
Virginia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550519.
Virginia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550525.
Virginia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550527.
Virginia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550528.
Virginia	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550541.
Virginia	Trench Frame and Grate Lid/Grate Cope	Neenah	Flat Back Cope.
Indiana	Frame, Grate & Hood Frame Drag	Neenah	D99999939.
Indiana	Frame, Grate & Hood Frame Cope	Neenah	K32900009.
Indiana	Frame, Grate & Hood Lid/Grate Drag	Neenah	D99991297.
Indiana	Frame, Grate & Hood Lid/Grate Cope	Neenah	K99991298.
Indiana	Frame, Grate & Hood Other Cope	Neenah	D30670003.
Indiana	Frame, Grate & Hood Other Drag	Neenah	K32957002.
New Jersey	Ring Frame Drag	Neenah	D16532000.
New Jersey	Ring Frame Drag	Neenah	D99992349.

Reference state	Description	From	Reference No.
New Jersey	Ring Frame Drag	Neenah	D99992184.
New Jersey	Ring Frame Drag	Neenah	D99992181.
New Jersey	Ring Frame Drag	Neenah	D99992576.
New Jersey	Ring Frame Drag	Neenah	D99991437.
New Jersey	Ring Frame Drag	Neenah	D15602001.
New Jersey	Ring Frame Drag	Neenah	D99991269.
New Jersey	Ring Frame Drag	Neenah	D15602004.
New Jersey	Ring Frame Drag	Neenah	D99999835.
New Jersey	Ring Frame Drag	Neenah	D99992172.
New Jersey	Ring Frame Drag	Neenah	D17400006.
New Jersey	Ring Frame Drag	Neenah	D15582000.
New Jersey	Ring Frame Drag	Neenah	D55550247.
New Jersey	Ring Frame Cope	Neenah	K16532000.
New Jersey	Ring Frame Cope	Neenah	K99991332.
New Jersey	Ring Frame Cope	Neenah	K99992184.
New Jersey	Ring Frame Cope	Neenah	K99992180.
New Jersey	Ring Frame Cope	Neenah	K99991270.
New Jersey	Ring Frame Cope	Neenah	K99991436.
New Jersey	Ring Frame Cope	Neenah	K99992503.
New Jersey	Ring Frame Cope	Neenah	K99991270.
New Jersey	Ring Frame Cope	Neenah	K15602004.
New Jersey	Ring Frame Cope	Neenah	K99999977.
New Jersey	Ring Frame Cope	Neenah	K99992171.
New Jersey	Ring Frame Cope	Neenah	K17400006.
New Jersey	Ring Frame Cope	Neenah	K15582000.
New Jersey	Ring Frame Cope	Neenah	K55550248.
New Jersey	Ring and Cover Frame Drag	Neenah	D16532000.
New Jersey	Ring and Cover Frame Drag	Neenah	D99992349.
New Jersey	Ring and Cover Frame Drag	Neenah	D99992184.
New Jersey	Ring and Cover Frame Drag	Neenah	D99992181.
New Jersey	Ring and Cover Frame Drag	Neenah	D99991437.
New Jersey	Ring and Cover Frame Drag	Neenah	D19302318.
New Jersey	Ring and Cover Frame Drag	Neenah	D15602001.
New Jersey	Ring and Cover Frame Drag	Neenah	D15572010.
New Jersey	Ring and Cover Frame Drag	Neenah	D55550676.
New Jersey	Ring and Cover Frame Drag	Neenah	D99999835.
New Jersey	Ring and Cover Frame Drag	Neenah	D99992172.
New Jersey	Ring and Cover Frame Drag	Neenah	D17400006.
New Jersey	Ring and Cover Frame Drag	Neenah	D17500068.
New Jersey	Ring and Cover Frame Drag	Neenah	D17400006.
New Jersey	Ring and Cover Frame Drag	Neenah	D15582000.
New Jersey	Ring and Cover Frame Drag	Neenah	D17390001.
New Jersey	Ring and Cover Frame Drag	Neenah	D55550247.
New Jersey	Ring and Cover Frame Cope	Neenah	K16532000.
New Jersey	Ring and Cover Frame Cope	Neenah	K99991332.
New Jersey	Ring and Cover Frame Cope	Neenah	K99992184.
New Jersey	Ring and Cover Frame Cope	Neenah	K99992180.
New Jersey	Ring and Cover Frame Cope	Neenah	K99991436.
New Jersey	Ring and Cover Frame Cope	Neenah	K19302318.
New Jersey	Ring and Cover Frame Cope	Neenah	K99992503.
New Jersey	Ring and Cover Frame Cope	Neenah	K15572010.
New Jersey	Ring and Cover Frame Cope	Neenah	K55550677.
New Jersey	Ring and Cover Frame Cope	Neenah	K99999977.
New Jersey	Ring and Cover Frame Cope	Neenah	K99992171.
New Jersey	Ring and Cover Frame Cope	Neenah	K17400006.
New Jersey	Ring and Cover Frame Cope	Neenah	K17500068.
New Jersey	Ring and Cover Frame Cope	Neenah	K17400006.
New Jersey	Ring and Cover Frame Cope	Neenah	K15582000.
New Jersey	Ring and Cover Frame Cope	Neenah	K17390001.
New Jersey	Ring and Cover Frame Cope	Neenah	K55550248.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99991069.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99992179.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99992179.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99992179.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99991046.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D19302318.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99991323.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99991919.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99991919.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99991234.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99992174.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99999735.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99999355.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99999735.

Reference state	Description	From	Reference No.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99992179.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D99999735.
New Jersey	Ring and Cover Lid/Grate Drag	Neenah	D55550197.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99991070.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99999467.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99999467.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99999467.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99991047.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K19302318.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99991314.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99991039.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99991039.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99999335.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99991140.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99999734.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99999112.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99999734.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99999467.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K99998952.
New Jersey	Ring and Cover Lid/Grate Cope	Neenah	K55550148.
New Jersey	Ring and Grate Frame Drag	Neenah	D99991454.
New Jersey	Ring and Grate Frame Drag	Neenah	D99992172.
New Jersey	Ring and Grate Frame Drag	Neenah	D99991454.
New Jersey	Ring and Grate Frame Drag	Neenah	D99992172.
New Jersey	Ring and Grate Frame Cope	Neenah	K99991455.
New Jersey	Ring and Grate Frame Cope	Neenah	K99992171.
New Jersey	Ring and Grate Lid/Grate Drag	Neenah	D25600016.
New Jersey	Ring and Grate Lid/Grate Drag	Neenah	D22224638.
New Jersey	Ring and Grate Lid/Grate Cope	Neenah	K25600016.
New Jersey	Ring and Grate Lid/Grate Cope	Neenah	K22224639.
New Jersey	Frame Frame Drag	Neenah	D35890006.
New Jersey	Frame Frame Drag	Neenah	D00004371.
New Jersey	Frame Frame Cope	Neenah	K35890006.
New Jersey	Frame Frame Cope	Neenah	K00004371.
New Jersey	Frame and Cover Frame Drag	Neenah	D18780038.
New Jersey	Frame and Cover Frame Drag	Neenah	D99991272.
New Jersey	Frame and Cover Frame Cope	Neenah	K18780038.
New Jersey	Frame and Cover Frame Cope	Neenah	K99991272.
New Jersey	Frame and Cover Lid/Grate Drag	Neenah	D18780071.
New Jersey	Frame and Cover Lid/Grate Drag	Neenah	D22224904.
New Jersey	Frame and Cover Lid/Grate Cope	Neenah	K99055036.
New Jersey	Frame and Cover Lid/Grate Cope	Neenah	K22224905.
New Jersey	Frame and Grate Frame Drag	Neenah	D32660001.
New Jersey	Frame and Grate Frame Drag	Neenah	D18780063.
New Jersey	Frame and Grate Frame Drag	Neenah	D35890002A.
New Jersey	Frame and Grate Frame Drag	Neenah	D99999539.
New Jersey	Frame and Grate Frame Drag	Neenah	D18780030.
New Jersey	Frame and Grate Frame Drag	Neenah	D99999349.
New Jersey	Frame and Grate Frame Drag	Neenah	D99999349.
New Jersey	Frame and Grate Frame Drag	Neenah	D00004370.
New Jersey	Frame and Grate Frame Drag	Neenah	D55550951.
New Jersey	Frame and Grate Frame Drag	Neenah	D00004371.
New Jersey	Frame and Grate Frame Drag	Neenah	D34052303.
New Jersey	Frame and Grate Frame Cope	Neenah	K96025042.
New Jersey	Frame and Grate Frame Cope	Neenah	K18780063.
New Jersey	Frame and Grate Frame Cope	Neenah	K99991067.
New Jersey	Frame and Grate Frame Cope	Neenah	K99999538.
New Jersey	Frame and Grate Frame Cope	Neenah	K18780030.
New Jersey	Frame and Grate Frame Cope	Neenah	K99999348.
New Jersey	Frame and Grate Frame Cope	Neenah	K99999348.
New Jersey	Frame and Grate Frame Cope	Neenah	K00004370.
New Jersey	Frame and Grate Frame Cope	Neenah	K55550950.
New Jersey	Frame and Grate Frame Cope	Neenah	K00004371.
New Jersey	Frame and Grate Frame Cope	Neenah	K34052303.
New Jersey	Frame and Grate Lid/Grate Drag	Neenah	D32660002.
New Jersey	Frame and Grate Lid/Grate Drag	Neenah	D18780065.
New Jersey	Frame and Grate Lid/Grate Drag	Neenah	D48083011.
New Jersey	Frame and Grate Lid/Grate Drag	Neenah	D18783054.
New Jersey	Frame and Grate Lid/Grate Drag	Neenah	D18780032.
New Jersey	Frame and Grate Lid/Grate Drag	Neenah	D99993081.
New Jersey	Frame and Grate Lid/Grate Drag	Neenah	D55551466.
New Jersey	Frame and Grate Lid/Grate Cope	Neenah	K32660002.
New Jersey	Frame and Grate Lid/Grate Cope	Neenah	K96125042.
New Jersey	Frame and Grate Lid/Grate Cope	Neenah	K48083011.

Reference state	Description	From	Reference No.
New Jersey	Frame and Grate Lid/Grate Cope	Neenah	K18783054.
New Jersey	Frame and Grate Lid/Grate Cope	Neenah	K18780032.
New Jersey	Frame and Grate Lid/Grate Cope	Neenah	K55551467.
New Jersey	Frame, Grate and Hood Frame Drag	Neenah	D00004371.
New Jersey	Frame, Grate and Hood Frame Cope	Neenah	K00004371.
New Jersey	Frame, Grate and Hood Lid/Grate Drag	Neenah	D55551466.
New Jersey	Frame, Grate and Hood Lid/Grate Cope	Neenah	K55551467.
New Jersey	Frame, Grate and Hood Other Cope	Neenah	D55550936.
New Jersey	Frame, Grate and Hood Other Cope	Neenah	D55550938.
New Jersey	Frame, Grate and Hood Other Drag	Neenah	K55550935.
New Jersey	Frame, Grate and Hood Other Drag	Neenah	K55550937.
New Jersey	Frame, Grate and Hood Other 2 Cope	Neenah	D55550942.
New Jersey	Frame, Grate and Hood Other 2 Drag	Neenah	K55550941.
New Jersey	Trench Frame Frame Drag	Neenah	D55550509.
New Jersey	Trench Frame Frame Cope	Neenah	D55550510.
New Jersey	Trench Frame and Grate Frame Drag	Neenah	D55550509.
New Jersey	Trench Frame and Grate Frame Cope	Neenah	D55550510.
New Jersey	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550516.
New Jersey	Trench Frame and Grate Lid/Grate Drag	Neenah	D55550527.
New Jersey	Trench Frame and Grate Lid/Grate Cope	Neenah	Flat Back Cope.
New Jersey	Grate Lid/Grate Drag	Neenah	D22226929.
New Jersey	Grate Lid/Grate Drag	Neenah	D99991066.
New Jersey	Grate Lid/Grate Drag	Neenah	D55550516.
New Jersey	Grate Lid/Grate Drag	Neenah	D99992035.
New Jersey	Grate Lid/Grate Drag	Neenah	D55550515.
New Jersey	Grate Lid/Grate Drag	Neenah	D55550516.
New Jersey	Grate Lid/Grate Drag	Neenah	D55550519.
New Jersey	Grate Lid/Grate Drag	Neenah	D55550525.
New Jersey	Grate Lid/Grate Drag	Neenah	D55550527.
New Jersey	Grate Lid/Grate Drag	Neenah	D55550528.
New Jersey	Grate Lid/Grate Drag	Neenah	D55551466.
New Jersey	Grate Lid/Grate Drag	Neenah	D22224776.
New Jersey	Grate Lid/Grate Cope	Neenah	K22226930.
New Jersey	Grate Lid/Grate Cope	Neenah	K99999184.
New Jersey	Grate Lid/Grate Cope	Neenah	Flat Back Cope.
New Jersey	Grate Lid/Grate Cope	Neenah	K99992036.
New Jersey	Grate Lid/Grate Cope	Neenah	K55551467.
New Jersey	Grate Lid/Grate Cope	Neenah	K22224778.
New Jersey	Tree Grate Frame Drag	Neenah	D85006060.
New Jersey	Tree Grate Frame Drag	Neenah	D85003636A.
New Jersey	Tree Grate Frame Drag	Neenah	D85003030.
New Jersey	Tree Grate Frame Cope	Neenah	K85004848.
New Jersey	Tree Grate Frame Cope	Neenah	K85003636.
New Jersey	Tree Grate Frame Cope	Neenah	K48808001.
New Jersey	Tree Grate Frame Cope	Neenah	K85007272.
New Jersey	Tree Grate Frame Cope	Neenah	K85006060.
New Jersey	Tree Grate Lid/Grate Drag	Neenah	D87080017.
New Jersey	Tree Grate Lid/Grate Drag	Neenah	D87040010.
New Jersey	Tree Grate Lid/Grate Drag	Neenah	D99991403.
New Jersey	Tree Grate Lid/Grate Drag	Neenah	D87150002.
New Jersey	Tree Grate Lid/Grate Drag	Neenah	D87120001.
New Jersey	Tree Grate Lid/Grate Cope	Neenah	K87080017.
New Jersey	Tree Grate Lid/Grate Cope	Neenah	K87040010.
New Jersey	Tree Grate Lid/Grate Cope	Neenah	K99991404.
New Jersey	Tree Grate Lid/Grate Cope	Neenah	K87150002.
New Jersey	Tree Grate Lid/Grate Cope	Neenah	K87120001.
New Jersey	Tree Grate Other Cope	Neenah	D99991154.
New Jersey	Tree Grate Other Drag	Neenah	K99991155.
New Jersey	Cover Lid/Grate Drag	Neenah	D99999735.
New Jersey	Cover Lid/Grate Drag	Neenah	D99991046.
New Jersey	Cover Lid/Grate Drag	Neenah	D99991323.
New Jersey	Cover Lid/Grate Drag	Neenah	D99991069.
New Jersey	Cover Lid/Grate Drag	Neenah	D99999710.
New Jersey	Cover Lid/Grate Drag	Neenah	D99992179.
New Jersey	Cover Lid/Grate Drag	Neenah	D99992190.
New Jersey	Cover Lid/Grate Drag	Neenah	D99992174.
New Jersey	Cover Lid/Grate Drag	Neenah	D99992174.
New Jersey	Cover Lid/Grate Drag	Neenah	D99991234.
New Jersey	Cover Lid/Grate Drag	Neenah	D99991919.
New Jersey	Cover Lid/Grate Drag	Neenah	D99999290.
New Jersey	Cover Lid/Grate Drag	Neenah	D99992467.
New Jersey	Cover Lid/Grate Cope	Neenah	K99999734.
New Jersey	Cover Lid/Grate Cope	Neenah	K99991047.
New Jersey	Cover Lid/Grate Cope	Neenah	K99991314.

Reference state	Description	From	Reference No.
New Jersey	Cover Lid/Grate Cope	Neenah	K99991070.
New Jersey	Cover Lid/Grate Cope	Neenah	K99999709.
New Jersey	Cover Lid/Grate Cope	Neenah	K99999467.
New Jersey	Cover Lid/Grate Cope	Neenah	K99991140.
New Jersey	Cover Lid/Grate Cope	Neenah	K99992173.
New Jersey	Cover Lid/Grate Cope	Neenah	K99999335.
New Jersey	Cover Lid/Grate Cope	Neenah	K99991039.
New Jersey	Cover Lid/Grate Cope	Neenah	K99999648.
New Jersey	Cover Lid/Grate Cope	Neenah	K99992465.
New Jersey	Back Plate Other 2 Cope	Neenah	D55550942.
New Jersey	Back Plate Other 2 Drag	Neenah	K55550941.
New Jersey	6″ Curb Hood Other Cope	Neenah	D55550936.
New Jersey	6″ Curb Hood Other Drag	Neenah	K55550935.
New Jersey	8″ Curb Hood Other Cope	Neenah	D55550938.
New Jersey	8″ Curb Hood Other Drag	Neenah	K55550937.
New York	Ring Frame Drag	Neenah	D99992172.
New York	Ring Frame Cope	Neenah	K99992171.
New York	Ring and Cover Frame Drag	Neenah	D15572010.
New York	Ring and Cover Frame Cope	Neenah	K15572010.
New York	Ring and Cover Lid/Grate Drag	Neenah	D99991919.
New York	Ring and Cover Lid/Grate Cope	Neenah	K99991039.
New York	Frame Frame Drag	Neenah	D31922000.
New York	Frame Frame Cope	Neenah	K31922000.
New York	Frame and Cover Frame Drag	Neenah	D99991272.
New York	Frame and Cover Frame Cope	Neenah	K99991272.
New York	Frame and Cover Lid/Grate Drag	Neenah	D22224904.
New York	Frame and Cover Lid/Grate Cope	Neenah	K22224905.
New York	Grate Lid/Grate Drag	Neenah	D22224638.
New York	Grate Lid/Grate Drag	Neenah	D99992035.
New York	Grate Lid/Grate Cope	Neenah	K22224639.
New York	Grate Lid/Grate Cope	Neenah	K99992036.
New York	Cover Lid/Grate Drag	Neenah	D99992174.
New York	Cover Lid/Grate Cope	Neenah	K99991140.
New York	Cover Lid/Grate Cope	Neenah	K99992173.
New York	Curb Hood Other Cope	Neenah	D31937000.
New York	Curb Hood Other Drag	Neenah	K31937000.
Tennessee	Frame, Grate & Hood Frame Drag	Neenah	D99999939.
Tennessee	Frame, Grate & Hood Frame Cope	Neenah	K32900009.
Tennessee	Frame, Grate & Hood Lid/Grate Drag	Neenah	D99991297.
Tennessee	Frame, Grate & Hood Lid/Grate Cope	Neenah	K99991298.
Tennessee	Frame, Grate & Hood Other Cope	Neenah	D30670003.
Tennessee	Frame, Grate & Hood Other Drag	Neenah	K32957002.
Indiana	Ring Frame/Ring	USF	1116.
Indiana	Ring Frame/Ring	USF	159.
Indiana	Ring Frame/Ring	USF	234.
Indiana	Ring Frame/Ring	USF	755.
Indiana	Adjusting Ring Frame/Ring	USF	2305.
Indiana	Adjusting Ring Frame/Ring	USF	2307.
Indiana	Ring and Cover Frame/Ring	USF	1014.
Indiana	Ring and Cover Frame/Ring	USF	159.
Indiana	Ring and Cover Frame/Ring	USF	206.
Indiana	Ring and Cover Frame/Ring	USF	755.
Indiana	Ring and Cover Cover/Grate	USF	YT.
Indiana	Ring and Cover Cover/Grate	USF	QJ.
Indiana	Ring and Cover Cover/Grate	USF	TL.
Indiana	Ring and Cover Cover/Grate	USF	NC.
Indiana	Ring and Grate Frame/Ring	USF	755.
Indiana	Ring and Grate Cover/Grate	USF	5692.
Indiana	Ring and Grate Cover/Grate	USF	5693.
Indiana	Ring and Grate Cover/Grate	USF	5755.
Indiana	Frame and Grate Frame/Ring	USF	4008.
Indiana	Frame and Grate Frame/Ring	USF	4137.
Indiana	Frame and Grate Frame/Ring	USF	4144.
Indiana	Frame and Grate Frame/Ring	USF	4186.
Indiana	Frame and Grate Frame/Ring	USF	4628.
Indiana	Frame and Grate Frame/Ring	USF	4672.
Indiana	Frame and Grate Frame/Ring	USF	5254.
Indiana	Frame and Grate Frame/Ring	USF	5254.
Indiana	Frame and Grate Frame/Ring	USF	5385.
Indiana	Frame and Grate Cover/Grate	USF	6008.
Indiana	Frame and Grate Cover/Grate	USF	6237.
Indiana	Frame and Grate Cover/Grate	USF	6364.
Indiana	Frame and Grate Cover/Grate	USF	6186.
Indiana	Frame and Grate Cover/Grate	USF	6132.

Reference state	Description	From	Reference No.
Indiana	Frame and Grate Cover/Grate	USF	6262.
Indiana	Frame and Grate Cover/Grate	USF	6233.
Indiana	Frame and Grate Cover/Grate	USF	6362.
Indiana	Frame and Grate Cover/Grate	USF	6285.
Indiana	Frame, Grate & Hood Frame/Ring	USF	5235.
Indiana	Frame, Grate & Hood Frame/Ring	USF	5239.
Indiana	Frame, Grate & Hood Frame/Ring	USF	5239.
Indiana	Frame, Grate & Hood Frame/Ring	USF	5249.
Indiana	Frame, Grate & Hood Frame/Ring	USF	5252.
Indiana	Frame, Grate & Hood Cover/Grate	USF	6132.
Indiana	Frame, Grate & Hood Cover/Grate	USF	6139.
Indiana	Frame, Grate & Hood Cover/Grate	USF	6361.
Indiana	Frame, Grate & Hood Cover/Grate	USF	6029.
Indiana	Frame, Grate & Hood Cover/Grate	USF	6367.
Indiana	Frame, Grate & Hood Curb Hood/Other	USF	5233.
Indiana	Frame, Grate & Hood Curb Hood/Other	USF	5241.
Indiana	Frame, Grate & Hood Curb Hood/Other	USF	5248.
Indiana	Frame, Grate & Hood Curb Hood/Other	USF	5251.
Indiana	Beehive Grate Cover/Grate	USF	5632.
Indiana	Beehive Grate Cover/Grate	USF	5633.
Indiana	Beehive Grate Cover/Grate	USF	5693.
Indiana	Beehive Grate Cover/Grate	USF	5697.
Indiana	Grate Cover/Grate	USF	5690.
Indiana	Grate Cover/Grate	USF	5692.
Indiana	Grate Cover/Grate	USF	6006.
Indiana	Grate Cover/Grate	USF	6036.
Indiana	Grate Cover/Grate	USF	6262.
Indiana	Grate Cover/Grate	USF	6368.
Indiana	Cover Cover/Grate	USF	CU.
Indiana	Cover Cover/Grate	USF	NC.
Indiana	Cover Cover/Grate	USF	QJ.
Indiana	Cover Cover/Grate	USF	QQ.
Indiana	2′x2′ Detectable Wrn Plate Curb Hood/Other	USF	DWP1.
Indiana	2′x3′ Detectable Wrn Plate Curb Hood/Other	USF	DWP2.
New Jersey	Ring and Cover Frame/Ring	USF	769.
New Jersey	Ring and Cover Cover/Grate	USF	OY.
New York	Ring and Cover Frame/Ring	USF	769.
New York	Ring and Cover Cover/Grate	USF	OY.
Tennessee	Ring and Cover Frame/Ring	USF	117.
Tennessee	Ring and Cover Frame/Ring	USF	755.
Tennessee	Ring and Cover Frame/Ring	USF	763.
Tennessee	Ring and Cover Frame/Ring	USF	769.
Tennessee	Ring and Cover Frame/Ring	USF	1218.
Tennessee	Ring and Cover Frame/Ring	USF	668.
Tennessee	Ring and Cover Cover/Grate	USF	VQ.
Tennessee	Ring and Cover Cover/Grate	USF	NC.
Tennessee	Ring and Cover Cover/Grate	USF	OO.
Tennessee	Ring and Cover Cover/Grate	USF	OY.
Tennessee	Ring and Cover Cover/Grate	USF	GD.
Tennessee	Ring and Cover Cover/Grate	USF	LU.
Tennessee	Ring and Cover Cover/Grate	USF	OT.
Tennessee	Ring and Cover Cover/Grate	USF	KL.
Tennessee	Frame and Grate Frame/Ring	USF	4659.
Tennessee	Frame and Grate Frame/Ring	USF	4661.
Tennessee	Frame and Grate Frame/Ring	USF	4662.
Tennessee	Frame and Grate Cover/Grate	USF	6336.
Tennessee	Frame and Grate Cover/Grate	USF	6495.
Tennessee	Frame and Grate Cover/Grate	USF	6339.
Tennessee	Frame and Grate Cover/Grate	USF	6341.
Maryland	Ring Frame/Ring	USF	288.
Maryland	Ring Frame/Ring	USF	407.
Maryland	Ring Frame/Ring	USF	424.
Maryland	Ring Frame/Ring	USF	430.
Maryland	Ring Frame/Ring	USF	479.
Maryland	Ring Frame/Ring	USF	930.
Maryland	Ring Frame/Ring	USF	1116.
Maryland	Ring and Cover Frame/Ring	USF	288.
Maryland	Ring and Cover Frame/Ring	USF	479.
Maryland	Ring and Cover Frame/Ring	USF	755.
Maryland	Ring and Cover Frame/Ring	USF	1028.
Maryland	Ring and Cover Frame/Ring	USF	1162.
Maryland	Ring and Cover Frame/Ring	USF	1301.
Maryland	Ring and Cover Cover/Grate	USF	QV.
Maryland	Ring and Cover Cover/Grate	USF	RP.

Reference state	Description	From	Reference No.
Maryland	Ring and Cover Cover/Grate	USF	RR.
Maryland	Ring and Cover Cover/Grate	USF	AZ.
Maryland	Ring and Cover Cover/Grate	USF	NC.
Maryland	Ring and Cover Cover/Grate	USF	RG.
Maryland	Ring and Cover Cover/Grate	USF	DV.
Maryland	Ring and Cover Cover/Grate	USF	DE.
Maryland	Frame Frame/Ring	USF	4050.
Maryland	Frame Frame/Ring	USF	4051.
Maryland	Valve Box and Cover	USF	7631.
Maryland	Valve Box and Cover Cover/Grate	USF	QF.
Maryland	Cover Cover/Grate	USF	WZ.
Maryland	Cover Cover/Grate	USF	QV.
Maryland	Cover Cover/Grate	USF	RP.
Maryland	Cover Cover/Grate	USF	RR.
North Carolina	Detectable Wrn Plt Curb Hood/Other	USF	DWP1.
Virginia	Detectable Wrn Plt Curb Hood/Other	USF	DWP1.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Neenah Enterprises, Inc., U.S. Holdings, Inc.*, and *U.S. Foundry And Manufacturing Corporation*, Defendants.

Case No. 1:21–cv–02701

Competitive Impact Statement

In accordance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the ''APPA'' or ''Tunney Act''), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment filed in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On March 9, 2021, Defendant Neenah Enterprises, Inc. (''NEI'') entered into a binding agreement with Defendant U.S. Holdings, Inc. to acquire substantially all of the assets of its wholly-owned subsidiary U.S. Foundry and Manufacturing Corporation (''US Foundry'') for approximately $110 million. The United States filed a civil antitrust Complaint on October 14, 2021 seeking to enjoin the proposed transaction. The Complaint alleges that the likely effect of this transaction would be to substantially lessen competition in the design, production, and sale of gray iron municipal castings in Alabama, Florida, Georgia, Indiana, Maryland, New Jersey, New York, North Carolina, South Carolina, Tennessee, and Virginia (the ''overlap states'') in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

At the same time the Complaint was filed, the United States filed a proposed Final Judgment and an Asset Preservation Stipulation and Order (''Stipulation and Order''), which are designed to remedy the loss of competition alleged in the Complaint.

Under the proposed Final Judgment, which is explained more fully below, Defendants are required to divest over 500 patterns or molds used to produce gray iron municipal castings sold in the overlap states (''Divestiture Patterns''), along with all drawings, measurements, specifications, licenses, permits, certifications, and approvals relating to or used in connection with the Divestiture Patterns. Under the terms of the Stipulation and Order, Defendants must take certain steps to ensure that, until final delivery to an acquirer, the Divestiture Patterns are maintained in operable condition so they can be used by the acquirer as part of a viable, ongoing business of the design, production, and sale, including distribution, of gray iron municipal castings.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of Events Giving Rise to the Alleged Violation

(A) Defendants and the Proposed Transaction

NEI and US Foundry are U.S. corporations based in Neenah, Wisconsin, and Medley, Florida, respectively, that each own and operate iron casting foundries that design, produce, and sell gray iron municipal castings for several purposes. US Foundry is a wholly-owned subsidiary of Defendant U.S. Holdings, Inc. NEI had 2020 revenues of $343.3 million, of which approximately $152 million was derived from gray iron municipal castings. US Foundry had 2020 revenues of approximately $90 million, of which approximately $73 million was derived from gray iron municipal castings. Gray iron municipal castings are customized molded iron products produced at iron foundries and include products such as manhole covers and frames, drainage grates, inlets, and tree grates. These castings include manhole covers and frames used to access subterranean areas, and various grates and drains used to direct water in roadway, parking, and industrial areas. Pursuant to a Transaction Agreement dated March 9, 2021, NEI intends to acquire all of US Foundry's gray iron municipal castings business for approximately $110 million.

(B) The Competitive Effects of the Transaction

The Complaint alleges that the combination of NEI and US Foundry will lead to anticompetitive effects in the market for the design, production, and sale of gray iron municipal castings in the overlap states.

a. Relevant Product Market

The Complaint alleges that the sale of gray iron municipal castings constitutes a line of commerce within the meaning of Section 7 of the Clayton Act, 15 U.S.C. 18. Gray iron municipal castings are customized to a purchaser's specifications for the physical characteristics of these products, including strength, width, length, and any distinguishing marks, such as municipal logos. Customer specifications are used by the manufacturer to make a reusable pattern that is an exact replica of the final product. During the casting process, reusable patterns are pressed into a sand mold box to create an impression in the sand. After the pattern is removed, molten iron is poured into the sand mold to create the casting. The casting is then removed, cooled, and finished by shot-blasting or other machining before being shipped to the customer.

Gray iron municipal castings are used most often in construction and infrastructure projects, with smaller volumes used for maintenance or repair purposes. A state department of transportation (''DOT''), county, or municipality typically determines the specifications of the gray iron municipal castings that can be used in projects within its authority. Municipalities and counties often adopt the relevant DOT's technical specifications, and commercial projects may choose to adopt DOT specifications even when not required. A DOT, county, or municipality also may have a qualified product list that identifies approved patterns and manufacturers for specific gray iron municipal castings.

As alleged in the Complaint, there are no functional or economic substitutes for gray iron municipal castings, which are customized according to unique specifications designed to meet the customer's goals of subterranean access or water drainage as part of an integrated and possibly complex public infrastructure project. For example, a state DOT will specify the exact dimensions and structural requirements of each casting for all DOT construction products. Other customers, such as counties or municipalities within a state, will often use state DOT specifications for size and structural integrity, but will further customize their gray iron municipal castings by including the town name or other distinguishing marks on the casting or by specifying custom shapes for lifting holes. These customer-specified requirements mean that gray iron municipal castings made for a particular project or municipality typically cannot be used on other projects or in other areas.

The Complaint alleges that, because there are no reasonable substitutes for gray iron municipal castings, a hypothetical monopolist of gray iron municipal castings could profitably impose a small but significant increase in price without losing significant sales to alternative products. The sale of gray iron municipal castings therefore constitutes a line of commerce within the meaning of Section 7 of the Clayton Act, 15 U.S.C. 18

b. Relevant Geographic Market

The Complaint alleges that both NEI and US Foundry have committed significant capital to develop specific patterns for gray iron municipal castings used by customers in the overlap states and have made substantial investments to develop an efficient distribution network in those states for their gray iron municipal castings. Custom-designed castings mean that buyers cannot successfully use gray iron municipal castings designed for projects outside the overlap states for projects within the overlap states. As a result, customers cannot buy gray iron municipal castings designed for projects outside the overlap states to avoid a higher price charged by foundries designing castings for projects within the overlap states.

As alleged in the Complaint, a hypothetical monopolist of gray iron municipal castings sold to customers in the overlap states could profitably impose a small but significant increase in the price of gray iron municipal castings without losing significant sales to product substitution or arbitrage. The sale of gray iron municipal castings to customers in the overlap states therefore constitutes a relevant market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. 18.

c. Anticompetitive Effects of the Proposed Transaction

The Complaint alleges that NEI and US Foundry compete for sales of gray iron municipal castings primarily on the basis of price, quality, and speed of delivery. This competition has resulted in lower prices, higher quality, and shorter delivery times. This competition has been particularly important to customers in the overlap states where NEI and US Foundry compete today.

In the overlap states, NEI and US Foundry have developed hundreds of approved patterns and are two of only three firms with a significant presence in the design, production, and sale of gray iron municipal castings. Both NEI and US Foundry consistently bid on customer contracts in the overlap states, and customers use the competition between the two firms to obtain lower prices, higher quality, and shorter delivery times.

While there are other firms that occasionally compete for contracts in the overlap states, these fringe competitors typically have a small presence and are unlikely to replace the competition lost by the proposed transaction. Other than NEI, US Foundry, and one other firm, smaller competitors have not invested the time and money to develop, seek approval for, and produce the hundreds of patterns necessary to compete consistently for projects in the overlap states nor have they invested in distribution for castings within those states. Thus, the transaction would reduce the number of significant competitors in the overlap states from three to two and leave only one other significant competitor as an alternative to the merged firm. Faced with only one significant alternate supplier, the merged firm likely would have the incentive and ability to increase prices, lower quality, and increase delivery times in the overlap states.

d. Difficulty of Entry

The Complaint alleges that sufficient, timely entry of additional competitors into the market for gray iron municipal castings in the overlap states is unlikely. A new entrant would have to invest substantial capital equipment and human resources in order to build new production facilities, sales infrastructure, and distribution networks for gray iron municipal castings. To be competitively viable, a new entrant would need to construct a foundry or establish production lines at an existing foundry capable of manufacturing the castings, as well as establish a system of regional distribution. This process would be capital intensive and likely take years to complete.

Similarly, a firm currently making gray iron municipal castings for use outside the overlap states is unlikely to expand into the overlap states. This is because such an entrant would not have proven or approved designs and patterns or established local distribution. It is highly unlikely that new entrants or firms thinking of geographic expansion would invest the time and money needed to create a portfolio of new, as-yet unapproved designs and patterns of sufficient scale to compete in the overlap states on the speculative possibility of attracting enough new business to justify the investment.

As a result, entry or expansion into the market for gray iron municipal castings in the overlap states would not be timely, likely, or sufficient to defeat the anticompetitive effects likely to result from the combination of NEI and US Foundry.

III. Explanation of the Proposed Final Judgment

The relief required by the proposed Final Judgment will remedy the loss of competition alleged in the Complaint by the timely establishment of an independent and economically viable competitor in the market for the design, production, and sale, including distribution, of gray iron municipal castings in the overlap states. Paragraph IV.A of the proposed Final Judgment requires Defendants, within 30 calendar days after the entry of the Stipulation and Order by the Court, to divest the Divestiture Assets to D&L Foundry, Inc., or an alternative acquirer acceptable to

the United States, in its sole discretion. Paragraph IV.B allows the United States, in its sole discretion, to consent to one or more extensions of this 30-day period not to exceed 60 calendar days in total.

(A) Divestiture Assets

The Divestiture Assets, which are defined in Paragraph II.G of the proposed Final Judgment, consist of over 500 gray iron municipal casting patterns currently owned by NEI or US Foundry and identified in Appendix A of the proposed Final Judgment (''Divestiture Patterns''). Along with the Divestiture Patterns themselves, the Divestiture Assets also include all drawings, measurements, specifications, licenses, permits, certifications, approvals, consents, registrations, waivers, authorizations, and pending applications or renewals for the same, relating to or used in connection with the Divestiture Patterns.

The Divestiture Patterns include a set of all patterns owned both by NEI and US Foundry and used by either NEI or US Foundry to produce gray iron municipal castings that generated sales of 50 or more castings by either NEI or US Foundry in the overlap states between 2019 and 2020. The Divestiture Assets will provide a qualified acquirer with all the assets, including the patterns and related documentation, needed to quickly and effectively compete at scale in the design, production, and sale of gray iron municipal castings in the overlap states.

Divestiture Provisions

Defendants are required to use best efforts to act expeditiously (Paragraph IV.B), to divest the Divestiture Assets in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets will be used as a part of a viable ongoing business for the design, production, and sale, including distribution, of gray iron municipal castings in the overlap states and will remedy the competitive harm alleged in the Complaint (Paragraph IV.C). The divestiture must be made to an acquirer that, in the United States' sole judgment, has the intent and capability to compete effectively in the design, production, and sale, including distribution, of gray iron municipal castings in the overlap states (Paragraph IV.D) and that none of the terms of any agreement between acquirer and Defendants gives Defendants the ability to interfere in the acquirer's efforts to compete effectively in the design, production, and sale, including distribution, of gray iron municipal castings (Paragraph IV.E). If Defendants attempt to divest to an acquirer other than D&L Foundry, Paragraphs IV.F and IV.G require Defendants to make certain information available to other prospective acquirers, including a copy of the proposed Final Judgment. The United States has the sole discretion to approve an alternative acquirer (Paragraph IV.A).

Paragraph IV.H of the proposed Final Judgment ensures that the Divestiture Assets are unencumbered and operable on the date of their transfer to the acquirer. Paragraph IV.I requires that Defendants use best efforts to assist acquirer to obtain all necessary licenses, registrations, and permits to design, produce, and sell gray iron municipal castings using the Divestiture Patterns. Until the acquirer obtains the necessary licenses, registrations, and permits for the Divestiture Patterns, Defendants must provide the acquirer with the benefit of Defendant's licenses, registrations, and permits to the full extent permissible by law. Paragraph IV.J ensures that the terms of the proposed Final Judgment supersede any terms of agreement between Defendants and the acquirer that are inconsistent with the proposed Final Judgment.

(B) Divestiture Trustee Provisions

If Defendants do not accomplish the divestiture within the period prescribed in Paragraph IV.A of the proposed Final Judgment, Section V of the proposed Final Judgment provides that the Court will appoint a divestiture trustee selected by the United States to affect the divestiture. If a divestiture trustee is appointed, the proposed Final Judgment provides that Defendants must pay all costs and expenses of the trustee. The divestiture trustee's compensation must be structured so as to provide an incentive for the trustee based on the price and terms obtained and the speed with which the divestiture is accomplished. After the divestiture trustee's appointment becomes effective, the trustee must provide monthly reports to the United States setting forth his or her efforts to accomplish the divestiture. If the divestiture has not been accomplished within six months of the divestiture trustee's appointment, the United States may make recommendations to the Court, which will enter such orders as appropriate, in order to carry out the purpose of the Final Judgment, including by extending the trust or the term of the divestiture trustee's appointment by a period requested by the United States.

(C) Compliance and Enforcement Provisions

The proposed Final Judgment also contains provisions designed to promote compliance with and make enforcement of the Final Judgment as effective as possible. Paragraph XIII.A provides that the United States retains and reserves all rights to enforce the Final Judgment, including the right to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance with the Final Judgment with the standard of proof that applies to the underlying offense that the Final Judgment addresses.

Paragraph XIII.B provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment is intended to remedy the loss of competition the United States alleges would otherwise be harmed by the transaction. Defendants agree that they will abide by the proposed Final Judgment and that they may be held in contempt of the Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XIII.C provides that if the Court finds in an enforcement proceeding that a Defendant has violated the Final Judgment, the United States may apply to the Court for an extension of the Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the Final Judgment, Paragraph XIII.C provides that, in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved before litigation, the Defendant must reimburse the United States for attorneys' fees, experts' fees, and other costs incurred in connection with any effort to enforce the Final Judgment, including the investigation of the potential violation.

Paragraph XIII.D states that the United States may file an action against a Defendant for violating the Final Judgment for up to four years after the Final Judgment has expired or been terminated. This provision is meant to address circumstances such as when evidence that a violation of the Final

Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or been terminated or when there is not sufficient time for the United States to complete an investigation of an alleged violation until after the Final Judgment has expired or been terminated. This provision, therefore, makes clear that, for four years after the Final Judgment has expired or been terminated, the United States may still challenge a violation that occurred during the term of the Final Judgment.

(D) Term of the Final Judgment

Finally, Section XIV of the proposed Final Judgment provides that the Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and that continuation of the Final Judgment is no longer necessary or in the public interest.

IV. Remedies Available to Potential Private Plaintiffs

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment neither impairs nor assists the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of the Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, the comments and the United States' responses will be published in the **Federal Register** unless the Court agrees that the United States instead may publish them on the U.S. Department of Justice, Antitrust Division's internet website.

Written comments should be submitted in English to: Jay Owen, Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

As an alternative to the proposed Final Judgment, the United States considered a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against NEI's acquisition of US Foundry. The United States is satisfied, however, that the relief required by the proposed Final Judgment will remedy the anticompetitive effects alleged in the Complaint, preserving competition for the design, production, and sale of gray iron municipal castings in those markets. Thus, the proposed Final Judgment achieves all or substantially all of the relief the United States would have obtained through litigation but avoids the time, expense, and uncertainty of a full trial on the merits.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

Under the Clayton Act and APPA, proposed Final Judgments or ''consent decrees'' in antitrust cases brought by the United States are subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (DC Cir. 1995); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a proposed Final Judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable'').

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not ''make de novo determination of facts and issues.'' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (DC Cir. 1993) (quotation marks omitted); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S.

Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted). ''The court should bear in mind the *flexibility* of the public interest inquiry: the court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Microsoft,* 56 F.3d at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' (internal citations omitted)); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.''' *Microsoft,* 56 F.3d at 1461 (*quoting W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: October 14, 2021.

Respectfully submitted,

For Plaintiff
United States of America:

/s/Bashiri Wilson
Bashiri Wilson (DC Bar #),
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*Lead Attorney to be Noticed.

[FR Doc. 2021–23189 Filed 10–22–21; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**. The following transactions were granted early termination—on the date indicated—of the waiting period provided by law and the premerger notification rules. The listing includes the transaction number and the parties to the transaction. The Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice made the grants. Neither agency intends to take any action with respect to this proposed acquisitions during the applicable waiting period.

EARLY TERMINATION GRANTED

10/05/2021		
20210814	G	Wienerberger AG; General Shale Brick, Inc.; Boral Limited; LSF9 Stardust Super Holdings, L.P.; Meridian Brick LLC.
20210815	G	Wienerberger AG; General Shale Brick, Inc.; Boral Limited; LSF9 Stardust Super Holdings, L.P.; Meridian Brick LLC.
10/08/2021		
20212025	G	Gray Television, Inc.; Meredith Corporation.
10/12/2024		
20211339	G	VEPF Torreys Aggregator, LLC; ClassPass Inc.
10/19/2021		
20211210	G	Neenah Enterprises, Inc.; Neenah Foundry Company; Alex Lane DeBogory; U.S. Holdings, Inc.; United States Foundry & Manufacturing Corporation; Eagle Metal Processing and Recycling, Inc.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division, Department of Justice.

[FR Doc. 2021–23131 Filed 10–22–21; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0243]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection: Grants Management System (JustGrants System)

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Office of Justice Programs, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until November 24, 2021.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jennifer Yeh, (202) 532–5929, Acting Deputy Director, Office of Audit, Assessment, and Management, Office of Justice Programs, Department of Justice, 810 7th Street NW, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension without change of a currently approved collection; non-substantive name change.

(2) *The Title of the Form/Collection:* The existing title is the Community Partnership Grants Management System. Going forward, this collection will be referred to as the JustGrants System collection. The JustGrants System is the successor system to the Community Partnership Grants Management System, and encompasses and replaces the functionality of the latter.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* NA. The applicable component within the Department of Justice is Office of Audit, Assessment, and Management, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The primary respondents are state, local, and tribal governments, institutions of higher education, non-profit organizations, and other organizations applying for DOJ grants. JustGrants is a web-based grants applications system and award management system. It provides automated support throughout the award lifecycle, and facilitates reporting to Congress and other interested agencies. The system stores essential information required to comply with the Federal Funding Accountability and Transparency Act of 2006 (FFATA). JustGrants has also been designated the OJP official system of record for grants activities by the National Archives and Records Administration (NARA).

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* An estimated 57,945 organizations will respond to the collections under JustGrants and on average it will take each of them from .17 to 9 hours to complete various award lifecycle processes within the system, varying from application submission, award management and reporting, and award closeout (a total average of 29.17 hours for all processes).

(6) *An Estimate of the Total Public Burden (in hours) Associated with the collection:* The estimated public burden associated with this application is 160,528 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution

Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: October 20, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–23209 Filed 10–22–21; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0049]

Agency Information Collection Activities: Proposed eCollection, eComments Requested; Reinstatement of a Discontinued Collection: Recordkeeping for Electronic Prescriptions for Controlled Substances

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until November 24, 2021.

FOR FURTHER INFORMATION CONTACT: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement of a discontinued collection.

2. *Title of the Form/Collection:* Recordkeeping for Electronic Prescriptions for Controlled Substance.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no form number. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract: Affected public (Primary):* Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

Abstract: DEA requires that each registered practitioner apply to an approved credential service provider to obtain identity proofing and a credential. Hospitals and other institutional practitioners may conduct this process in house as part of their credentialing. For practitioners currently working at or affiliated with a registered hospital or clinic, the hospital/clinic have to check a government-issued photographic identification. This may be done when the hospital/clinic issues credentials to new hires or newly affiliated physicians. For individual practitioners, two people need to enter logical access control data to grant permission for practitioners authorized to approve and sign controlled substance prescriptions using the electronic prescription application. For institutional practitioners, logical access control data is entered by two people from an entity within the hospital/clinic that is separate from the entity that conducts identity proofing in-house. Similarly, pharmacies have to set logical access controls in the pharmacy application so that only authorized employees have permission to annotate or alter prescription records. Finally, if the electronic prescription or pharmacy application generates an incident report, practitioners, hospitals/clinics, and pharmacies have to review the incident report to determine if the event identified by the application represents a security incident.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The below table presents information regarding the number of respondents, hour burden per responses and associated burden hours.

	Number of respondents	Hour burden per response	Burden hours
Practitioners	78,164	0.67	52,370
MLP	49,067	0.67	32,875
Hospital/Clinics	1,482	2.13	3,157
Pharmacies	3,984	0.33	1,315
Total	132,697		89,717

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* DEA estimates that this collection takes 89,717 annual burden hours.

If additional information is required please contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: October 20, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–23208 Filed 10–22–21; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Subject 60-Day Notice for the ''2022 Arts Supplement to the General Social Survey''; Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection on arts participation in the U.S. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to Sunil Iyengar, National Endowment for the Arts, via email (*research@arts.gov*).

SUPPLEMENTARY INFORMATION: The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Dated: October 19, 2021.

Meghan Jugder,

Support Services Specialist, Office of Administrative Services & Contracts. National Endowment for the Arts.

[FR Doc. 2021–23144 Filed 10–22–21; 8:45 am]

BILLING CODE 7537–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form N–5
SEC File No. 270–172, OMB Control No. 3235–0169

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Form N–5 (17 CFR 239.24 and 274.5) is the form used by small business investment companies (''SBICs'') to register their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') and the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act''). Form N–5 is the registration statement form adopted by the Commission for use by an SBIC that has been licensed as such under the Small Business Investment Act of 1958 or which has received the preliminary approval of the Small Business Administration (''SBA'') and has been notified by the SBA that the company may submit a license application Form N–5 is an integrated registration form and may be used as the registration statement under both the Securities Act and the Investment Company Act. The purpose of Form N–5 is to meet the filing and disclosure requirements of both the Securities Act and Investment Company Act, and to provide investors with information sufficient to evaluate an investment in an SBIC. The information that is required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The Commission did not receive any filings on Form N 5 in the last three years (and in the three years before that, received only one Form N–5 filing). Nevertheless, for purposes of this PRA, we conservatively estimate that at least one Form N–5 will be filed in the next three years, which translates to about 0.333 filings on Form N 5 per year. The currently approved internal burden of Form N 5 is 352 hours per response. We continue to believe this estimate for Form N- 5's internal hour burden is appropriate. Therefore, the number of currently approved aggregate burden hours, when calculated using the current estimate for number of filings, is about 117 internal hours per year. The currently approved external cost burden of Form N–5 is $10,100 per filing. The requested external cost burden for filing one Form N–5 would be $12,524 per year. This estimated burden is based on the estimated wage rate of $496/hour, for 25.25 hours, for outside legal services to complete the form and provide the required hyperlinks.

Estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of Form N–5 is mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23157 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–028, OMB Control No. 3235–0032]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17f–1(b)

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17f–1(b) (17 CFR 240.17f–1(b)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Under Rule 17f–1(b) under the Exchange Act, approximately 10,000 entities in the securities industry are registered in the Lost and Stolen Securities Program (''Program''). Registration fulfills a statutory requirement that entities report and inquire about missing, lost, counterfeit, or stolen securities. Registration also allows entities in the securities industry to gain access to a confidential database that stores information for the Program.

The Commission staff estimates that 10 new entities will register in the Program each year. The staff estimates that the average number of hours necessary to comply with Rule 17f–1(b) is one-half hour. Accordingly, the staff estimates that total annual burden for all participants is 5 hours (10 × one-half hour). The Commission staff estimates that compliance staff work at subject entities results in an internal cost of compliance, at an estimated hourly wage of $283, of $141.50 per year per entity (.5 hours × $283 per hour = $141.50 per year). Therefore, the aggregate annual internal cost of compliance is approximately $1,415 ($141.50 × 10 = $1,415).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23161 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Form 1–Z; SEC File No. 270–659, OMB Control No. 3235–0723

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 1–Z (17 CFR 239.94) is used to report terminated or completed offerings or to suspend the duty to file ongoing reports under Regulation A, an exemption from registration under the Securities Act of 1933 (15 U.S.C 77a *et seq.*). The purpose of the Form 1–Z is to collect empirical data for the Commission on offerings conducted under Regulation A that have terminated or completed, to indicate to the Commission that issuers that have conducted Tier 2 offering are suspending their duty to file reports under Regulation A and to provide such information to the investing public. We estimate that approximately 17 issuers file Form 1–Z annually. We estimate that Form 1–Z takes approximately 1.5 hours to prepare. We estimate that 100% of the 1.5 hours per response is prepared by the company for a total annual burden of 26 hours (1.5 hours per response × 17 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23156 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Asset Management Advisory Committee (''AMAC'') will hold a public meeting on Wednesday, November 3, 2021 at 10:00 a.m.

PLACE: The meeting will be conducted by remote means. Members of the public

may watch the webcast of the meeting on the Commission's website at *www.sec.gov.*

STATUS: The meeting will begin at 10:00 a.m. and will be open to the public by webcast on the Commission's website at *www.sec.gov.*

MATTER TO BE CONSIDERED: On October 20, 2021, the Commission issued notice of the meeting (Release No. 34–93391), indicating that the meeting is open to the public and inviting the public to submit written comments to AMAC. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The meeting will include a discussion of matters in the asset management industry relating to the Evolution of Advice and the Small Advisers and Small Funds Subcommittees, including potential recommendations.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: October 20, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–23266 Filed 10–21–21; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–336, OMB Control No. 3235–0379]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form F–X

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form F–X (17 CFR 239.42) is used to appoint an agent for service of process by Canadian issuers registering securities on Forms F–7, F–8, F–9 or F–10 under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), or filing periodic reports on Form 40–F under the Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The information collected must be filed with the Commission and is publicly available. We estimate it takes approximately 2 hours per response to prepare Form F–X and the information is filed by approximately 114 respondents for a total annual reporting burden of 228 hours (2 hours per response × 114 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23151 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–188, OMB Control No. 3235–0212]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 12b–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 12b–1 under the Investment Company Act of 1940 (17 CFR 270.12b–1) permits a registered open-end investment company (''fund'') to bear expenses associated with the distribution of its shares, provided that the fund complies with certain requirements, including, among other things, that it adopt a written plan (''rule 12b–1 plan'') and that it preserves in writing any agreements relating to the rule 12b–1 plan. The rule in part requires that (i) the adoption or material amendment of a rule 12b–1 plan be approved by the fund's directors, including its independent directors, and, in certain circumstances, its shareholders; (ii) the board review quarterly reports of amounts spent under the rule 12b–1 plan; and (iii) the board, including the independent directors, consider continuation of the rule 12b–1 plan and any related agreements at least annually. Rule 12b–1 also requires funds relying on the rule to preserve for six years, the first two years in an easily accessible place, copies of the rule 12b–1 plan and any related agreements and reports, as well as minutes of board meetings that describe the factors considered and the basis for adopting or continuing a rule 12b–1 plan.

Rule 12b–1 also prohibits funds from paying for distribution of fund shares with brokerage commissions on their portfolio transactions. The rule requires funds that use broker-dealers that sell their shares to also execute their portfolio securities transactions, to implement policies and procedures reasonably designed to prevent: (i) The persons responsible for selecting broker-dealers to effect transactions in fund portfolio securities from taking into account broker-dealers' promotional or sales efforts when making those decisions; and (ii) a fund, its adviser, or its principal underwriter, from entering into any agreement under which the fund directs brokerage transactions or revenue generated by those transactions to a broker-dealer to pay for distribution of the fund's (or any other fund's) shares.

The board and shareholder approval requirements of rule 12b–1 are designed to ensure that fund shareholders and directors receive adequate information to evaluate and approve a rule 12b–1 plan and, thus, are necessary for investor protection. The requirement of quarterly reporting to the board is designed to ensure that the rule 12b–1 plan continues to benefit the fund and its shareholders. The recordkeeping requirements of the rule are necessary to enable Commission staff to oversee compliance with the rule. The requirement that funds or their advisers implement, and fund boards approve, policies and procedures in order to prevent persons charged with allocating

fund brokerage from taking distribution efforts into account is designed to ensure that funds' selection of brokers to effect portfolio securities transactions is not influenced by considerations about the sale of fund shares.

Commission staff estimates that there are approximately 6,358 funds (for purposes of this estimate, registered open-end investment companies or series thereof) that have at least one share class subject to a rule 12b–1 plan and approximately 454 fund families with common boards of directors that have at least one fund with a 12b–1 plan. The Commission further estimates that the annual hour burden for complying with the rule is 425 hours for each fund family with a portfolio that has a rule 12b–1 plan. We therefore estimate that the total hourly burden per year for all funds to comply with current information collection requirements under rule 12b–1 is 192,950 hours. Commission staff estimates that approximately three funds per year prepare a proxy in connection with the adoption or material amendment of a rule 12b–1 plan. The staff further estimates that the cost of each fund's proxy is $30,000. Thus, the total annual cost burden of rule 12b–1 to the fund industry is $90,000.

Estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. The collections of information required by rule 12b–1 are necessary to obtain the benefits of the rule. Notices to the Commission will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

All submissions should refer to File Number 270–188. This file number should be included on the subject line if email is used. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov*). All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23160 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93383; File No. SR–MEMX–2021–10]

Self-Regulatory Organizations; MEMX LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Establish a Retail Midpoint Liquidity Program

October 19, 2021.

On August 18, 2021, MEMX LLC (''MEMX'') 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 establish a Retail Midpoint Liquidity Program. The proposed rule change was published for comment in the **Federal Register** on September 8, 2021.[3] The Commission has received no comments 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 (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission 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 October 23, 2021. The Commission is extending this 45-day time period.

The Commission finds that it is 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 any comments. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates December 7, 2021, 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–MEMX–2021–10).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23140 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–518, OMB Control No. 3235–0576]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Regulation G

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Regulation G (17 CFR 244.100–244.102) under the Securities Exchange Act of 1934 (the ''Exchange Act'') (15 U.S.C. 78a *et seq.*) requires publicly reporting companies that disclose or releases financial information in a manner that is calculated or presented other than in accordance with generally accepted accounting principles (''GAAP'') to provide a reconciliation of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 92844 (September 1, 2021), 86 FR 50411 (September 8, 2021).

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

the non-GAAP financial information to the most directly comparable GAAP financial measure. Regulation G implemented the requirements of Section 401 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7261). We estimate that approximately 14,000 public companies must comply with Regulation G approximately six times a year for a total of 84,000 responses annually. We estimated that it takes approximately 0.5 hours per response (0.5 hours per response × 84,000 responses) for a total reporting burden of 42,000 hours annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23152 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–34400; File No. 812–15274]

Credit Suisse Asset Management, LLC., et al.; Notice of Application and Temporary Order

October 19, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicants have received a temporary order (''Temporary Order'') exempting them from section 9(a) of the Act, with respect to a guilty plea entered on October 19, 2021 (''Guilty Plea''), by Credit Suisse Securities (Europe) Limited (the ''Pleading Entity'' or ''CSSEL'') in the United States District Court for the Eastern District of New York (the ''District Court'') in connection with a plea agreement (''Plea Agreement'') between the Pleading Entity and the United States Department of Justice (''DOJ''), until the Commission takes final action on an application for a permanent order (the ''Permanent Order,'' and with the Temporary Order, the ''Orders''). Applicants also have applied for a Permanent Order.

APPLICANTS: CSSEL, Credit Suisse Asset Management, LLC (''CSAM''), Credit Suisse Asset Management Limited (''CSAML''), Credit Suisse Securities (USA) LLC (''CSSU,'' and together with CSSEL, CSAM and CSAML, the ''Applicants'') and Credit Suisse Group AG (''CS Group'').[1]

FILING DATE: The application was filed on October 19, 2021.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 15, 2021 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Roger Machlis, Credit Suisse Asset Management, LLC, Eleven Madison Avenue, New York, NY 10010.

FOR FURTHER INFORMATION CONTACT: Kay M. Vobis, Senior Counsel, at (202) 551–6728 or Trace W. Rakestraw, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a temporary order and a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicants' Representations

1. The Pleading Entity is a limited liability company, incorporated in the United Kingdom and authorized under the Financial Services and Markets Act 2000, as amended. The Pleading Entity is an indirect wholly-owned subsidiary of CSAG (defined below). Its principal activity is acting as a broker dealer.

2. CSAM, a limited liability company formed under Delaware law, is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). CSAM serves as investment adviser (either as primary investment adviser or as investment sub-adviser) to each Fund[2] listed in Part 1 of Appendix A of the application.

3. CSAML, a corporation formed under the laws of the United Kingdom, is registered as an investment adviser under the Advisers Act. CSAML serves as investment sub-adviser to the Fund listed in Part 2 of Appendix A of the application.

4. CSSU, a limited liability company formed under Delaware law, is registered as a broker-dealer under the Securities Exchange Act of 1934, as amended (the ''Exchange Act''), and as an investment adviser under the Advisers Act. CSSU serves as principal underwriter to each Open-End Fund listed in Part 3 of Appendix A of the application.

5. Each of the above Applicants is either a direct or indirect wholly owned subsidiary of CS Group (CS Group, together with its wholly-owned subsidiaries and affiliated entities, ''Credit Suisse''). Credit Suisse AG (''CSAG'') is a wholly owned subsidiary, and the principal operating subsidiary, of CS Group, which operates as a holding company. Both CS Group and CSAG are corporations organized under the laws of Switzerland.

6. Currently, CSAM, CSAML and CSSU (together, the ''Fund Servicing Applicants''), which are affiliates of the Pleading Entity, collectively serve as investment adviser or investment subadviser to investment companies

[1] CS Group is a party to the application solely for purposes of making the representations and agreeing to the conditions in the application that apply to it. For such purpose, it is included in the term ''Applicants'' solely with respect to such representations and conditions.

[2] The term ''Fund'' as used herein refers to any investment company that is registered under the Act (''RIC''), employees' securities companies (''ESC''), investment company that has elected to be treated as a business development company under the Act (''BDC'') for which a Covered Person currently provides Fund Servicing Activities, or, subject to the terms and conditions of the Orders, may in the future provide Fund Servicing Activities.

registered under the Act or series of such companies and ESCs and as principal underwriter to open-end management investment companies registered under the Act (''Open-End Funds'') (such activities, collectively, ''Fund Servicing Activities'').[3] Applicants request that any relief granted by the Commission pursuant to the application also apply to any other existing company, other than CS Group and CSAG, of which the Pleading Entity is an Affiliated Person and to any other company of which the Pleading Entity may become an Affiliated Person in the future (together with the Fund Servicing Applicants, the ''Covered Persons'') with respect to any activity contemplated by section 9(a) of the Act.[4]

7. On October 19, 2021, the DOJ filed a criminal information (the ''Information'') in the District Court charging the Pleading Entity with one count of conspiracy to commit wire fraud (18 U.S.C. 1349). According to the Statement of Facts that served as the basis for the Plea Agreement (the ''Statement of Facts'') the Pleading Entity, through its employees, conspired to use U.S. wires and the U.S. financial system to defraud U.S. and international investors in connection with three financing transactions involving the Pleading Entity and Mozambican state-owned enterprises, as further described in the application (the ''Financing Transactions'').

8. In connection with the Plea Agreement, the ultimate parent of the Pleading Entity, CS Group, entered into a Deferred Prosecution Agreement on October 19, 2021 (the ''DPA'').

9. Pursuant to the Plea Agreement, the Pleading Entity entered the Guilty Plea on October 19, 2021 in the District Court to the charge set out in the Information. Applicants state that, according to the Plea Agreement, the Pleading Entity agrees, among other things, as follows: First, the Pleading Entity shall cooperate fully with the DOJ, Criminal Division, Money Laundering and Asset Recovery Section and Fraud Section, and the United States Attorney's Office for the Eastern District of New York (collectively, the ''Offices'') in any and all matters relating to the conduct described in the Plea Agreement and the Statement of Facts and other conduct under investigation by the Offices or any other component of the DOJ at any time during the term of the DPA (the ''Term'') until the later of the date upon which all investigations and prosecutions arising out of such conduct are concluded or the end of the Term. Second, at the request of the Offices, the Pleading Entity shall also cooperate fully with other domestic or foreign law enforcement and regulatory authorities and agencies, as well as the Multilateral Development Banks in any investigation of the Pleading Entity, CS Group, its affiliates, or any of its present or former officers, directors, employees, agents, and consultants, or any other party, in any and all matters relating to the conduct described in the Plea Agreement and the Statement of Facts and any other conduct under investigation by the Offices or any other component of the DOJ. Third, should the Pleading Entity learn during the Term of any evidence or allegations of conduct that may constitute a violation of the federal wire fraud statute had the conduct occurred within the jurisdiction of the United States, the Pleading Entity shall promptly report such evidence or allegation to the Offices. Fourth, the Pleading Entity agrees that any fine imposed by the District Court will be due and payable as specified in Paragraph 19 of the Plea Agreement, and that any restitution imposed by the District Court will be due and payable in accordance with the District Court's order. Finally, the Pleading Entity agrees to commit no further crimes and to work with Credit Suisse in fulfilling the obligations of Credit Suisse's DPA.

10. The Applicants expect that the District Court will enter a judgment against the Pleading Entity (the ''Judgment'') that will require remedies that are materially the same as set forth in the Plea Agreement.

11. In the DPA, CS Group agreed to continue to cooperate fully with any ongoing DOJ or non-U.S. investigations of the conduct. CS Group also agreed to continue to make certain enhancements to its existing compliance program, and to make annual reports to the DOJ about those enhancements, as set out in Attachment C to the DPA, on an annual basis for three years.

12. On October 19, 2020, the SEC instituted cease-and-desist proceedings against GS Group concerning violations of the books and records and internal control provisions of the Foreign Corrupt Practices Act of 1977 and violations of the antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934 in connection with the Financing Transactions, as further described in the application (the ''SEC Order''). The SEC Order includes findings that CS Group violated sections 17(a)(1), (2) and (3) of the Securities Act, sections 10(b), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and rule 10b–5 thereunder. The SEC Order orders CS Group to cease and desist from committing or causing any violations and any future violations of those provisions and orders CS Group to pay a civil money penalty of $65 million, disgorgement of $26,229,233 and prejudgment interest of $7,822,639.

13. CS Group and its affiliates have entered into settlement agreements with other U.S. and non-U.S. regulatory or enforcement agencies related to the Financing Transactions. These include an order issued by the U.K. Financial Conduct Authority on October 19, 2021 and a finding issued by Swiss Financial Market Supervisory Authority on October 19, 2021.

Applicants' Legal Analysis

1. Section 9(a)(1) of the Act provides, in pertinent part, that a person may not serve or act as an investment adviser or depositor of any registered investment company or as principal underwriter for any Open-End Fund, UIT, or FACC, if such person within ten years has been convicted of any felony or misdemeanor, including those arising out of such person's conduct as a broker, dealer or bank. Section 2(a)(10) of the Act defines the term ''convicted'' to include a plea of guilty. Section 9(a)(3) of the Act extends the prohibitions of section 9(a)(1) to a company, any affiliated person of which has been disqualified under the provisions of section 9(a)(1). Section 2(a)(3) of the Act defines ''affiliated person'' to include, among others, any person directly or indirectly controlling, controlled by, or under common control with, the other person. The Pleading Entity is an Affiliated Person of each of the other Applicants within the meaning of section 2(a)(3) of the Act. Therefore, the Applicants state that the Plea Agreement would result in a disqualification of each Fund Servicing Applicant for ten years under section 9(a)(3) were they to act in any of the capacities listed in section 9(a), by effect of a conviction described in section 9(a)(1).

[3] Other than the Fund Servicing Applicants, no existing company of which the Pleading Entity is an ''affiliated person'' within the meaning of Section 2(a)(3) of the Act (''Affiliated Person'') currently serves as an investment adviser or depositor of any RIC, ESC or BDC, or as principal underwriter for any Open-End Fund, registered unit investment trust (''UIT''), or registered face-amount certificate company (''FACC'').

[4] Covered Persons may, if the Order is granted, in the future act in any of the capacities contemplated by section 9(a) of the Act. Any existing or future entities that may rely on the Orders in the future will comply with the terms and conditions of the application. CS Group and CSAG do not and will not serve as investment adviser, depositor or principal underwriter to any RIC, ESC or BDC and are not a Covered Person.

2. Section 9(c) of the Act provides that: ''[t]he Commission shall by order grant [an] application [for relief from the prohibitions of subsection 9(a)], either unconditionally or on an appropriate temporary or other conditional basis, if it is established [i] that the prohibitions of subsection 9(a), as applied to such person, are unduly or disproportionately severe or [ii] that the conduct of such person has been such as not to make it against the public interest or the protection of investors to grant such application.'' Applicants have filed an application pursuant to section 9(c) seeking a Temporary Order and a Permanent Order exempting the Fund Servicing Applicants and other Covered Persons from the disqualification provisions of section 9(a) of the Act.

3. Applicants believe they meet the standards for exemption specified in section 9(c). Applicants assert that (i) the conduct that served as the basis for the Plea Agreement, the DPA and the SEC Order (the ''Conduct'') was limited and did not involve any of the Fund Servicing Applicants. The Conduct similarly did not involve any Fund with respect to which the Fund Servicing Applicants engage in Fund Servicing Activities, and none of such Funds ever participated in the offerings or transactions at issue or acquired the subject securities or loans in the secondary market; [5] (ii) application of the statutory bar would impose significant hardships on the Funds and their shareholders, (iii) the prohibitions of section 9(a), if applied to the Fund Servicing Applicants, would be unduly or disproportionately severe and (iv) the Conduct did not constitute conduct that would make it against the public interest or protection of investors to grant the exemption from section 9(a).

4. Applicants represent that the Conduct did not involve any of Fund Servicing Applicants.[6] Instead, the Applicants state that the Conduct occurred as a result of the actions of three employees who are no longer employed by any Credit Suisse affiliate, as well as a number of internal control and other failures. The three employees were part of a wholly separate legal entity, separate business division, and separate supervisory structure from the Fund Servicing Applicants and had no connection with or input into the Fund Servicing Applicants' business. Further, the internal control and other failures that were part of the Conduct did not involve the Funds Servicing Applicants.

5. Applicants assert that, in light of the limited scope of the Conduct, it would be unduly and disproportionately severe to impose a section 9(a) disqualification on the Fund Servicing Applicants. Applicants assert that the conduct of the Applicants has not been such to make it against the public interest or the protection of investors to grant the exemption from section 9(a).

6. Applicants assert that neither the protection of investors nor the public interest would be served by permitting the section 9(a) disqualifications to apply to the Fund Servicing Applicants because those disqualifications would deprive the Funds they serve of the advisory or sub-advisory and underwriting services that shareholders expected the Funds would receive when they decided to invest in the Funds. Applicants also assert that the prohibitions of section 9(a) could operate to the financial detriment of the Funds and their shareholders, including by causing the Funds to spend time and resources to engage substitute advisers, subadvisers, and principal underwriters, which would be an unduly and disproportionately severe consequence particularly given that no Fund Servicing Applicants and none of their employees were involved in the Conduct and that the Conduct did not involve any of the Funds or Fund Servicing Activities.

7. Applicants assert that if the Fund Servicing Applicants were barred under section 9(a) from providing investment advisory and underwriting services to the Funds and were unable to obtain the requested exemption, the effect on their businesses and employees would be severe. Applicants state that the Fund Servicing Applicants have committed substantial capital and other resources to establishing expertise in advising and sub-advising Funds with a view to continuing and expanding this business. Similarly, Applicants represent that if CSSU were barred under section 9(a) from continuing to provide underwriting services to the Funds and were unable to obtain the requested exemption, the effect on its current business and employees would be significant. CSSU has committed substantial resources to establish expertise in underwriting the securities of the Funds that are Open-End Funds and to establish distribution arrangements for Open-End Fund shares. Applicants further state that prohibiting the Fund Servicing Applicants from engaging in Fund Servicing Activities would not only adversely affect their business, but would also adversely affect their employees who are involved in these activities.

8. Applicants represent that: (i) None of the current or former directors, officers or employees of Applicants (other than certain former personnel of the Pleading Entity who were not involved in any of the Fund Servicing Applicants' Fund Servicing Activities) engaged in the Conduct; (ii) no current or former director, officer, or employee of the Pleading Entity or any Covered Person who previously has been or who subsequently may be identified by the Pleading Entity or any U.S. or non-U.S. regulatory or enforcement agencies as having been responsible for the Conduct will be an officer, director, or employee of any Applicant, CS Group, CSAG, and of any Covered Person; (iii) such directors, officers, and employees and any other person who otherwise participated in the Conduct have had no, and will not have any future, involvement in the Covered Persons' activities in any capacity described in section 9(a) of the Act; and (iv) because the directors, officers and employees of Applicants (other than certain former personnel of the Pleading Entity who were not involved in any of the Fund Servicing Applicants' Fund Servicing Activities) did not engage in the Conduct, shareholders of the Funds were not affected any differently than if those Funds had received services from any other non-affiliated investment adviser or principal underwriter.

9. Applicants have agreed that none of CS Group, CSAG, the Applicants or any of the other Covered Persons will employ the former employees of the Pleading Entity or any other person who subsequently may be identified by the Pleading Entity or any U.S. or non-U.S. regulatory or enforcement agencies as having been responsible for the Conduct in any capacity without first making a further application to the Commission pursuant to section 9(c).

10. Applicants have also agreed that each of CS Group, CSAG, Applicants, and the Covered Persons will adopt and implement policies and procedures reasonably designed to ensure that it will comply with the terms and conditions of the Orders granted under section 9(c).

11. In addition, each of CS Group, CSAG, Applicants and the Covered Persons will comply in all material respects with the material terms and conditions of the Plea Agreement, the DPA and with the material terms of the SEC Order, and any other orders issued by, or settlements with, regulatory or

[5] Applicants make no representation in respect of the Funds that were not advised or sub-advised by any of the Fund Servicing Applicants during the period of the Conduct.

[6] The Pleading Entity does not and will not serve in any of the capacities described in section 9(a) of the Act.

enforcement agencies addressing the Conduct, in each case as such terms and conditions are applicable to it. In addition, within 30 days of each anniversary of the Permanent Order (until and including the third such anniversary), CS Group will submit a certification signed by its chief executive officer and its chief compliance officer, confirming that (i) the Pleading Entity has complied with the terms and conditions of the Plea Agreement in all material respects; (ii) CS Group has complied with the terms and conditions of the DPA in all material respects; and (iii) CS Group, CSAG, Applicants and the Covered Persons have complied with the terms and conditions of the Orders in all material respects.

12. Applicants further state that Credit Suisse has undertaken certain other remedial measures, as described in greater detail in the application. These include three types of remedial measures in response to, or that bear on, this matter: (i) Those directly related to the Conduct or would have applied to the transactions in question; (ii) those implicating the broader risk management systems and controls surrounding the relevant business as a whole; and (iii) industry-wide and multilateral reforms designed to address one or the root causes of the issues that arose in connection with these transactions. In connection with the remedial measures, CS Group will submit to Commission staff (i) a remediation report as described in Section IV.F. of the application (the ''Remediation Report'') and (ii) a multilateral remedies report, as described in Section IV.F. of the application (the ''Multilateral Remedies Report'') within 30 days of each anniversary of the Permanent Order (until and including the third such anniversary).

13. As a result of the foregoing, the Applicants submit that absent relief, the prohibitions of section 9(a) would be unduly or disproportionately severe, and that the Conduct did not constitute conduct that would make it against the public interest or protection of investors to grant the exemption.

14. To provide further assurance that the exemptive relief being requested in the application would be consistent with the public interest and the protection of the investors, the Applicants agree that they will, as soon as reasonably practical, with respect to each of the Funds for which a Fund Servicing Applicant is the primary adviser, distribute to the boards of directors or trustees of the Funds (''Board'') written materials describing the circumstances that led to the Plea Agreement, as well as any effects on the Funds and the application.

15. The written materials will include an offer to discuss the materials at an in-person meeting with each Board for which Fund Servicing Applicants provide Fund Servicing Activities, including the directors who are not ''interested persons'' of the Funds as defined in section 2(a)(19) of the Act and their independent legal counsel as defined in rule 0–1(a)(6) under the Act, if any. With respect to each of the Funds for which a Fund Servicing Applicant is not the primary investment adviser, the relevant Fund Servicing Applicant will provide such materials to the Fund's primary investment adviser and offer to discuss the materials with such primary investment adviser. The Applicants undertake to provide the Boards with all information concerning the Plea Agreement and the application as necessary for those Funds to fulfill their disclosure and other obligations under the U.S. federal securities laws and will provide them a copy of the Judgment as entered by the District Court.

16. Certain of the Applicants and their affiliates have previously applied for exemptive orders under section 9(c) of the Act, as described in greater detail in the application.

Applicants' Conditions

Applicants agree that any order granted by the Commission pursuant to the application will be subject to the following conditions:

1. Any temporary exemption granted pursuant to the application will be without prejudice to, and will not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including, without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

2. None of CS Group, CSAG, Applicants or any of the Covered Persons will employ the former employees of the Pleading Entity or any other person who subsequently may be identified by the Pleading Entity or any U.S. or non-U.S. regulatory or enforcement agencies as having been responsible for the Conduct in any capacity without first making a further application to the Commission pursuant to section 9(c).

3. Each of CS Group, CSAG, Applicants, and the Covered Persons will adopt and implement policies and procedures reasonably designed to ensure that it will comply with the terms and conditions of the Orders applicable to it within 60 days of the date of the Permanent Order, or with respect to condition four immediately below, such later date or dates as may be contemplated by the Plea Agreement, the DPA, the SEC Order, or any other orders issued by regulatory or enforcement agencies addressing the Conduct.

4. Each of CS Group, CSAG, Applicants and the Covered Persons will comply in all material respects with the material terms and conditions of the Plea Agreement, the DPA, with the material terms of the SEC Order, and any other orders issued by, or settlements with, regulatory or enforcement agencies addressing the Conduct, in each case as such terms and conditions are applicable to it. In addition, within 30 days of each anniversary of the Permanent Order (until and including the third such anniversary), CS Group will submit a certification signed by its chief executive officer and its chief compliance officer, confirming that (i) the Pleading Entity has complied with the terms and conditions of the Plea Agreement in all material respects; (ii) CS Group has complied with the terms and conditions of the DPA in all material respects; and (iii) CS Group, CSAG, Applicants and the Covered Persons have complied with the terms and conditions of the Orders in all material respects. Each such certification will be submitted to the Chief Counsel of the Commission's Division of Investment Management with a copy to the Chief Counsel of the Commission's Division of Enforcement;

5. Applicants will provide written notification to the Chief Counsel of the Commission's Division of Investment Management with a copy to the Chief Counsel of the Commission's Division of Enforcement of a material violation of the terms and conditions of the Orders within 30 days of discovery of the material violation. In addition, CS Group will submit to the Chief Counsel of the Commission's Division of Investment Management, with a copy to the Chief Counsel of the Commission's Division of Enforcement, (i) the Remediation Report and (ii) the Multilateral Remedies Report within 30 days of each anniversary of the Permanent Order (until and including the third such anniversary). CS Group's first of each such report will be signed by its chief executive officer and chief compliance officer.

Temporary Order

The Commission has considered the matter and finds that Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that the Covered Persons are granted a temporary exemption from the provisions of section 9(a), effective as the date of the Guilty Plea, solely with respect to the Guilty Plea entered into pursuant to the Plea Agreement, subject to the representations and conditions in the application, until the Commission takes final action on their application for a permanent order.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23166 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Regulation R, Rule 701; SEC File No. 270–562, OMB Control No. 3235–0624

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Regulation R, Rule 701 (17 CFR 247.701) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Regulation R, Rule 701 requires a broker or dealer (as part of a written agreement between the bank and the broker or dealer) to notify the bank if the broker or dealer makes certain determinations regarding the financial status of the customer, a bank employee's statutory disqualification status, and compliance with suitability or sophistication standards.

The Commission estimates there are 3,560 registered brokers or dealers that would, on average, notify 1,000 banks approximately two times annually about a determination regarding a customer's high net worth or institutional status or suitability or sophistication standing as well as a bank employee's statutory disqualification status. Based on these estimates, the Commission anticipates that Regulation R, Rule 701 would result in brokers or dealers making approximately 2,000 notifications to banks per year. The Commission further estimates (based on the level of difficulty and complexity of the applicable activities) that a broker or dealer would spend approximately 15 minutes per notice to a bank. Therefore, the estimated total annual third party disclosure burden for the requirements in Regulation R, Rule 701 is 500 [1] hours for brokers or dealers.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23159 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

[1] 1,000 banks × 2 notices = 2,000 notices; (2,000 notices × 15 minutes) = 30,000 minutes/60 minutes = 500 hours.

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–662, OMB Control No. 3235–0720]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Form 1–K

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 1–K (17 CFR 239.91) is used to file annual reports by Tier 2 issuers under Regulation A, an exemption from registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Tier 2 issuers under Regulation A conducting offerings of up to $50 million within a 12-month period are required to file Form 1–K. Form 1–K provides audited year-end financial statements and information about the issuer's business operation, ownership, management, liquidity, capital resources and operations on an annual basis. In addition, Part I of the Form 1–K collects information on any offerings under Regulation A that have been terminated or completed unless it has been previous reported on Form 1–Z. The purpose of the Form 1–K is to better inform the public about companies that have conducted Tier 2 offerings under Regulation A. We estimate that approximately 36 issuers file Form 1–K annually. We estimate that Form 1–K takes approximately 600 hours to prepare. We estimate that 75% of the 600 hours per response (450 hours) is prepared by the company for a total annual burden of 16,200 hours (450.0 hours per response × 36 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and

recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23155 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–620, OMB Control No. 3235–0675]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 15Ga–2 and Form ABS–15G

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 15Ga–2 and Form ABS–15G (17 CFR 249.1400) is used for reports of information required under Rule 15Ga–1 and Rule 15Ga–2 (17 CFR 240.15Ga–1) (17 CFR 240.15Ga–2) of the Exchange Act of 1934 (''Exchange Act''). Exchange Act Rule 15Ga–1 requires asset-backed securitizers to provide disclosure regarding fulfilled an unfulfilled repurchase requests with respect to asset-backed securities. The purpose of the information collected on Form ABS–15G is to implement the disclosure requirements of Section 943 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to provide information regarding the use of representations and warranties in the asset-backed securities markets. Rule 15Ga–1 had a one-time reporting requirement that expired on February 14, 2012. We estimate that approximately 1,343 securitizers will file Form ABS–15G annually at estimated (19.307 hours) burden hours per response. In addition, we estimate that 75% of the 19.307 hours per response (14.48 hours) is carried internally by the securitizers for a total annual reporting burden of 19,447 hours (14.48 hours per response × 1,343 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23154 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, October 28, 2021.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: October 21, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–23295 Filed 10–21–21; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–521, OMB Control No. 3235–0579]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Regulation BTR

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Regulation Blackout Trade Restriction (''Regulation BTR'') (17 CFR 245.100–245.104) clarifies the scope and application of Section 306(a) of the Sarbanes-Oxley Act of 2002 (''Act'') (15 U.S.C. 7244(a)). Section 306(a)(6) [15 U.S.C. 7244(a)(6)] of the Act requires an issuer to provide timely notice to its directors and executive officers and to the Commission of the imposition of a blackout period that would trigger the statutory trading prohibition of Section

306(a)(1) [15 U.S.C. 7244(a)(1)]. Section 306(a) of the Act prohibits any director or executive officer of an issuer of any equity security, directly or indirectly, from purchasing, selling or otherwise acquiring or transferring any equity security of that issuer during any blackout period with respect to such equity security, if the director or executive officer acquired the equity security in connection with his or her service or employment. Approximately 1,230 issuers file Regulation BTR notices approximately 5 times a year for a total of 6,150 responses. We estimate that it takes approximately 2 hours to prepare the blackout notice for a total annual burden of 2,460 hours. The issuer prepares 75% of the 2,460 annual burden hours for a total reporting burden of (1,230 × 2 × 0.75) 1,845 hours. In addition, we estimate that an issuer distributes a notice to five directors and executive officers at an estimated 5 minutes per notice (1,230 blackout period × 5 notices × 5 minutes) for a total reporting burden of 512 hours. The combined annual reporting burden is (1,845 hours + 512 hours) 2,357 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23153 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–126, OMB Control No. 3235–0287]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form 4

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Under the Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which registered under Section 12 of the Exchange Act (15 U.S.C. 78*l*), or who is a director or any officer of the issuer of such security (collectively ''insider''), must file a statement with the Commission reporting their ownership. Form 4 is a statement to disclose changes in an insider's ownership of securities. The information is used for the purpose of disclosing the equity holdings of insiders of reporting companies. Approximately 338,207 insiders file Form 4 annually and it takes approximately 0.5 hours to prepare for a total of 169,104 annual burden hours (0.5 hours per response × 338,207 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23150 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–827, OMB: 3235–xxxx]

Proposed Collection; Comment Request

Upon Written Request Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

New ICR:
OASB Generic Clearance Request

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this new collection of information to the Office of Management and Budget for extension and approval.

The Commission's Office of the Advocate for Small Business Capital Formation (''Office'') seeks to collect feedback from small businesses and their investors to understand better the population that it is serving and their role in the small business ecosystem. The proposed collection of information will help ensure that the Office's outreach efforts and communication materials and other program initiatives are effective and responsive to customer needs. More specifically, the Office will seek the following four categories of information: (i) Demographic information about program participants, (ii) feedback on the Office's outreach and educational materials, (iii) capital formation-related questions, and (iv) issues and challenges faced by small businesses and their investors. This feedback will allow the Office to tailor its outreach efforts and communication materials to serve its customers more effectively. Collecting feedback will also allow the Office to understand better its target audience and improve outreach events and educational materials by optimizing their content and delivery, while strategizing how best to deploy the Office's resources to address issues and challenges faced by its customers.

Feedback collected under this generic clearance will provide useful

information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

Below are the projected average estimates for the next three years:

Expected Annual Number of:

Activities: [20].

Respondents: [6,200].

Responses: [6,200].

Frequency of Response: Once per request.

Average Minutes per Response: [5].

Burden Hours: [517].

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Office, including whether the information shall have practical utility; (b) the accuracy of the estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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.

Please direct your written comments to: David L. Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 19, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23158 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93381; File No. SR–MEMX–2021–12]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a Billing Errors Policy and Enable the Exchange To Agree to Alternative Payment Instructions for the Exchange's Direct Debit Collection Process

October 19, 2021.

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 October 12, 2021, MEMX LLC (''MEMX'' 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 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 with the Commission a proposed rule change to amend Exchange Rule 15.3 to: (a) Adopt a policy relating to billing errors that is substantially similar to the policy adopted by another group of exchanges; (b) enable the Exchange, upon request, to permit a member of the Exchange (''Member'') or applicant for registration as such to provide alternative payment instructions (*i.e.,* other than a National Securities Clearing Corporation (''NSCC'') clearing account number, as currently required by Exchange Rule 15.3(a)) for purposes of the Exchange's direct debit process for the collection of fees and other monies due and owing to the Exchange; and (c) add paragraph headings and relocate certain existing text within the Rule. The text of the proposed rule change is provided in Exhibit 5.

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

Billing Errors Policy

The Exchange is proposing to adopt a policy relating to billing errors. Specifically, the Exchange proposes to adopt a new paragraph (c) in Rule 15.3 entitled, ''Billing Errors,'' which would provide that all fees and rebates assessed by the Exchange prior to the three full calendar months before the month in which the Exchange becomes aware of a billing error shall be considered final. Particularly, the Exchange would resolve such an error by crediting or debiting affected Members and non-Member customers of the Exchange (''Non-Members'') based on the fees or rebates that should have been applied in the three full calendar months preceding the month in which the Exchange became aware of the error, including to all impacted transactions that occurred during those months.[3] The Exchange would apply the three month look back regardless of whether the error was discovered by the Exchange or by a Member or Non-Member that submitted a pricing dispute.[4]

The purpose of the proposed change is to provide both the Exchange and its Members and Non-Members finality with respect to fees and rebates previously assessed by the Exchange and the ability to close their books after a specified time period. The Exchange notes that Rule 15.3(b) already requires that pricing disputes must be submitted to the Exchange in writing and accompanied by supporting documentation no later than 60 days after receipt of a billing invoice, which

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that the current policy in Rule 15.3(b), which states that all pricing disputes must be submitted no later than sixty (60) days after receipt of a billing invoice, will remain in place.

[4] For example, if the Exchange becomes aware of a transaction fee billing error on June 4, 2021, the Exchange will resolve the error by crediting or debiting Members and Non-Members based on the fees or rebates that should have been applied to any impacted transactions during March, April and May 2021. The Exchange notes that because it bills in arrears, the Exchange would be able to correct the error in advance of issuing the June 2021 invoice, and therefore, transactions impacted after the end of the last full calendar month through the date of discovery (in this example, after May 31, 2021 through June 4, 2021), and thereafter, would be billed correctly.

is designed to encourage prompt review of Exchange invoices so that any pricing disputes can be addressed in a timely manner. The Exchange believes the proposed change would further the goal of addressing billing discrepancies in a timely manner while the information and data underlying those charges (*e.g.,* applicable fees and order information) is still easily and readily available, without further limiting the timeframe in which a pricing dispute may be submitted. This practice would avoid issues that may arise when billing errors are discovered long after they occurred and the parties have already prepared, and in some cases published, their books, and would conserve Exchange resources that would have to be expended to resolve untimely billing disputes. As such, the proposed rule change would alleviate administrative burdens related to prior billing errors, which could divert Exchange staff resources away from the Exchange's regulatory and business purposes.

The Exchange notes that the language of proposed Rule 15.3(c) is substantially similar to language included in the fee schedules of the four Cboe U.S. equities exchanges—Cboe BZX Exchange, Inc. (''Cboe BZX''),[5] Cboe BYX Exchange, Inc. (''Cboe BYX''),[6] Cboe EDGA Exchange, Inc. (''Cboe EDGA''),[7] and Cboe EDGX Exchange, Inc. (''Cboe EDGX'').[8] The Exchange also notes that a number of other exchanges have explicitly stated that they consider all fees to be final after a similar period of time.[9] The proposed billing errors policy would apply to all fees and rebates assessed by the Exchange. Finally, the Exchange notes that the proposed billing errors policy is not intended to circumvent or supersede any audit process with respect to the Exchange's market data offering, which is intended to ensure that market data recipients are in compliance with the terms of the applicable market data subscriber agreement. Thus, the proposed billing errors policy would not apply to, or otherwise affect the Exchange's or any market data recipient's ability to take a position with respect to, any fees identified through any such audit conducted by the Exchange.[10]

Alternative Payment Instructions for Direct Debit

The Exchange is also proposing to amend Rule 15.3(a) to enable the Exchange, upon request, to permit a Member or applicant for registration as such to provide alternative payment instructions (*i.e.,* other than an NSCC clearing account number, as currently required by Rule 15.3(a)) for purposes of the Exchange's direct debit process for the collection of fees and other monies due and owing to the Exchange. Specifically, the proposed rule change would provide that the Exchange will, upon request, waive the current requirement in Rule 15.3(a) for a Member or applicant for registration as such to provide an NSCC clearing account number and instead require such Member or applicant to provide alternative payment instructions as agreed to by the Exchange for purposes of permitting the Exchange to debit any of the fees, fines, charges and/or other monetary sanctions or other monies due and owing to the Exchange listed in Rule 15.3(a). The proposed rule change would further provide that the Exchange reserves the right to require any such Member or applicant to provide an NSCC clearing account number for such purposes if the Exchange encounters repeated failed collection attempts using the alternative payment instructions.

The purpose of the proposed change is to provide the Exchange with the flexibility to agree to an alternative payment arrangement with a Member or applicant for registration as such, if such Member or applicant so requests, as the Exchange understands that certain Members or applicants may have an operational burden associated with remitting payment to the Exchange through an NSCC clearing account. Under the proposed rule change, any such alternative payment instructions must: (i) Be agreed to by the Exchange; and (ii) permit the Exchange to initiate the debit of any fees and other monies due and owing to the Exchange in a manner similar to the current requirement with respect to an NSCC clearing account (*i.e.,* a direct debit process).[11] The requirement that such alternative payment instructions must be agreed to by the Exchange is intended to be an objective standard, and the Exchange's ability to agree to such alternative payment instructions would be exercised uniformly with respect to any Member or applicant that so requests to the extent such alternative payment instructions reasonably appear to permit the Exchange to utilize a direct debit process.

Addition of Paragraph Headings and Relocation of Existing Rule Text

Lastly, the Exchange proposes to add paragraph headings and relocate certain existing text within Rule 15.3 for organization purposes. Specifically, the Exchange is proposing to add paragraph headings to entitle paragraph (a) as ''Collection Through Direct Debit''; paragraph (b) as ''Pricing Disputes''; and proposed new paragraph (c) as ''Billing Errors''. Additionally, the Exchange is proposing to relocate existing Rule text related to pricing dispute procedures that is currently located in paragraph (a), which otherwise addresses procedures related to the Exchange's direct debit process for the collection of fees and other monies due and owing to the Exchange, to paragraph (b), which contains procedures related to pricing disputes, as the Exchange believes that including such Rule text in paragraph (b) is more appropriate. The Exchange is not proposing to amend any of the Rule text being relocated. These proposed changes are non-substantive and are intended to provide greater context and organization within Rule 15.3 and make such Rule easier to navigate and understand.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to

[5] *See* Cboe BZX equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*). *See also* Securities Exchange Act Release No. 90897 (January 11, 2021), 86 FR 4161 (January 15, 2021) (SR-CboeBZX–2020–094).

[6] *See* Cboe BYX equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/byx/*). *See also* Securities Exchange Act Release No. 90899 (January 11, 2021), 86 FR 4156 (January 15, 2021) (SR–CboeBYX–2020–034).

[7] *See* Cboe EDGA equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/edga/*). *See also* Securities Exchange Act Release No. 90897 (January 11, 2021), 86 FR 4161 (January 15, 2021) (SR–CboeBZX–2020–094).

[8] *See* Cboe EDGX equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/*). *See also* Securities Exchange Act Release No. 90901 (January 11, 2021), 86 FR 4137 (January 15, 2021) (SR–CboeEDGX–2020–064).

[9] *See, e.g.,* Securities Exchange Act Release No. 34–91836 (May 11, 2021), 86 FR 26765 (May 17, 2021) (SR–BOX–2021–08); Securities Exchange Act Release No. 87650 (December 3, 2019), 84 FR 67304 (December 9, 2019) (SR–NYSECHX–2019–024); Securities Exchange Act Release No. 84430 (October 16, 2018), 83 FR 53347 (October 22, 2018) (SRNYSENAT–2018–23); and Securities Exchange Act Release No. 79060 (October 6, 2016), 81 FR 70716 (October 13, 2016) (SR–ISEGemini–2016–11).

[10] The Exchange notes that it does not currently charge any fees for its market data, and therefore does not currently conduct audits of market data recipients, but may do so in the future.

[11] *See* Securities Exchange Act Release No. 89784 (September 8, 2020), 85 FR 56672 (September 14, 2020) (SR–MEMX–2020–06) for additional details regarding the Exchange's direct debit process.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

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. The Exchange also believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(1) [15] requirement that it be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Members and persons associated with its Members, with the provisions of the Act, the rules and regulations thereunder, and the Exchange's Rules.

With respect to the proposed policy relating to billing errors, the Exchange believes that providing that all fees and rebates are final after three months (*i.e.,* resolving billing errors only for the three full calendar months preceding the month in which the Exchange became aware of the error) is reasonable and consistent with the Act as both the Exchange and its Members and Non-Members have an interest in knowing when its fee assessments are final and when reliance can be placed on those assessments. Indeed, without some deadline on billing errors, the Exchange and its Members and Non-Members would never be able to close their books with any confidence. As noted above, the Exchange believes this proposed change would conserve Exchange resources that would have to be expended to resolve untimely billing disputes, which could divert Exchange staff resources away from the Exchange's regulatory and business purposes. For these reasons, the Exchange believes this proposed change promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest. Furthermore, as noted above, the language of proposed Rule 15.3(c) is substantially similar to language included in the fee schedules of the four Cboe U.S. equities exchanges,[16] and a number of other exchanges similarly consider their fees final after a similar period of time.[17] As such, this proposed change does not raise any new or novel issues that have not been previously considered by the Commission. This proposed change is also equitable and not unfairly discriminatory because it would apply equally to all Members (and Non-Members that pay Exchange fees) and would apply in cases where either the Member (or Non-Member) discovers the error or the Exchange discovers the error.

The Exchange believes the proposed change to enable the Exchange, upon request, to permit a Member or applicant for registration as such to provide alternative payment instructions (*i.e.,* other than an NSCC clearing account number, as currently required by Rule 15.3) for purposes of the Exchange's direct debit collection process is appropriate and consistent with Section 6(b)(1) of the Act,[18] as such change would provide the Exchange with the flexibility to agree to an alternative payment arrangement with a Member or applicant that has an operational burden associated with remitting payment to the Exchange through an NSCC clearing account, thereby enabling it to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Members and persons associated with its Members, with the Exchange's Rules relating to payment of fees and other monies due and owing to the Exchange. The Exchange also believes that reserving the right to revert to the general rule (*i.e.,* to require an NSCC clearing account number for direct debit purposes) with respect to any such Member or applicant if the Exchange encounters repeated failed collection attempts using such alternative payment instructions is appropriately designed to ensure that it is able to collect the fees and other monies due and owing to the Exchange through its standard collection process if warranted, and is thus consistent with the Act for similar reasons.

Additionally, as this proposed change is designed to give the Exchange and its Members flexibility regarding their payment arrangements while providing a safeguard by which the Exchange may revert to its standard collection process, the Exchange believes it would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. This proposed change is also equitable and not unfairly discriminatory because it is based on objective standards and would apply equally to all Members and applicants for registration as such, as described above.

Finally, the Exchange believes the proposed changes to add paragraph headings and relocate certain existing Rule text related to pricing disputes to the appropriate paragraph within Rule 15.3 would remove impediments to and perfect the mechanism of a free and open market and a national market system, as such changes would provide greater context and organization within the Rule, which would assist Members in locating the relevant text within the Rule and therefore make the Rule easier to navigate and understand. As noted above, the Rule text being relocated is not being amended by this proposal. For the foregoing reasons, the Exchange believes these proposed changes are non-substantive and consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. With respect to the proposed billing errors policy, the proposal would establish a clearly defined timeframe for fees and rebates to be considered final that would apply equally to all Members and Non-Members. Additionally, as noted above, this proposed change is similar to rules of other exchanges and therefore does not raise any new or novel issues that have not been previously considered by the Commission.[19] The proposed change to enable the Exchange to agree to alternative payment instructions for the Exchange's direct debit collection process would also apply equally to all Members and applicants for registration as such, as the opportunity to request that the Exchange agree to alternative payment instructions is available to any such Member or applicant and the

[14] *Id.*

[15] 15 U.S.C. 78(b)(1).

[16] *See supra* notes 7–10.

[17] *See supra* note 11.

[18] 15 U.S.C. 78(b)(1).

[19] *See supra* notes 7–11.

Exchange's ability to agree to such alternative payment instructions would be exercised uniformly on an objective basis. Such change, as well as the non-substantive changes to add paragraph headings and relocate existing Rule text within Rule 15.3, do not address competitive issues but are concerned solely with the administration of the Exchange. For these reasons, the Exchange does not believe such proposed changes would impair the ability of Members or competing order execution venues to maintain their competitive standing in the financial markets, and therefore, the Exchange does not believe the proposal will impose any burden on intermarket competition. Moreover, because the proposed changes would apply equally to all Members and Non-Members, as applicable, the Exchange does not believe the proposal would impose any burden on intramarket competition.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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 change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2021–12 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–MEMX–2021–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2021–12 and should be submitted on or before November 15, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23139 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4. In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93386; File No. SR–CFE–2021–008]

Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of a Filing of a Proposed Rule Change Regarding Disruptive Trading Practices

October 19, 2021.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 5, 2021 Cboe Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'') [2] on October 5, 2021.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The Exchange proposes to provide additional guidance in its rules regarding prohibited disruptive practices.

The rule amendments included as part of this proposed rule change are to apply to all products traded on CFE, including both non-security futures and any security futures that may be listed for trading on CFE. The scope of this filing is limited solely to the application of the proposed rule change to security futures that may be traded on CFE. Although no security futures are currently listed for trading on CFE, CFE may list security futures for trading in the future.

The text of the proposed rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

[1] 15 U.S.C. 78s(b)(7).

[2] 7 U.S.C. 7a–2(c).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE 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

CFE Rule 620 (Disruptive Practices) prohibits various disruptive practices and CFE Policy and Procedure XVIII (Disruptive Trading Practices) (''P&P XVIII'') of the Policies and Procedures section of the CFE Rulebook lists various factors that CFE may consider in assessing whether conduct violates Rule 620. The proposed rule change proposes to make the following clarifying updates in relation to these provisions.

CFE is proposing to amend the provisions of Section E of P&P XVIII in the following manner.

The title of Section E of P&P XVIII is currently ''Orders entered by mistake.'' The proposed rule change proposes to revise the title of Section E of P&P XVIII to be ''Orders entered by mistake or error'' to clarify that Section E of P&P XVIII covers Orders entered either by mistake or error. The Exchange considers the terms ''mistake'' and ''error'' to be synonyms for one another while recognizing that a mistake may be more associated with human action while an error may be more associated with system behavior. To the extent that there is a difference between the two terms and that Section E of P&P XVIII refers to ''errors'' within the text of the provision, the Exchange is making this change to make clear that a mistake is encompassed within the references to ''errors'' in the text of the provision.

The first sentence of Section E of P&P XVIII currently provides that: ''An unintentional, accidental, or 'fat-finger' Order will not constitute a violation of Rule 620, but such activity may be a violation of other Exchange rules, including, but not limited to, Rule 608 (Acts Detrimental to the Exchange; Acts Inconsistent with Just and Equitable Principles of Trade; Abusive Practices).'' The proposed rule change proposes to insert the word ''typically'' after the word ''not'' so that the sentence provides that an unintentional, accidental, or ''fat-finger'' Order will not typically constitute a violation of Rule 620, but such activity may be a violation of other Exchange rules, including, but not limited to, Rule 608.

The second sentence of Section E of P&P XVIII currently provides that: ''Market participants are expected to take steps to mitigate the occurrence of errors, and their impact on the market.'' The proposed rule change proposes to further flesh out this sentence by revising it to provide that: ''Market participants are expected to take reasonable steps or otherwise have controls to prevent, detect and mitigate the occurrence of errors, market disruptions and system anomalies and their impact on the market.'' This proposed additional language clarifies that market participants are expected to take reasonable steps or to otherwise have controls in place to prevent, detect, and mitigate the occurrence of errors, market disruptions and system anomalies, and their impact on the market.

The proposed rule change proposes to add the following sentence at the end of Section E of P&P XVIII in reference to the second sentence of Section E of P&P XVIII: ''Failure to take reasonable steps to prevent, detect and mitigate such errors, market disruptions, system anomalies or impacts may violate Rule 609 (Supervision) or other Exchange rules.'' This sentence is intended to provide additional clarity to market participants about how P&P XVIII interacts with other CFE rules.

Section K of P&P XVIII describes factors that may be considered in determining whether a market participant intended to disrupt the orderly conduct of trading or the fair execution of transactions or demonstrated a reckless disregard for the orderly conduct of trading or the fair execution of transactions. CFE is proposing to amend Section K of P&P XVIII to provide that additional factors that may be considered in this regard include, but are not limited to, the impact to other market participants' ability to trade, engage in price discovery, or manage risk. CFE believes that the addition of these added non-exhaustive factors will provide further clarity regarding how CFE determines whether a market participant intended to disrupt, or demonstrated a reckless disregard for, the orderly conduct of trading or the fair execution of transactions.

CFE also proposes to make the following clarifying updates to the provisions of Section U of P&P XVIII.

The title of Section U of P&P XVIII is currently ''Submission of partial messages to reduce latency or purposeful corruption of data packets.'' The proposed rule change proposes to revise the title of Section U of P&P XVIII to be ''Submission of partial messages to reduce latency or purposeful submission of intentionally corrupted or malformed data packets.''

The second sentence of Section U of P&P XVIII currently provides that: ''Purposefully corrupting or constructing malformed data packets also has the potential to disrupt the systems of the Exchange.'' The proposed rule change proposes to revise this sentence to provide that: ''Purposefully submitting intentionally corrupted or malformed data packets also has the potential to disrupt the systems of the Exchange.''

The proposed revisions to Section U of P&P XVIII are intended clarify that activity within the scope of Section U of P&P XVIII relating to corrupted or malformed data packets involves the purposeful submission of intentionally corrupted or malformed data packets.

CFE also is proposing to add an example of prohibited activity under Rule 620. In particular, P&P XVIII includes a non-exhaustive list of various examples of conduct that may be found to violate Rule 620. The additional example provides a specific illustration of a trading strategy that may violate Rule 620 which involves purposefully submitting malformed data packets to CFE's trading system (''CFE System'') as part of a trading strategy to reduce latency. In particular, this type of trading strategy may violate Rule 620(b)(iv) which provides that no Person shall intentionally or recklessly submit or cause to be submitted an actionable or non-actionable message(s) that has the potential to disrupt the systems of the Exchange or other market participants.

The proposed additional example includes the following fact pattern: A market participant engages in a trading strategy where the market participant's trading system is designed to purposefully submit malformed data across one or more physical connections to the Exchange. For example, based on information received, the participant's trading system begins constructing an order message (*e.g.,* an Ethernet Frame, TCP or IP packet, etc.). The trading system is designed so that if further information is received during construction that negates the desire or need to trade the order being constructed, the trading system will stop construction and submit the incomplete data to the Exchange.

Because the incomplete data (*e.g.,* a TCP/IP packet missing required TCP or IP fields such as Sequence Number or Destination Port) cannot be properly processed by a network switch or receiving device at the logical or physical entry point to the CFE System, the receiving device will discard the data. If no further information is received by the trading system during construction that would negate the desire or need to trade the order, the trading system will complete construction of, and submit, the data so that an Order message from the trading system is able to reach the CFE System. The practice of submitting to the Exchange purposefully incomplete or malformed data packets has the potential to disrupt the systems of the Exchange and may violate Rule 620(b)(iv).

The purposeful submission of intentionally corrupted or malformed data packets has the potential to impact the systems of the Exchange and the Exchange believes that this activity serves no useful purpose. Accordingly, the proposed rule change further clarifies how this type of activity may violate Rule 620 and P&P XVIII.

The proposed rule change is consistent with similar updated guidance provided by other designated contract markets (''DCMs'') regarding disruptive practices.[3] The Exchange believes that aligning its guidance regarding disruptive trading practices across DCMs where appropriate protects the Exchange, investors, and the public interest by promoting uniform expectations among market participants regarding disruptive trading practices.

CFE also believes that the proposed rule change is consistent with the Electronic Trading Risk Principles recently adopted by the CFTC.[4] The Electronic Trading Risk Principles are intended to address the potential risk of a DCM's trading platform experiencing a market disruption or system anomaly due to electronic trading. For example, CFTC Regulation 38.251(e)[5] provides that a DCM must adopt and implement rules governing market participants subject to its jurisdiction to prevent, detect, and mitigate market disruptions or system anomalies associated with electronic trading. The proposed rule change furthers the goals of the Electronic Trading Risk Principles by making clear, among other things, (i) that market participants are expected to take reasonable steps or otherwise have controls to prevent, detect, and mitigate the occurrence of errors, market disruptions, and system anomalies and their impact on the market and (ii) that factors which may be considered in determining whether a market participant intended to disrupt, or demonstrated a reckless disregard for, the orderly conduct of trading or the fair execution of transactions include, but are not limited to, the impact to other market participants' ability to trade, engage in price discovery, or manage risk.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(1)[7] and 6(b)(5)[8] in particular, in that it is designed:

- To enable the Exchange to enforce compliance by its Trading Privilege Holders and persons associated with its Trading Privilege Holders with the provisions of the rules of the Exchange,
- to prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade,
- to remove impediments to and perfect the mechanism of a free and open market and a national market system,
- and in general, to protect investors and the public interest.

The proposed rule change provides additional guidance regarding disruptive practices that violate CFE Rule 620. CFE considers the disruptive trading practices addressed by the proposed rule change to be prohibited by existing CFE rules, including current Rule 620, P&P XVIII, CFE Rule 608 (Acts Detrimental to the Exchange, Acts Inconsistent with Just and Equitable Principles of Trade; Abusive Practices) and CFE Rule 609 (Supervision). CFE also considers the provisions that are proposed to be added to P&P XVIII relating to factors that the Exchange may consider in assessing whether conduct violates Rule 620 and relating to purposefully submitting intentionally corrupted or malformed data packets to be within the scope of existing CFE rules, including current Rule 620 and P&P XVIII. Although this is the case, CFE believes that it is beneficial to provide additional guidance to market participants through the inclusion of further detail in CFE's rules regarding prohibited disruptive practices.

By further describing prohibited disruptive trading practices in CFE's rules and by providing additional guidance relating to the application of CFE's rule provisions with respect to disruptive trading practices, the proposed changes to P&P XVIII contribute to the protection of CFE's market and market participants from abusive practices; to the promotion of fair and equitable trading on CFE's market; and to precluding activity on CFE's market that is disruptive to the operation of the Exchange or the ability of other market participants to trade, engage in price discovery, or manage risk.

Accordingly, the Exchange believes that the proposed rule change will benefit market participants because it will provide greater clarity regarding the Exchange's current prohibited disruptive trading practices and the various factors that CFE may consider in assessing whether conduct violates Rule 620. Additionally, the Exchange believes that the proposed rule change will strengthen its ability to carry out its responsibilities as a self-regulatory organization by providing further guidance regarding the type of activity that is prohibited under CFE Rule 620. In addition, the proposed rule change benefits market participants by contributing to the protection of CFE's market and market participants from abusive practices and to the promotion of a fair and orderly market.

The Exchange also believes that the proposed rule change is equitable and not unfairly discriminatory in that the rule amendments included in the proposed rule change would apply equally to all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change will not burden intra-market competition because the clarifying updates to the prohibited disruptive trading practices will apply equally to all market participants. The Exchange also believes that these clarifying updates will help to foster a fair and orderly market and contribute to furthering the promotion of fair and

[3] These DCMs are ICE Futures U.S., Inc. (''ICE''), Chicago Mercantile Exchange, Inc. (''CME''), The Board of Trade of the City of Chicago, Inc., New York Mercantile Exchange, Inc., and Commodity Exchange, Inc. Each submitted rule certification filings to the CFTC to effectuate their respective updated guidance. See, *e.g.,* ICE Submission 21–44 (June 22, 2021) and CME Submission No. 20–306 (July 16, 2021), which are available on the CFTC website.

[4] See CFTC Final Rule regarding Electronic Trading Risk Principles, 86 FR 2048 (January 11, 2021).

[5] 17 CFR 38.251(e).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(1).

[8] 15 U.S.C. 78f(b)(5).

equitable trading on the Exchange. Additionally, the proposed rule change is designed to make CFE's disruptive trading practice rules consistent with the existing rules and guidance published by other DCMs and thus will not burden intermarket competition.

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 proposed rule change will become operative on October 20, 2021. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CFE–2021–008 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–CFE–2021–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CFE–2021–008, and should be submitted on or before November 15, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–23141 Filed 10–22–21; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(1).

[10] 17 CFR 200.30–3(a)(73).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17229 and #17230; Maryland Disaster Number MD–00043]

Administrative Declaration of a Disaster for the State of Maryland

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Maryland dated 10/18/2021.

Incident: Remnants of Tropical Storm Ida.

Incident Period: 08/31/2021 through 09/04/2021.

DATES: Issued on 10/18/2021.

Physical Loan Application Deadline Date: 12/17/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 07/18/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Anne Arundel, Cecil, Montgomery.

Contiguous Counties:

Maryland: Baltimore, Baltimore City, Calvert, Frederick, Harford, Howard, Kent, Prince Georges.

Delaware: New Castle.

District of Columbia

Pennsylvania: Chester, Lancaster.

Virginia: Arlington, Fairfax, Loudoun.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.125
Homeowners without Credit Available Elsewhere	1.563
Businesses with Credit Available Elsewhere	5.710
Businesses without Credit Available Elsewhere	2.855
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.855
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 17229 8 and for economic injury is 17230 0.

The States which received an EIDL Declaration # are Delaware, District of Columbia, Maryland, Pennsylvania, Virginia.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2021–23175 Filed 10–22–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17219 and #17220; Arizona Disaster Number AZ–00076]

Administrative Declaration of a Disaster for the State of Arizona

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Arizona dated 10/13/2021.

Incident: Severe Storms, Flooding and Flash Flooding.

Incident Period: 08/13/2021 through 08/14/2021.

DATES: Issued on 10/13/2021.

Physical Loan Application Deadline Date: 12/13/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 07/13/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Maricopa.

Contiguous Counties:

Arizona: Gila, La Paz, Pima, Pinal, Yavapai, Yuma.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.125
Homeowners without Credit Available Elsewhere	1.563
Businesses with Credit Available Elsewhere	5.710
Businesses without Credit Available Elsewhere	2.855
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.855
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 17219 6 and for economic injury is 17220 0.

The State which received an EIDL Declaration # is Arizona.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2021–23174 Filed 10–22–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11569]

Public Hearing on ISRSB's Report on Managing Water Supply and Flood Control in the Souris River Basin

ACTION: Notice of public hearing.

The International Joint Commission (IJC) is inviting public comment on recommendations made by the International Souris River Study Board (ISRSB) in a report that reviews the 1989 International Agreement between the Government of Canada and the Government of the United States of America for Water Supply and Flood Control in the Souris River Basin (the 1989 Agreement). Comments will be accepted at a public hearing to be held virtually on November 3, 2021, and by mail, email (*commission@ijc.org*) and online at *ijc.org/en/srsb-flood-drought* until November 15, 2021. The ISRSB's full report can be found on the Study Board's website at *ijc.org/en/srsb.*

Public Hearing on ISRSB's Report on Managing Water Supply and Flood Control in the Souris River Basin

Date: November 3, 2021.

Time: 12–1:30 p.m. CDT (11 a.m.–12:30 p.m. MDT, 1:00–2:30 p.m. EDT).

Location: Virtual, register online at *ijc.org/en/srsb-flood-drought.*

The International Souris River Study Board was established by the IJC in 2017 to assist in responding to a reference by the governments of Canada and the United States under Article IX of the *Boundary Waters Treaty of 1909.* The reference was precipitated by an unprecedented 2011 flood in the Souris River basin. The basin is part of the Prairie Pothole Region and stretches across Saskatchewan and Manitoba in Canada and extends into North Dakota in the United States.

The governments asked the IJC to coordinate the full completion of the 2013 IJC Plan of Study. As part of this, the IJC was asked to evaluate and make recommendations regarding the Operating Plan contained in Annex A to the 1989 Agreement. Among other items, the agreement coordinates the operation of certain dams and reservoirs in the basin.

IJC recommendations to the two federal governments under Article IX of the *Boundary Waters Treaty of 1909* are not binding and not to be considered decisions of the two federal governments.

The Study Board findings and recommendations cover five themes:

- Reviewing the performance of the operating plan in the 1989 Agreement
- Strengthening water supply and flood control benefits
- Improving data collection and management
- Addressing other water management challenges in the basin
- Building on the study's engagement and outreach, including initiating a new approach to engaging with Indigenous peoples in both countries

The public hearing and comment period concern potential recommendations the IJC may make to the Governments of Canada and the United States. The Study Board findings include that the 1989 Agreement is functioning well and is effective at achieving its intended objectives of flood protection and water supply benefits, and they identify marginal or incremental benefits in five alternative measures recommended for further investigation. The recommendations being considered include the following:

1. Modify the Winter Drawdown Elevation Targets to build greater flexibility into reservoir operations by varying reservoir elevation targets according to antecedent moisture conditions in the basin;

2. Extend the Winter Drawdown Date from February 1 to March 1 to provide additional river flow for improved environmental benefits during February;

3. Lower the Spring Maximum Flow Limits to reduce flood peaks and agricultural flood risk during small to moderate floods in riverine reaches in North Dakota (*i.e.,* floods under 57–85 m^3/s or 2 000 to 3 000 ft^3/s;

4. Establish a Summer Operating Plan to provide more guidance to reservoir operators to better manage summer reservoir operations under all conditions;

5. Shift the Apportionment rule calculations to a Water Year (November to October) from the current Calendar

Year (January to December) to ensure flood protection releases in November and December are credited toward apportionment.

The full Study Board report and recommendations can be found by visiting *ijc.org/en/srsb.*

Commissioners will be present to hear comments on the Study Board's report recommendations at the above referenced virtual public hearing on November 3, 2021. A public comment period on the ISRSB's report will also be open through November 15, 2021. Public input is essential to the Commission's consideration of a recommendation to the governments of the United States and Canada.

The International Joint Commission was established under the Boundary Waters Treaty of 1909 to help the United States and Canada prevent and resolve disputes over the use of the waters the two countries share. The Commission's responsibilities include investigating and reporting on issues of concern when asked by the governments of the two countries. For more information, visit the IJC website at ijc.org.

FOR FURTHER INFORMATION CONTACT: Christina Chiasson (Ottawa) (613) 293–1031 at *christina.chiasson@ijc.org* or Jeff Kart (Washington, DC) (989) 372–1229 at *jeff.kart@ijc.org*

Susan E. Daniel,

Acting Secretary, U.S. Section, International Joint Commission, Department of State.

[FR Doc. 2021–23146 Filed 10–22–21; 8:45 am]

BILLING CODE 4710–14–P

STATE JUSTICE INSTITUTE

Grant Guideline; Notice

AGENCY: State Justice Institute.

ACTION: Grant Guideline for FY 2022.

SUMMARY: This guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 2022 State Justice Institute grants.

DATES: October 25, 2021.

FOR FURTHER INFORMATION CONTACT: Jonathan Mattiello, Executive Director, State Justice Institute, 12700 Fair Lakes Circle, Suite 340, Fairfax, VA 22033, 703–660–4979, *jonathan.mattiello@sji.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the State Justice Institute Act of 1984 (42 U.S.C. 10701 *et seq.*), the State Justice Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the quality of justice in the state courts of the United States.

The following Grant Guideline is adopted by the State Justice Institute for FY 2022.

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I. Eligibility

Pursuant to the State Justice Institute Act of 1984 (42 U.S.C. 10701 *et seq.*), the State Justice Institute (SJI) is authorized to award grants, cooperative agreements, and contracts to State and local courts, national nonprofit organizations, and others for the purpose of improving the quality of justice in the State courts of the United States.

SJI is authorized by Congress to award grants, cooperative agreements, and contracts to the following entities and types of organizations:

- State and local courts and their agencies (42 U.S.C. 10705(b)(1)(A)).
- National nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments (42 U.S.C. 10705(b)(1)(B)).
- National nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments (42 U.S.C. 10705(b)(1)(C)). An applicant is considered a national education and training applicant under section 10705(b)(1)(C) if:
  - The principal purpose or activity of the applicant is to provide education and training to State and local judges and court personnel; and
  - The applicant demonstrates a record of substantial experience in the field of judicial education and training.
- Other eligible grant recipients (42 U.S.C. 10705 (b)(2)(A) through (D)).
  - Provided that the objectives of the project can be served better, SJI is also authorized to make awards to:
    - Nonprofit organizations with expertise in judicial administration
    - Institutions of higher education
    - Individuals, partnerships, firms, corporations (for-profit organizations must waive their fees)
    - Private agencies with expertise in judicial administration
  - SJI may also make awards to State or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements (42 U.S.C. 10705(b)(3)).

SJI is prohibited from awarding grants to Federal, tribal, and international courts.

II. Grant Application Deadlines

The SJI Board of Directors makes awards on a Federal fiscal year quarterly basis. Applications may be submitted at any time but will be considered for award based only on the timetable below.

TABLE 1—APPLICATION DEADLINES BY FEDERAL FISCAL YEAR QUARTER

Federal fiscal year quarter	Application due date
1	November 1.
2	February 1.
3	May 1.
4	August 1.

To be considered timely, an application must be submitted by the application deadline noted above. Applicants must use the SJI Grants Management System (GMS) to submit all applications and post-award documents. The SJI GMS is accessible at *https://gms.sji.gov.* The SJI urges applicants to submit applications at least 72 hours prior to the application due date to allow time for the applicant to receive an application acceptance message and to correct in a timely fashion any problems that may arise, such as missing or incomplete forms.

Questions related to the SJI Grant Program or the SJI GMS should be directed to *contact@sji.gov.*

III. The Mission of the State Justice Institute

The State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701 *et seq.*) established SJI to improve the administration of justice in the State courts of the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, SJI is charged, by statute, with the responsibility to:

- Direct a national program of financial assistance designed to ensure that each citizen of the United States is provided ready access to a fair and effective system of justice;
- Foster coordination and cooperation with the Federal judiciary;
- Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and
- Encourage education for judges and support personnel of State court systems

through national and State organizations.

To accomplish these broad objectives, SJI is authorized to provide funding to State courts, national organizations that support and are supported by State courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the State courts.

Through the award of grants, contracts, and cooperative agreements, SJI is authorized to perform the following activities:

- Support technical assistance, demonstrations, special projects, research, and training to improve the administration of justice in the State courts;
- Provide for the preparation, publication, and dissemination of information regarding State judicial systems;
- Participate in joint projects with Federal agencies and other private grantors;
- Evaluate or provide for the evaluation of programs and projects to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the State courts;
- Encourage and assist in furthering judicial education; and
- Encourage, assist, and serve in a consulting capacity to State and local courts in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services.

SJI is supervised by a Board of Directors appointed by the U.S. President, with the advice and consent of the U.S. Senate. The SJI Board of Directors is statutorily composed of six judges; a State court administrator and four members of the public, no more than two of the same political party. Additional information about SJI, including a list of members of the SJI Board of Directors, is available at *https://www.sji.gov.*

A. Priority Investment Areas

The SJI Board of Directors has established Priority Investment Areas for grant funding. SJI will allocate significant financial resources through grant-making for these Priority Investment Areas. The Priority Investment Areas are applicable to all grant types. SJI strongly encourages potential grant applicants to consider projects addressing one or more of these Priority Investment Areas and to integrate the following factors into each proposed project:

- Evidence based, data-driven decision making;
- Cross-sector collaboration;
- Systemic approaches (as opposed to standalone programs);
- Institutionalization of new court processes and procedures;
- Ease of replication; and
- Sustainability

For FY 2022, the Priority Investment Areas are listed below in no specific order.

1. *Opioids and Other Dangerous Drugs, and Behavioral Health Responses.*

- *Behavioral Health Disparities*—Research indicates that justice-involved persons have significantly greater proportions of mental, substance use, and co-occurring disorders than are found in the public. SJI supports cross-sector collaboration and information sharing that emphasizes policies and practices designed to improve court responses to justice-involved persons with behavioral health and other co-occurring needs.
- *Trauma Informed Approaches*—Judges, court staff, system stakeholders and court-involved persons (defendants, respondents, and victims) alike may be impacted by prior trauma. This is particularly, but not exclusively, true for those with mental illness and/or substance use disorders. SJI supports trauma-informed training, policies, and practices in all aspects of the judicial process.

2. *Promoting Access to Justice and Procedural Fairness.*

- *Self-Represented Litigation*—SJI promotes court-based solutions to address increases in self-represented litigants; helps make courts more user-friendly by simplifying court forms; provides one-on-one assistance; develops guides, handbooks, and instructions on how to proceed; develops court-based self-help centers; and uses internet technologies to increase access. These projects are improving outcomes for litigants and saving valuable court resources.
- *Language Access*—SJI supports language access in the State courts through remote interpretation (outside the courtroom), interpreter training and certification, courtroom services (plain language forms, websites, etc.), and addressing the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and the Omnibus Crime Control and Safe Streets Act (34 U.S.C. 10101 *et seq.*).
- *Procedural Fairness*—A fundamental role of courts is to ensure fair processes and just outcomes for litigants. SJI promotes the integration of research-based procedural fairness principles, policies, and practices into State court operations to increase public trust and confidence in the court system, reduce recidivism, and increase compliance with court orders.

3. *Reducing Disparities and Protecting Victims, Underserved, and Vulnerable Populations.*

- Disparities in Justice—SJI supports research and data-driven approaches that examine statutory requirements, policies, and practices that result in disparities for justice-involved persons. These disparities can be because of inequities in socioeconomic, racial, ethnic, gender, age, health, or other factors. In addition to identifying disparities, SJI promotes systemic approaches to reducing disparities.
- *Human Trafficking*—SJI addresses the impact of Federal and State human trafficking laws on the State courts, and the challenges faced by State courts in dealing with cases involving trafficking victims and their families. These efforts are intended to empower State courts to identify victims, link them with vital services, and hold traffickers accountable.
- *Rural Justice*—Rural areas and their justice systems routinely have fewer resources and more barriers than their urban counterparts, such as availability of services, lack of transportation, and smaller workforces. Programs and practices that are effective in urban areas are often inappropriate and or lack supported research for implementation in rural areas. SJI supports rural courts by identifying promising and best practices, and promoting resources, education, and training opportunities uniquely designed for rural courts and court users.
- *Guardianship, Conservatorship, and Elder Issues*—SJI assists courts in improving court oversight of guardians and conservators for the elderly and incapacitated adults through visitor programs, electronic reporting, and training.

4. *Advancing Justice Reform.*

- *Criminal Justice Reform*—SJI assists State courts in taking a leadership role in reviewing fines, fees, and bail practices to ensure processes are fair and access to justice is assured; implements alternative forms of sanction; develops processes for indigency review; promotes transparency, governance, and structural reforms that promote access to justice, accountability, and oversight; and implements innovative diversion and reentry programs that serve to improve outcomes for justice-involved persons and the justice system.
- *Juvenile Justice Reform*—SJI supports innovative projects that

advance best practices in handling dependency and delinquency cases; promote effective court oversight of juveniles in the justice system; address the impact of trauma on juvenile behavior; assist the courts in identification of appropriate provision of services for juveniles; and address juvenile reentry.

• *Family and Civil Justice Reform*—SJI promotes court-based solutions for the myriad of civil case types, such as domestic relations, housing, employment, debt collection, which are overwhelming court dockets.

Transforming Courts.

• *Emergency Response and Recovery*—Courts must be prepared for natural disasters and public health emergencies and institutionalize the most effective and efficient practices and processes that evolve during response and recovery. SJI supports projects that look to the future of judicial service delivery by identifying and replicating innovations and alternate means of conducting court business due to public health emergencies such as pandemics and natural disasters such as hurricanes, earthquakes, and wildfires.

• *Cybersecurity*—Courts must also be prepared for cyberattacks on court systems, such as denial of service and ransomware attacks on court case management systems, websites, and other critical information technology infrastructure. SJI supports projects that assist courts in preparing for and responding to these attacks, and share lessons learned to courts across the United States.

• *Technology*—Courts must integrate technological advances into daily judicial processes and proceedings. SJI supports projects that institutionalize the innovative technology that has successfully advanced the use of electronic filing and payment systems, online dispute resolution, remote work, and virtual court proceedings. SJI promotes projects that streamline case filing and management processes, thereby reducing time and costs to litigants and the courts; provide online access to courts to litigants so that disputes can be resolved more efficiently; and make structural changes to court services that enable them to evolve into an online environment.

• *Strategic Planning*—Courts must rely on a deliberate process to determine organizational values, mission, vision, goals, and objectives. SJI promotes structured planning processes and organizational assessments to assist courts in setting priorities, allocating resources, and identifying areas for ongoing improvements in efficiency and effectiveness. Strategic planning includes elements of court governance, data collection, management, analysis, sharing, and sustainable court governance models that drive decision-making. Strategic plans and outcomes should be communicated to judges, court staff, justice partners, and the public.

• *Training, Education, and Workforce Development*—State courts require a workforce that is adaptable to public demands for services. SJI supports projects that focus on the tools needed to enable judges, court managers, and staff to be innovative, forward-thinking court leaders.

IV. Grant Types

SJI supports five types of grants: Project, Technical Assistance (TA), Curriculum Adaptation and Training (CAT), Strategic Initiatives Grants (SIG) Program, and the Education Support Program (ESP). A brief description of each type of grant is below.

A. Project Grant

Project grants are intended to support innovative education and training, research and evaluation, demonstration, and technical assistance projects that can improve the administration of justice in State courts locally or nationwide. State court and national nonprofit applicants may request up to $300,000 for 36 months. Local court applicants may request up to $200,000 for 24 months. Examples of expenses not covered by Project Grants include the salaries, benefits, or travel of full-or part-time court employees. Funding may not be used for the ordinary, routine operations of court systems.

All applicants for Project Grants must contribute a cash match greater than or equal to the SJI award amount. This means that grant awards by SJI must be matched at least dollar for dollar by grant applicants. For example, an applicant seeking a $300,000 Project Grant must provide a cash match of at least $300,000. Applicants may contribute the required cash match directly or in cooperation with third parties. Funding from other federal departments or agencies may not be used for cash match.

B. Technical Assistance (TA) Grant

TA grants are intended to provide State or local courts, or regional court associations, with sufficient support to obtain expert assistance to diagnose a problem, develop a response to that problem, and implement any needed changes. TA Grants may not exceed $75,000 or 12 months in duration. In calculating project duration, applicants are cautioned to fully consider the time required to issue a request for proposals, negotiate a contract with the selected provider, and execute the project. Funds may not be used for salaries, benefits, or travel of full- or part-time court employees.

Applicants for TA Grants are required to contribute a total match (cash and in-kind) of not less than 50 percent of the SJI award amount, of which 20 percent must be cash. For example, an applicant seeking a $75,000 TA grant must provide a $37,500 match, of which up to $30,000 can be in-kind and not less than $7,500 must be cash. Funding from other federal departments and agencies may not be used for cash match.

C. Curriculum Adaptation and Training (CAT) Grant

CAT Grants are intended to: (1) Enable courts or national court associations to modify and adapt model curricula, course modules, or conference programs to meet States' or local jurisdictions' educational needs; train instructors to present portions or all of the curricula; and pilot-test them to determine their appropriateness, quality, and effectiveness; or (2) conduct judicial branch education and training programs, led by either expert or in-house personnel, designed to prepare judges and court personnel for innovations, reforms, and/or new technologies recently adopted by grantee courts. CAT grants may not exceed $40,000 or 12 months in duration. Examples of expenses not covered by CAT grants include the salaries, benefits, or travel of full-or part-time court employees.

Applicants for CAT Grants are required to contribute a total match (cash and in-kind) of not less than 50 percent of the SJI award amount, of which 20 percent must be cash. For example, an applicant seeking a $40,000 CAT grant must provide a $20,000 match, of which up to $16,000 can be in-kind and not less than $4,000 must be cash. Funding from other federal departments and agencies may not be used for cash match.

D. Strategic Initiatives Grant (SIG) Program

The SIG program provides SJI with the flexibility to address national court issues as they occur and develop solutions to those problems. This is an innovative approach where SJI uses its expertise and the expertise and knowledge of its grantees to address key issues facing State courts across the United States.

The funding is used for grants or contractual services and is handled at

the discretion of the SJI Board of Directors and staff. SJI requires the submission of a concept paper prior to the full application process. *Only applicants that submit an approved concept paper will be invited to submit a full application for funding. Potential applicants are strongly encouraged to contact SJI prior to submitting a concept paper for guidance on this initial step.*

E. Education Support Program (ESP) for Judges and Court Managers

The ESP is intended to enhance the skills, knowledge, and abilities of State court judges and court managers by enabling them to attend out-of-state, or to enroll in online, educational and training programs sponsored by national and State providers they could not otherwise attend or take online because of limited State, local, and personal budgets. The program covers only the cost of tuition up to a maximum of $1,000 per course.

The ESP is administered by the National Judicial College (NJC) and the National Center for State Courts (NCSC)/Institute for Court Management (ICM), in partnership with SJI. For NJC courses, register online at *https://www.judges.org/courses.* For ICM courses, register online at *https://www.ncsc.org/education-and-careers/icm-courses.* During the respective registration processes, each website will ask whether a scholarship is needed to participate. Follow the online instructions to request tuition assistance.

V. Application and Submission Information

This section describes in detail what an application should include. An applicant should anticipate that if it fails to submit an application that contains all the specified project components, it may negatively affect the review of the application. Applicants must use the SJI GMS to submit all applications and post-award documents. The SJI GMS is accessible at *https://gms.sji.gov.*

A. Application Components

Applicants for SJI grants must submit the following forms and/or documents via the SJI GMS:

1. Application Form (Form A)

The application form requests basic information regarding the proposed project, the applicant, and the total amount of funding requested from SJI. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete; submission of the application has been authorized by the applicant; and, if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D in section V.A.4, *Assurances (Form D)* of this guideline.

2. Certificate of State Approval (Form B)

An application from a State or local court must include a copy of Form B signed by the State's chief justice or State court administrator. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. Further, the signature denotes, if applicable, a cash match reduction has been requested, and that if SJI approves funding for the project, the court or the specified designee will receive, administer, and be accountable for the awarded funds.

3. Budget Form (Form C)

Applicants must provide a detailed budget and a budget narrative providing an explanation of the basis for the estimates in each budget category. If funds from other sources are required to conduct the project, either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

4. Assurances (Form D)

Form D lists the statutory, regulatory, and policy requirements with which recipients of SJI funds must comply.

5. Disclosure of Lobbying Activities (Form E)

Applicants other than units of State or local government are required to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts.

6. Project Abstract

The abstract should highlight the purposes, goals, methods, and anticipated benefits of the proposed project. It should not exceed one single-spaced page and should be uploaded on the ''Attachments'' tab in SJI GMS.

7. Program Narrative

The program narrative for an application may not exceed 25 double-spaced pages on 8½- by 11-inch paper with 1-inch margins, using a standard 12-point font. The pages should be numbered. This page limit does not include the forms, the abstract, the budget narrative, or any additional attachments. The program narrative should address the following, noting any specific areas to address by grant type:

a. *Statement of Need.* Applicants must explain the critical need they are facing, and how SJI funds will enable them to meet this critical need. The applicants must also explain why State or local resources are not sufficient to fully support the costs of the project.

Applicants must provide a verified source for the data that supports the statement of the problem (*i.e.,* Federal, State, and local databases). The discussion should include specific references to the relevant literature and to the experience in the field. SJI continues to make all grant reports and most grant products available online through the NCSC Library and Digital Archive. Applicants are required to conduct a search of the NCSC Library and Digital Archive on the topic areas they are addressing. This search should include SJI-funded grants and previous projects not supported by SJI. Searches for SJI grant reports and other State court resources begin with the NCSC Library section. Applicants must discuss the results of their research, how they plan to incorporate the previous work into their proposed project, and if the project will differentiate from prior work.

b. *Project Grants.* If the project is to be conducted in any specific location(s), applicants should discuss the particular needs of the project site(s) the project would address and why existing programs, procedures, services, or other resources do not meet those needs.

If the project is not site-specific, the applicants should discuss the problems that the proposed project would address, and why existing programs, procedures, services, or other resources cannot adequately resolve those problems. In addition, applicants should describe how, if applicable, the project will be sustained in the future through existing resources.

c. *TA Grants.* Applicants should explain why State or local resources are unable to fully support the modification and presentation of the model curriculum. The applicants should also describe the potential for replicating or integrating the adapted curriculum in the future using State or local funds once it has been successfully adapted and tested. In addition, applicants should describe how, if applicable, the project will be sustained in the future through existing resources.

d. *CAT Grants (curriculum adaptation).* Applicants should explain

why State or local resources are unable to fully support the modification and presentation of the model curriculum. The applicants should also describe the potential for replicating or integrating the adapted curriculum in the future using State or local funds once it has been successfully adapted and tested.

e. *CAT Grants (training).* The applicants should describe the court reform or initiative prompting the need for training. Applicants should also discuss how the proposed training will help them implement planned changes at the court, and why State or local resources are not sufficient to fully support the costs of the required training.

f. *SIGs.* Applicants should detail the origin of the project (*i.e.,* requested by SJI or a request to SJI) and provide a detailed description about the issue of national impact the proposed project will address, including any evaluations, reports, resolutions, or other data to support the need statement.

B. Project Description and Objectives

The applicants should include a clear, concise statement of what the proposed project is intended to accomplish and how those objectives will be met. Applicants should delineate the tasks to be performed in achieving the project objectives and the methods to be used for accomplishing each task.

Applicants must describe how the proposed project addresses one or more Priority Investment Areas. If the project does not address one or more Priority Investment Areas, the applicants must provide an explanation as to the reason.

1. Application Details by Project Type

a. *Project grants.* The applicants should include detailed descriptions of tasks, methods, and evaluations. For example:

- *Research and evaluation projects.* The applicants should include the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results. For projects involving human subjects, the discussion of methods should address the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and protecting others who are not the subjects of research but would be affected by the research. If the potential exists for risk or harm to human subjects, a discussion should be included that explains the value of the proposed research and the methods to be used to minimize or eliminate such risk. Refer to section VIII.R.3, *Human Subject Protection* of this guideline for additional information.
- *Education and training projects.* The applicants should include the adult education techniques to be used in designing and presenting the program, including the teaching and learning objectives of the educational design, the teaching methods to be used, and the opportunities for structured interaction among the participants. The opportunities applicants should include are: How faculty would be recruited, selected, and trained; the proposed number and length of the conferences, courses, seminars, or workshops to be conducted and the estimated number of persons who would attend them; the materials to be provided and how they would be developed; and the cost to participants.
- *Demonstration projects.* The applicants should include the demonstration sites and the reasons they were selected or, if the sites have not been chosen, how they would be identified; how the applicants would obtain the cooperation of demonstration sites; and how the program or procedures would be implemented and monitored.
- *Technical assistance projects.* The applicants should explain the types of assistance that would be provided, the particular issues and problems for which assistance would be provided, the type of assistance determined, how suitable providers would be selected and briefed, and how reports would be reviewed.

b. *TA Grants.* Applicants must identify which organization or individual will be hired to provide the assistance, and how the consultant was selected. The applicants must describe the tasks the consultant will perform, and how the tasks will be accomplished.

If a consultant has not yet been identified, the applicants must describe the procedures and criteria that will be used to select the consultant (applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services).

If the consultant has been identified, the applicants should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time frame and for the proposed cost. The consultant must agree to submit a detailed written report to the court and SJI upon completion of the technical assistance. Applicants should then describe the steps that have been or will be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance.

The applicants should then address the following questions:

- What specific tasks will the consultant and court staff undertake?
- What is the schedule for completion of each required task and the entire project?
- How will the applicant oversee the project and provide guidance to the consultant, and who at the court or regional court association would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

c. *CAT Grants (curriculum adaptation).* The applicants must provide the title of the curriculum that will be adapted and identify the entity that originally developed the curriculum. Applicants should allow at least 90 days between the potential award date and the date of the proposed program to allow sufficient time for planning. This period of time should be reflected in the project timeline. The applicants must also address the following questions:

- Why is this education program needed at the present time?
- What are the project's goals?
- What are the learning objectives of the adapted curriculum?
- What program components would be implemented, and what types of modifications, if any, are anticipated in length, format, learning objectives, teaching methods, or content?
- Who would be responsible for adapting the model curriculum?
- Who would the participants be, how many would there be, how would they be recruited, and from where would they come (*e.g.,* from a single local jurisdiction, from across the State, from a multi-state region, from across the nation)?

The applicants should also provide the proposed timeline, including the project start and end dates, the date(s) the judicial branch education program will be presented, and the process that will be used to modify and present the program. Applicants should also identify who will serve as faculty, and how they will be selected, in addition to the measures taken to facilitate subsequent presentations of the program.

d. *CAT grants (training).* The applicants must identify the tasks the trainer will be expected to perform, which organization or individual will be hired, and, if in-house personnel are not the trainer, how the trainer will be selected.

If a trainer has not yet been identified, the applicants must describe the

procedures and criteria that will be used to select the trainer.

If the trainer has been identified, the applicants should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the trainer's ability to complete the assignment within the proposed time frame and for the proposed cost.

In addition, the applicants should address the following questions:

- What specific tasks would the trainer and court staff or regional court association members undertake?
- What presentation methods will be used?
- What is the schedule for completion of each required task and the entire project?
- How will the applicant oversee the project and provide guidance to the trainer, and who at the court or affiliated with the regional court association would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?
- The applicant should explain what steps have been or will be taken to coordinate the implementation of the training. For example, if the support or cooperation of specific court, regional court association officials, committees, other agencies, funding bodies, organizations, or a court other than the applicant will be needed to adopt the reform and initiate the proposed training, how will the applicant secure their involvement in the development and implementation of the training?

e. *SIGs.* The applicants should expand upon the project description and objectives described in the approved concept paper. Any and all feedback and questions submitted by the SJI Board of Directors and staff during the review of the concept paper should also be incorporated into the project design.

2. Dissemination Plan

The application must: (1) Explain how and to whom the products would be disseminated; describe how they would benefit the State courts, including how they could be used by judges and court personnel; (2) identify development, production, and dissemination costs covered by the project budget; and (3) present the basis on which products and services developed or provided under the grant would be offered to the court community and the public at large (*i.e.,* whether products would be distributed at no cost to recipients, or if costs are involved, the reason for charging recipients and the estimated price of the product). Ordinarily, applicants should schedule all product preparation and distribution activities within the project period.

The type of product to be prepared depends on the nature of the project. For example, in most instances, the products of a research, evaluation, or demonstration project should include: (1) An article summarizing the project findings that is publishable in a journal serving the courts community nationally, (2) an executive summary that would be disseminated to the project's primary audience, or (3) both an article and executive summary. Applicants proposing to conduct empirical research or evaluation projects with national import should describe how they would make their data available for secondary analysis after the grant period.

The curricula and other products developed through education and training projects should be designed for use by others and again by the original participants in the course of their duties. Applicants proposing to develop web-based products should provide for sending a notice and description of the document to the appropriate audiences to alert them to the availability of the website or electronic product (*i.e.,* a written report with a reference to the website).

Applicants must submit a final draft of all written grant products to SJI for review and approval at least 30 days before the products are submitted for publication or reproduction. For products in website or multimedia format, applicants must provide for SJI review of the product at the treatment, script, rough-cut, and final stages of development, or their equivalents. No grant funds may be obligated for publication or reproduction of a final grant product without the written approval of SJI. Project products should be submitted to SJI electronically in HTML or PDF format.

Applicants must also include in all project products a prominent acknowledgment that SJI provided support and a disclaimer paragraph such as, ''This [document, film, videotape, etc.] was developed under [grant/cooperative agreement] number SJI–[insert number] from the State Justice Institute. The points of view expressed are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.'' The ''SJI'' logo must appear on the front cover of a written product or in the opening frames of a website or other multimedia products, unless SJI approves another placement. The SJI logo can be downloaded from SJI's website: *https://www.sji.gov.*

3. Staff Capability and Organizational Capacity

An applicant that is not a State or local court and has not received a grant from SJI within the past 3 years should indicate whether it is either: (1) A national nonprofit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments, or (2) a national nonprofit organization for the education and training of State court judges and support personnel. If the applicant is a nonjudicial unit of Federal, State, or local government, it must explain whether the proposed services could be adequately provided by nongovernmental entities.

Applicants that have not received a grant from SJI within the past 3 years should include a statement describing their capacity to administer grant funds, including the financial systems used to monitor project expenditures (and income, if any), a summary of their past experience in administering grants, and any resources or capabilities they have that would particularly assist in the successful completion of the project.

Unless requested otherwise, an applicant that has received a grant from SJI within the past 3 years should describe only the changes in its organizational capacity, tax status, or financial capability that may affect its capacity to administer a grant. If the applicant is a nonprofit organization (other than a university), it must also provide documentation of its 501(c)(3) tax-exempt status as determined by the Internal Revenue Service and a copy of a current certified audit report. For the purpose of this requirement, ''current'' means no earlier than 2 years prior to the present calendar year.

The applicant should include a summary of key staff members' and consultant's training and experience that qualify them for conducting and managing the proposed project. Resumes of identified staff should be attached to the application. If one or more key staff members and consultants are not known at the time of the application, a description of the criteria that would be used to select persons for these positions should be included. The applicant should also identify the person who would be responsible for managing and reporting on the financial aspects of the proposed project.

4. Evaluation

Projects should include an evaluation plan to determine whether the project met its objectives. The evaluation

should be designed to provide an objective and independent assessment of the effectiveness or usefulness of the training or services provided; the impact of the procedures, technology, or services tested; or the validity and applicability of the research conducted. The evaluation plan should be appropriate to the type of project proposed considering the nature, scope, and magnitude of the project.

5. Sustainability

Describe how the project will be sustained after SJI assistance ends. The sustainability plan should describe how current collaborations and evaluations will be used to leverage ongoing resources. SJI encourages applicants to ensure sustainability by coordinating with local, State, and other Federal resources.

C. Budget and Matching State Contribution

Applicants must complete a budget in the SJI GMS and upload a budget narrative. The budget narrative should provide the basis for all project-related costs and the sources of any match, as required. The budget narrative should thoroughly and clearly describe every category of expense listed. SJI expects proposed budgets to be complete, cost effective, and allowable (*e.g.,* reasonable, allocable, and necessary for project activities).

1. *Prohibited Uses of SJI Funds.* To ensure that funds made available are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used:

- To supplant State or local funds supporting a program or activity (such as paying the salary of court employees who would be performing their normal duties as part of the project or paying rent for space that is part of the court's normal operations).
- To construct court facilities or structures.
- Solely to purchase equipment.

Examples of *basic court services* include:

- Hiring of personnel
- Purchase and/or maintenance of equipment
- Purchase of software and/or licenses
- Purchase of internet access or service
- Supplies to support the day-to-day operations of courts

The final determination of what constitutes basic court services is made by SJI and is not negotiable.

Meals and refreshments are generally not allowable costs unless the applicant or grantee obtains *prior* written approval from SJI. This applies to all awards, including contracts, grants, and cooperative agreements. In general, SJI may approve such costs only in very rare instances where:

- Sustenance is not otherwise available (*e.g.,* extremely remote areas);
- The size of the event and nearby food and/or beverage vendors would make it impractical to not provide meals and/or refreshments; and/or
- A special presentation at a conference requires a plenary address where there is no other time for sustenance to be obtained.

Trinkets (items such as hats, mugs, portfolios, t-shirts, coins, gift bags, gift cards, etc.) may not be purchased with SJI grant funding.

2. *Justification of Personnel Compensation.* The applicants should set forth the amount of time the individuals who would staff the proposed project would devote, the annual salary of each of those persons, and the number of work days per year used for calculating the amount of time or daily rates of those individuals. The applicants should explain any deviations from current rates or established written organizational policies. No grant funds or cash match may be used to pay the salary and related costs for a current or new employee of a court or other unit of government because such funds would constitute a supplantation of State or local funds in violation of 42 U.S.C. 10706(d)(1); this includes new employees hired specifically for the project. The salary and any related costs for a current or new employee of a court or other unit of government may only be accepted as in-kind match.

3. *Fringe Benefit Computation.* For nongovernmental entities, applicants should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented, as well as a description of the elements included in the determination of the percentage rate.

4. *Consultant/Contractual Services and Honoraria.* The applicants should describe the tasks each consultant would perform, the estimated total amount to be paid to each consultant, the basis for compensation rates (*e.g.,* the number of days multiplied by the daily consultant rates), and the method for selection. Prior written SJI approval is required for any consultant rate in excess of $800 per day; SJI funds may not be used to pay a consultant more than $1,100 per day. Honorarium payments must be justified in the same manner as consultant payments.

5. *Travel.* Transportation costs and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates must be consistent with those established by the Federal Government. The budget narrative should include an explanation of the rate used, including the components of the per diem rate and the basis for the estimated transportation expenses. The purpose of the travel should also be included in the narrative.

6. *Equipment.* Grant funds may be used to purchase only the equipment necessary to demonstrate a new technological application in a court or that is otherwise essential to accomplishing the objectives of the project. In other words, grant funds cannot be used strictly for the purpose of purchasing equipment. Equipment purchases to support basic court operations will not be approved. Applicants should describe the equipment to be purchased or leased and explain why the acquisition of that equipment is essential to accomplish the project's goals and objectives. The narrative should clearly identify which equipment is to be leased and which is to be purchased. The method of procurement should also be described.

7. *Supplies.* Applicants should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant. In addition, the applicants should provide the basis for the amount requested for this expenditure category.

8. *Construction.* Construction expenses are prohibited.

9. *Postage.* Anticipated postage costs for project-related mailings, including distribution of the final product(s), should be described in the budget narrative. The cost of special mailings, such as for a survey or for announcing a workshop, should be distinguished from routine mailing costs. The bases for all postage estimates should be included in the budget narrative.

9. *Printing/Photocopying.* Anticipated costs for printing or photocopying project documents, reports, and publications should be included in the budget narrative, along with the bases used to calculate these estimates.

10. *Indirect Costs.* Indirect costs are only applicable to organizations that are not State courts or government agencies. Recoverable indirect costs are limited to no more than 75 percent of a grantee's direct personnel costs, *i.e.,* salaries plus fringe benefits. Applicants should describe the indirect cost rates applicable to the grant in detail. If costs often included within an indirect cost

rate are charged directly (*e.g.,* a percentage of the time of senior managers to supervise project activities), the applicants should specify that these costs are not included within its approved indirect cost rate. If an applicant has an indirect cost rate or allocation plan approved by any Federal granting agency, a copy of the approved rate agreement must be attached to the application.

11. *Matching Requirements.* SJI grants require a match, which is the portion of project costs not borne by SJI and includes both cash and in-kind matches as outlined in this paragraph. A cash match is the direct outlay of funds by the grantee or a third party to support the project. Other Federal department and agency funding may not be used for cash match. An in-kind match consists of contributions of time and/or services of current staff members, new employees, space, supplies, etc., made to the project by the grantee or others (*e.g.,* advisory board members) working directly on the project. An in-kind match can also consist of that portion of the grantee's federally approved indirect cost rate that exceeds the limit of permitted charges (75 percent of salaries and benefits).

The grantee is responsible for ensuring that the total amount of match proposed is contributed. If a proposed contribution is not fully met, SJI may reduce the award amount accordingly, to maintain the ratio originally provided for in the award agreement. The match should be expended at the same rate as SJI funding.

a. *Project Grants.* Applicants for Project Grants must contribute a cash match greater than or equal to the SJI award amount. This means that grant awards by SJI must be matched at least dollar for dollar by grant applicants. For example, an applicant seeking a $300,000 Project Grant must provide a cash match of at least $300,000. Applicants may contribute the required cash match directly or in cooperation with third parties.

b. *TA Grants.* Applicants for TA Grants are required to contribute a total match (cash and in-kind) of not less than 50 percent of the SJI award amount, of which 20 percent must be cash. For example, an applicant seeking a $75,000 TA grant must provide a $37,500 match, of which up to $30,000 can be in-kind and not less than $7,500 must be cash.

c. *CAT Grants.* Applicants for CAT Grants are required to contribute a total match (cash and in-kind) of not less than 50 percent of the SJI award amount, of which 20 percent must be cash. For example, an applicant seeking a $40,000 CAT grant must provide a $20,000 match, of which up to $16,000 can be in-kind and not less than $4,000 must be cash. Funding from other federal departments and agencies may not be used for cash match.

d. *SIGs.* State and local courts and non-court units of government must provide a dollar-for-dollar cash match for SIG projects. Matching funds may not be required for SIG projects that are awarded to non-court or nongovernmental entities.

12. *Letters of Support.* Written assurances of support or cooperation should accompany the application letter if the support or cooperation of agencies, funding bodies, organizations, or courts other than the applicant would be needed in order for the consultant to perform the required tasks. Applicants may also submit memorandums of agreement or understanding, as appropriate.

13. *Project Timeline.* A project timeline detailing each project objective, activity, expected completion date, and responsible person or organization should be included. The plan should include the starting and completion date for each task; the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that would ensure that all tasks are performed on time, within budget, and at the highest level of quality. In preparing the project timeline, applicants should make certain that all project activities, including publication or reproduction of project products and their initial dissemination, would occur within the proposed project period. The project timeline must also provide for the submission of Quarterly Progress and Financial Reports within 30 days after the close of each calendar quarter, as well as submission of all final closeout documents. The project timeline may be included in the program narrative or provided as a separate attachment.

14. *Other Attachments.* Resumes of key project staff may also be included. Additional background material should be attached only if it is essential to impart a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

D. Application Review Information

1. *Selection Criteria.* In addition to the criteria detailed below, SJI will consider whether the applicant is a State or local court, a national court support or education organization, a non-court unit of government, or other type of entity eligible to receive grants under SJI's enabling legislation; the availability of financial assistance from other sources for the project; the diversity of subject matter; geographic diversity; the level and nature of the match that would be provided; reasonableness of the proposed budget; the extent to which the proposed project would also benefit the Federal courts or help State or local courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to SJI in the current year and the amount expected to be available in succeeding fiscal years, when determining which projects to support.

2. *Project Grant Applications.* Project grant applications will be rated based on the criteria set forth below:

- Soundness of the methodology.
- Demonstration of need for the project.
- Appropriateness of the proposed evaluation design.
- If applicable, the key findings and recommendations of the most recent evaluation and the proposed responses to those findings and recommendations.
- Applicant's management plan and organizational capabilities.
- Qualifications of the project's staff.
- Products and benefits resulting from the project, including the extent to which the project will have long-term benefits for State courts across the nation.
- Degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.
- Reasonableness of the proposed budget.
- Demonstration of cooperation and support of other agencies that may be affected by the project.

3. *Technical Assistance (TA) Grant Applications.* TA grant applications will be rated based on the following criteria:

- Whether the assistance would address a critical need of the applicant.
- Soundness of the technical assistance approach to the problem.
- Qualifications of the consultant(s) to be hired or the specific criteria that will be used to select the consultant(s).
- Commitment of the court or association to act on the consultant's recommendations.
- Reasonableness of the proposed budget.

4. *Curriculum Adaptation and Training (CAT) Grant Applications.* CAT grant applications will be rated based on the following criteria:

- Goals and objectives of the proposed project.
- How the training would address a critical need of the court or association.
- Need for outside funding to support the program.

• Soundness of the approach in achieving the project's educational or training objectives.
• Integration of distance learning and technology in project design and delivery.
• Qualifications of the trainer(s) to be hired or the specific criteria that will be used to select the trainer(s) (training project only).
• Likelihood of effective implementation and integration of the modified curriculum into the State or local jurisdiction's ongoing educational programming (curriculum adaptation project only).
• Commitment of the court or association to the training program (training project only).
• Expressions of interest by judges and/or court personnel, as demonstrated by letters of support.

5. *Strategic Initiative Grant (SIG) Applications.* SIG applications will be rated based on the following criteria:
• Goals and objectives of the proposed project.
• Demonstration of need for the project.
• Degree to which the project addresses a current national court issue.
• Level of innovation in addressing the identified need.
• Potential impact on the court community.
• Qualifications of the consultant(s) engaged to manage the project.

6. *Review Process.* SJI reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with this guideline. Applications must meet basic minimum requirements. Although specific requirements may vary by grant type, the following are common requirements applicable to all SJI grant applications:
• Must be submitted by an eligible type of applicant.
• Must request funding within funding constraints of each grant type (if applicable).
• Must be within statutorily allowable expenditures.
• Must include all required forms and documents.
• The SJI Board of Directors reviews all applications and makes final funding decisions. The decision to fund a project is solely that of the SJI Board of Directors.

7. *Notification of SJI Board of Directors Decision.* The Chairman of the Board signs grant awards on behalf of SJI. SJI will notify applicants regarding the SJI Board of Directors' decisions to award, defer, or deny their respective applications. If requested, SJI conveys the key issues and questions that arose during the review process. A decision by the SJI Board of Directors to deny an application may not be appealed, but it does not prohibit resubmission of a proposal in a subsequent funding cycle.

8. *Response to Notification of Award.* Grantees have 30 days from the date they were notified about their award to respond to any revisions requested by the SJI Board of Directors. If the requested revisions (or a reasonable schedule for submitting such revisions) have not been submitted to SJI within 30 days after notification, the award may be rescinded, and the application presented to the SJI Board of Directors for reconsideration. Special conditions, in the form of incentives or sanctions, may also be used in other situations.

VI. How To Apply

Applicants must use the SJI GMS to submit all applications and post-award documents. SJI urges applicants to submit applications at least 72 hours prior to the application due date in order to allow time for the applicant to receive an application acceptance message, and to correct in a timely fashion any problems that may arise, such as missing or incomplete forms. Files must be in .doc, .docx, .xls, .xlsx, .pdf, .jpg, or .png format. Individual file size cannot exceed 5 MB.

A. Submission Steps

Applicants (except for ESP) must register with the SJI GMS to submit applications for funding consideration. Below are the basic steps for submission:

1. Access the SJI GMS and complete the information required to create an account.
2. If you already have an account, log in and create a new application.
3. Complete all required forms and upload all required documents:
• Application Form.
• Certificate of State Approval.
• Budget and Budget Narrative.
• Assurances.
• Disclosure of Lobbying Activities.
• Project Abstract.
• Program Narrative.
• Attachments.
▪ Letters of Support.
▪ Project Timeline.
▪ Resumes.
▪ Indirect Cost Approval.
▪ Other Attachments.
4. Certify and submit the application to SJI for review.

VII. Post Award Reporting Requirements

All required reports and documents must be submitted via the SJI GMS.

A. Quarterly Reporting Requirements

Recipients of SJI funds must submit Quarterly Progress and Financial Status Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30).

1. *Program Progress Reports.* Program Progress Reports must include a narrative description of project activities during the calendar quarter; the relationship between those activities, the task schedule, and objectives set forth in the approved application or an approved adjustment thereto; any significant problem areas that have developed and how they will be resolved; and the activities scheduled during the next reporting period. Failure to comply with the requirements of this provision could result in the termination of a grantee's award.

2. *Financial Reporting.* A Financial Status Report is required from all grantees for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to SJI funds, State and local matching shares, project income, and any other sources of funds for the project, as well as information on obligations and outlays.

B. Request for Reimbursement of Funds

Awardees will receive funds on a reimbursable, U.S. Treasury check-issued or electronic funds transfer (EFT) basis. Upon receipt, review, and approval of a Request for Reimbursement by SJI, payment will be issued directly to the grantee or its designated fiscal agent. Requests for reimbursements, along with the instructions for its preparation, and the SF 3881 Automated Clearing House (ACH/Miscellaneous Payment Enrollment Form for EFT) are available in the SJI GMS.

1. *Accounting System.* Awardees are responsible for establishing and maintaining an adequate system of accounting and internal controls and for ensuring that an adequate system exists for each of its sub-grantees and contractors. An acceptable and adequate accounting system:
• Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income).
• Assures that expended funds are applied to the appropriate budget category included within the approved grant.

• Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes.

• Provides cost and property controls to assure optimal use of grant funds.

• Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant.

• Meets the prescribed requirements for periodic financial reporting of operations.

• Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

C. Final Progress Report

The Final Progress Report should describe the project activities during the final calendar quarter of the project and the close-out period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved application or an approved adjustment have been met and, if any of the objectives have not been met, explain why not; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation. In addition, grantees are required to submit electronic copies of the final products related to the project (*e.g.,* reports, curriculum, etc.). These reporting requirements apply at the conclusion of every grant.

VIII. Compliance Requirements

A. Advocacy

No funds made available by SJI may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities (42 U.S.C. 10706(b)).

B. Approval of Key Staff

If the qualifications of an employee or consultant assigned to a key project staff position are not adequately described in the application or if there is a change of a person assigned to such a position, the recipient must submit a description of the qualifications of the newly assigned person to SJI. Prior written approval of the qualifications of the new person assigned to a key staff position must be received from SJI before the salary or consulting fee of that person and associated costs may be paid or reimbursed from grant funds.

C. Audit

Recipients of SJI grants must provide for an annual fiscal audit, which includes an opinion on whether the financial statements of the grantee present fairly its financial position and its financial operations in accordance with generally accepted accounting principles. If requested, a copy of the audit report must be made available electronically to SJI.

D. Budget Revisions

Budget revisions among direct cost categories that: (1) Transfer grant funds to an unbudgeted cost category, or (2) individually or cumulatively exceed 5 percent of the approved original budget or the most recently approved revised budget require prior SJI approval. Refer to section X, *Grant Adjustments,* of this guideline for additional details about the process to modify the project budget.

E. Conflict of Interest

Personnel and other officials connected with SJI-funded programs must adhere to the following requirements:

• Officials or employees of a recipient court or organization must not participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which SJI funds are used, where, to their knowledge, they or their immediate family, partners, organization other than a public agency in which they are serving as officer, director, trustee, partner, or employee or any person or organization with whom they are negotiating or have any arrangement concerning prospective employment, have a financial interest.

• In the use of SJI project funds, an official or employee of a recipient court or organization must avoid any action which might result in or create the appearance of:

▪ Using an official position for private gain; or

▪ Affecting adversely the confidence of the public in the integrity of the SJI program.

• Requests for proposals or invitations for bids issued by a recipient of SJI funds or a sub-grantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work, and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

F. Inventions and Patents

If any patentable items, patent rights, processes, or inventions are produced during the course of SJI-sponsored work, such fact must be promptly and fully reported to SJI. Unless there is a prior agreement between the grantee and SJI on the disposition of such items, SJI will determine whether protection of the invention or discovery must be sought.

G. Lobbying

Funds awarded to recipients by SJI must not be used, indirectly or directly, to influence Executive orders or similar promulgations by Federal, State, or local agencies; or to influence the passage or defeat of any legislation by Federal, State, or local legislative bodies (42 U.S.C. 10706(a)).

It is the policy of the SJI Board of Directors to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner. Consistent with this policy and the provisions of 42 U.S.C. 10706, SJI will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application.

H. Matching Requirements

All grant recipients are required to provide a match. A match is the portion of project costs not borne by SJI. A match includes both cash and in-kind contributions. Cash match is the direct outlay of funds by the grantee or a third party to support the project. In-kind match for State and local courts or other units of government consists of contributions of time and/or services of current staff members, new employees, space, supplies, etc., made to the project by the grantee or others (*e.g.,* advisory board members) working directly on the project. Generally, these same items are considered cash matches for nongovernmental entities. For nongovernmental entities, federally approved indirect cost rate may be used as an in-kind match for that portion of the rate that exceeds the limit of permitted charges for indirect costs (75 percent of salaries and benefits).

Under normal circumstances, allowable match may be incurred only during the project period. The amount and nature of required match depends

on the type of grant. Refer to section V.C.12, *Matching Requirements,* of this guideline for details by grant type.

The grantee is responsible for ensuring that the total amount of match proposed is contributed. If a proposed contribution is not fully met, SJI may reduce the award amount accordingly, to maintain the ratio originally provided for in the award agreement. Match should be expended at the same rate as SJI funding.

The SJI Board of Directors looks favorably upon any unrequired match contributed by applicants when making grant decisions. The match requirement may be waived in exceptionally rare circumstances upon the request of the chief justice of the highest court in the State, or the highest ranking official in the requesting organization and approval by the SJI Board of Directors (42 U.S.C. 10705(d)). The SJI Board of Directors encourages all applicants to provide the maximum amount of cash and in-kind match possible, even if a waiver is approved. The amount and nature of the match are criteria in the grant selection process.

Other Federal department and agency funding may not be used for cash match.

I. Nondiscrimination

No person may, on the basis of race, sex, national origin, disability, color, or creed, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by SJI funds. Recipients of SJI funds must take any measures necessary immediately to effectuate this provision.

J. Political Activities

No recipient may contribute or make available SJI funds, program personnel, or equipment to any political party or association or the campaign of any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Officers and employees of recipients must not intentionally identify SJI or recipients with any partisan or nonpartisan political activity associated with a political party or association or the campaign of any candidate for public or party office (42 U.S.C. 10706(a)).

K. Products

1. *Acknowledgment, Logo, and Disclaimer.* Recipients of SJI funds must acknowledge prominently on all products developed with grant funds that support was received from the SJI. The SJI logo must appear on the front cover of a written product, or in the opening frames of a multimedia product, unless another placement is approved in writing by SJI. This includes final products printed or otherwise reproduced during the grant period, as well as reprintings or reproductions of those materials following the end of the grant period. A camera-ready logo sheet is available on SJI's website: *https://www.sji.gov/forms/.*

Recipients also must display the following disclaimer on all grant products: ''This [document, film, videotape, etc.] was developed under [grant/cooperative agreement] number SJI-[insert number] from the State Justice Institute. The points of view expressed are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.''

a. *Project Grants.* In addition to other required grant products and reports, recipients must provide a one-page executive summary of the project. The summary should include a background on the project, the tasks undertaken, and the outcome. In addition, the summary should provide the performance metrics that were used during the project, and how performance will be measured in the future.

b. *TA Grants.* Grantees must submit a final report that explains how it intends to act on the consultant's recommendations, as well as a copy of the consultant's written report. Both should be submitted in electronic format.

c. *CAT Grants.* Grantees must submit an electronic version of the agenda or schedule, outline of presentations and/or relevant instructor's notes; copies of overhead transparencies, Microsoft PowerPoint presentations, or other visual aids; exercises, case studies, and other background materials; hypotheticals, quizzes, and other materials involving the participants; manuals, handbooks, conference packets, and evaluation forms; and suggestions for replicating the program, including possible faculty or the preferred qualifications or experience of those selected as faculty, developed under the grant after the grant period, along with a final report that includes any evaluation results and explains how the grantee intends to present the educational program in the future, as well as the consultant's or trainer's report. All items should be submitted in electronic format.

2. *Charges for Grant-Related Products/Recovery of Costs.* SJI's mission is to support improvements in the quality of justice and foster innovative, efficient solutions to common issues faced by all courts. SJI has recognized and established procedures for supporting research and development of grant products (*e.g.,* a report, curriculum, video, software, database, or website) through competitive grant awards based on the merit reviews of proposed projects. To ensure that all grants benefit the entire court community, projects SJI considers worthy of support (in whole or in part) are required to be disseminated widely and available for public consumption. This includes open-source software and interfaces. Costs for development, production, and dissemination are allowable as direct costs to SJI.

Applicants should disclose their intent to sell grant-related products in the application. Grantees must obtain SJI's prior written approval of their plans to recover project costs through the sale of grant products. Written requests to recover costs ordinarily should be received during the grant period and should specify the nature and extent of the costs to be recouped, the reason that such costs were not budgeted (if the rationale was not disclosed in the approved application), the number of copies to be sold, the intended audience for the products to be sold, and the proposed sale price. If the product is to be sold for more than $25, the written request should also include a detailed itemization of costs that will be recovered and a certification that the costs were not supported by either SJI grant funds or grantee matching contributions.

In the event that the sale of grant products results in revenues that exceed the costs to develop, produce, and disseminate the product, the revenue must continue to be used for the authorized purposes of SJI-funded project or other purposes consistent with the State Justice Institute Act that have been approved by SJI.

L. Copyrights

Except as otherwise provided in the terms and conditions of a SJI award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an SJI-supported project, SJI must reserve a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

M. Due Date

All products and, for TA and CAT grants, consultant and/or trainer reports are to be completed and distributed not later than the end of the award period,

not the 90-day closeout period. The 90-day closeout period is intended only for grantee final reporting and to liquidate obligations.

N. Distribution

In addition to the distribution specified in the grant application, grantees must send an electronic version of all products in HTML or PDF format to SJI.

O. Original Material

All products prepared as the result of SJI-supported projects must be originally developed material unless otherwise specified in the award documents. Material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

P. Prohibition Against Litigation Support

No funds made available by SJI may be used directly or indirectly to support legal assistance to parties in litigation, including cases involving capital punishment.

Q. Reporting Requirements

All reports must be submitted via the SJI GMS as detailed below:

1. *Quarterly Progress and Financial Status Reports.* Recipients of SJI funds must submit Quarterly Progress and Financial Status Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30). The Quarterly Progress Reports must include a narrative description of project activities during the calendar quarter; the relationship between those activities, the task schedule, and objectives set forth in the approved application or an approved adjustment thereto; any significant problem areas that have developed and how they will be resolved; and the activities scheduled during the next reporting period. Failure to comply with the requirements of this provision could result in the termination of a grantee's award.

2. *Quarterly Financial Reporting.* The quarterly financial report must be submitted in accordance with section VII.A.2, *Financial Reporting,* of this guideline. A final project Progress Report and Financial Status Report must be submitted within 90 days after the end of the grant period.

R. Research

1. *Availability of Research Data for Secondary Analysis.* Upon request, grantees must make available for secondary analysis backup files containing research and evaluation data collected under a SJI grant and the accompanying code manual. Grantees may recover the actual cost of duplicating and mailing, or otherwise transmitting, the data set and manual from the person or organization requesting the data. Grantees may provide the requested data set in the format in which it was created and analyzed.

2. *Confidentiality of Information.* Except as provided by Federal law other than the State Justice Institute Act, no recipient of financial assistance from SJI may use or reveal any research or statistical information furnished under the Act by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained. Such information and copies thereof will be immune from legal process and must not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

3. *Human Subject Protection.* Human subjects are defined as individuals who are participants in an experimental procedure or who are asked to provide information about themselves, their attitudes, feelings, opinions, and/or experiences through an interview, questionnaire, or other data collection technique. All research involving human subjects must be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it—unless such procedures and safeguards would make the research impractical. In such instances, SJI must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and minimize or eliminate risk or harm to those subjects due to their participation.

4. *Prohibited Uses of SJI Funds.* To ensure that SJI funds are used to supplement and improve the operation of State courts, rather than to support basic court services, SJI funds must not be used for the following purposes:

- To supplant State or local funds supporting a program or activity (such as paying the salary of court employees who would be performing their normal duties as part of the project or paying rent for space which is part of the court's normal operations).
- To construct court facilities or structures.
- Solely to purchase equipment.

Examples of *basic court services* include:

- Hiring of personnel
- Purchase and/or maintenance of equipment
- Purchase of software and/or licenses
- Purchase of internet access or service
- Supplies to support the day-to-day operations of courts

The final determination of what constitutes basic court services is made by SJI and is not negotiable.

Meals and refreshments are generally not allowable costs unless the applicant or grantee obtains *prior* written approval from SJI. This applies to all awards, including contracts, grants, and cooperative agreements. In general, SJI may approve such costs only in very rare instances where:

- Sustenance is not otherwise available (*e.g.,* extremely remote areas);
- The size of the event and nearby food and/or beverage vendors would make it impractical to not provide meals and/or refreshments; and/or
- A special presentation at a conference requires a plenary address where there is no other time for sustenance to be obtained.

Trinkets (items such as hats, mugs, portfolios, t-shirts, coins, gift bags, gift cards, etc.) may not be purchased with SJI grant funding.

5. *Suspension or Termination of Funding.* After providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, SJI may terminate or suspend funding of a project that fails to comply substantially with the Act, the Grant Guideline, or the terms and conditions of the award (42 U.S.C. 10708(a)).

7. *Title to Property.* At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with SJI funds must vest in the recipient court, organization, or individual that purchased the property if certification is made to and approved by SJI that the property will continue to be used for the authorized purposes of the SJI-funded project or other purposes consistent with the State Justice Institute Act. If such certification is not made or SJI disapproves of such certification, title to all such property with an aggregate or individual value of $1,000 or more must vest in SJI, which will direct the disposition of the property.

IX. Financial Requirements

The purpose of this section is to establish accounting system

requirements and offer guidance on procedures to assist all grantees, sub-grantees, contractors, and other organizations in:

- Complying with the statutory requirements for the award, disbursement, and accounting of funds.
- Complying with regulatory requirements of SJI for the financial management and disposition of funds.
- Generating financial data to be used in planning, managing, and controlling projects.
- Facilitating an effective audit of funded programs and projects.

A. Supervision and Monitoring Responsibilities

All grantees receiving awards from SJI are responsible for the management and fiscal control of all funds. Responsibilities include accounting for receipts and expenditures, maintaining adequate financial records, and refunding expenditures disallowed by audits. If the project includes subawards, the grantees responsibilities also include:

1. *Reviewing Financial Operations.* The grantee or its designee should be familiar with, and periodically monitor, its sub-grantee's financial operations, records system, and procedures. Particular attention should be directed to the maintenance of current financial data.

2. *Recording Financial Activities.* The sub-grantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the grantee or its designee in summary form. Sub-grantee expenditures should be recorded on the books of the State supreme court or evidenced by report forms duly filed by the sub-grantee. Matching contributions provided by sub-grantees should likewise be recorded, as should any project income resulting from program operations.

3. *Budgeting and Budget Review.* The grantee or its designee should ensure that each sub-grantee prepares an adequate budget as the basis for its award commitment. The State supreme court should maintain the details of each project budget on file.

4. *Accounting for Match.* The grantee or its designee will ensure that sub-grantees comply with the match requirements specified in this guideline.

5. *Audit Requirement.* The grantee or its designee is required to ensure that sub-grantees meet the necessary audit requirements set forth by SJI.

6. *Reporting Irregularities.* The grantee, its designees, and its sub-grantees are responsible for promptly reporting to SJI the nature and circumstances surrounding any financial irregularities discovered.

B. Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls, and for ensuring that an adequate system exists for each of its sub-grantees and contractors. An acceptable and adequate accounting system:

- Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure, including matching contributions and project income.
- Assures that expended funds are applied to the appropriate budget category included within the approved grant.
- Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes.
- Provides cost and property controls to assure optimal use of grant funds.
- Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant.
- Meets the prescribed requirements for periodic financial reporting of operations.
- Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

C. Total Cost Budgeting and Accounting

Accounting for all funds awarded by SJI must be structured and executed on a total-project-cost basis. That is, total project costs, including SJI funds, State and local matching shares, and any other fund sources included in the approved project budget, serve as the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates based on total costs.

1. *Timing of Matching Contributions.* Matching contributions should be applied at the same time as the obligation of SJI funds. Ordinarily, the full matching share must be obligated during the award period; however, with the written permission of SJI, contributions made following approval of the grant by the SJI Board of Directors but before the beginning of the grant may be counted as match. If a proposed cash or in-kind match is not fully met, SJI may reduce the award amount accordingly to maintain the ratio of grant funds to matching funds stated in the award agreement.

2. *Records for Match.* All grantees must maintain records that clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions that exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does SJI funds and required matching shares. For all grants made to State and local courts, the State supreme court has primary responsibility for grantee/sub-grantee compliance with the requirements of this section.

3. *Maintenance and Retention of Records.* All financial records, including supporting documents, statistical records, and all other information pertinent to grants, sub-grants, cooperative agreements, or contracts under grants, must be retained by each organization participating in a project for at least 3 years for purposes of examination and audit. State supreme courts may impose record retention and maintenance requirements in addition to those prescribed in this section.

4. *Coverage.* The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all grant and sub-grant awards, applications, and required grantee/sub-grantee financial and narrative reports. Personnel and payroll records must include the time and attendance reports for all individuals reimbursed under a grant, sub-grant, or contract, whether they are employed full-time or part-time. Time and effort reports are required for consultants.

5. *Retention Period.* The 3-year retention period starts from the date of the submission of the final expenditure report.

6. *Maintenance.* Grantees and sub-grantees are expected to see that records of different fiscal years are separately identified and maintained so that requested information can be readily located. Grantees and sub-grantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's or sub-grantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

7. *Access.* Grantees and sub-grantees must give any authorized representative of SJI access to and the right to examine

all records, books, papers, and documents related to a SJI grant.

8. *Project-Related Income.* Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income and must be reported to SJI (see section VII.A.2, *Financial Reporting,* of this guideline). The policies governing the disposition of the various types of project-related income are listed below.

a. *Interest.* A State and any agency or instrumentality of a State, including institutions of higher education and hospitals, will not be held accountable for interest earned on advances of project funds. When funds are awarded to sub-grantees through a State, the sub-grantees are not held accountable for interest earned on advances of project funds. Local units of government and nonprofit organizations that are grantees must refund any interest earned. Grantees must ensure minimum balances in their respective grant cash accounts.

b. *Royalties.* The grantee or sub-grantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions unless the terms and conditions of the grant provide otherwise.

c. *Registration and Tuition Fees.* Registration and tuition fees may be considered as cash match with prior written approval from SJI. Estimates of registration and tuition fees, and any expenses to be offset by the fees, should be included in the application budget forms and narrative.

d. *Income from the Sale of Grant Products.* If the sale of products occurs during the project period, the income may be treated as cash match with the prior written approval of SJI. The costs and income generated by the sales must be reported on the Quarterly Progress Financial Status Reports and documented in an auditable manner. Whenever possible, the intent to sell a product should be disclosed in the application or reported to SJI in writing once a decision to sell products has been made. The grantee must request approval to recover its product development, reproduction, and dissemination costs (see section VIII.K.2, *Charges for Grant-Related Products/Recovery of Costs,* of this guideline).

e. *Other.* Other project income will be treated in accordance with disposition instructions set forth in the grant's terms and conditions.

D. Payments and Financial Reporting Requirements

The procedures and regulations set forth below are applicable to all SJI grant funds and grantees.

1. *Request for Reimbursement of Funds.* Grantees will receive funds on a reimbursable, U.S. Department of the Treasury check-issued or EFT basis. Upon receipt, review, and approval of a Request for Reimbursement (Form R) by SJI, payment will be issued directly to the grantee or its designated fiscal agent. The Form R, along with the instructions for its preparation, and the SF 3881 Automated Clearing House (ACH/Miscellaneous Payment Enrollment Form for EFT), are available for download and submission in the SJI GMS.

2. *Financial Reporting.*

a. *General Requirements.* To obtain financial information concerning the use of funds, SJI requires that grantees/sub-grantees submit timely reports for review.

b. *Due Dates and Contents.* A Financial Status Report is required from all grantees for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to SJI funds, State and local matching shares, project income, and any other sources of funds for the project, as well as information on obligations and outlays. The Financial Status Report (Form F), along with instructions, is accessible in the SJI GMS. If a grantee requests substantial payment for a project prior to the completion of a given quarter, SJI may request a brief summary of the amount requested, by object class, to support the Request for Reimbursement.

a. *Consequences of Noncompliance with Submission Requirement.* Failure of the grantee to submit required financial and progress reports may result in suspension or termination of grant reimbursement.

E. Allowability of Costs

1. *Costs Requiring Prior Approval*

a. *Pre-agreement Costs.* The written prior approval of SJI is required for costs considered necessary but which occur prior to the start date of the project period.

b. *Equipment.* Grant funds may be used to purchase or lease only that equipment essential to accomplishing the goals and objectives of the project. The written prior approval of SJI is required when: (1) The amount of automated data processing equipment to be purchased or leased exceeds $10,000 or (2) the software to be purchased exceeds $3,000.

c. *Consultants.* The written prior approval of SJI is required when the rate of compensation to be paid to a consultant exceeds $800 a day. SJI funds may not be used to pay a consultant more than $1,100 per day.

d. *Budget Revisions.* Budget revisions among direct-cost categories that: (1) Transfer grant funds to an unbudgeted cost category or (2) individually or cumulatively exceed 5 percent of the approved original budget or the most recently approved revised budget require prior SJI approval.

2. *Travel Costs.* Transportation and per diem rates must comply with the policies of the grantee. If the grantee does not have an established written travel policy, then travel rates must be consistent with those established by the U.S. General Services Administration. Grant funds may not be used to cover the transportation or per diem costs of a member of a national organization to attend an annual or other regular meeting, or conference of that organization.

3. *Indirect Costs.* Indirect costs are only applicable to organizations that are not State courts or government agencies. These are costs of an organization that are not readily assignable to a particular project but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. Although SJI's policy requires all costs to be budgeted directly, it will accept indirect costs if a grantee has an indirect cost rate approved by a Federal agency. However, recoverable indirect costs are limited to no more than 75 percent of a grantee's direct personnel costs (salaries plus fringe benefits).

a. *Approved Plan Available.*

- A copy of an indirect cost rate agreement or allocation plan approved for a grantee during the preceding 2 years by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars must be submitted to SJI.
- Where flat rates are accepted in lieu of actual, indirect costs, grantees may not also charge expenses normally included in overhead pools (*e.g.,* accounting services, legal services, building occupancy and maintenance, etc.) as direct costs.

F. Audit Requirements

1. *Implementation.* Grantees must provide for an annual fiscal audit. This

requirement also applies to a State or local court receiving a sub-grant from the State supreme court. Audits conducted using generally accepted auditing standards in the United States will satisfy the requirement for an annual fiscal audit. The audit must be conducted by an independent Certified Public Accountant, or a State or local agency authorized to audit government agencies. The audit report must be made available to SJI electronically, if requested.

2. *Resolution and Clearance of Audit Reports.* Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grantee must have policies and procedures for acting on audit recommendations by designating officials responsible for:

- Follow-up.
- Maintaining a record of the actions taken on recommendations and time schedules.
- Responding to and acting on audit recommendations.
- Submitting periodic reports to SJI on recommendations and actions taken.

3. *Consequences of Non-Resolution of Audit Issues.* Ordinarily, SJI will not make a subsequent grant award to an applicant that has an unresolved audit report involving SJI awards. Failure of the grantee to resolve audit questions may also result in the suspension or termination of payments for active SJI grants to that organization.

G. Closeout of Grants

1. *Grantee Closeout Requirements.* Within 90 days after the end date of the grant or any approved extension thereof, the following documents must be submitted to SJI by grantees:

a. *Financial Status Report.* The final report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated or unexpended funds will be de-obligated from the award by SJI. Final payment requests for obligations incurred during the award period must be submitted to SJI prior to the end of the 90-day closeout period.

b. *Final Progress Report.* This report should describe the project activities during the final calendar quarter of the project and the closeout period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved application or an approved adjustment have been met and, if any of the objectives have not been met, explain why not; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation. These reporting requirements apply at the conclusion of every grant.

2. *Extension of Closeout Period.* Upon the written request of the grantee, SJI may extend the closeout period to assure completion of the grantee's closeout requirements. Requests for an extension must be submitted at least 14 days before the end of the closeout period and must explain why the extension is necessary, and what steps will be taken to assure that all the grantee's responsibilities will be met by the end of the extension period. Extensions must be submitted via the SJI GMS as Grant Adjustments.

X. Grant Adjustments

All requests for programmatic or budgetary adjustments requiring SJI approval must be submitted by the project director in a timely manner (ordinarily 30 days prior to the implementation of the adjustment being requested). All requests for changes from the approved application will be carefully reviewed for both consistency with this guideline and the enhancement of grant goals and objectives. Failure to submit adjustments in a timely manner may result in the termination of a grantee's award.

A. Grant Adjustments Requiring Prior Written Approval

The following Grant Adjustments require the prior written approval of SJI:

- Budget revisions among direct cost categories that (1) transfer grant funds to an unbudgeted cost category or (2) individually or cumulatively exceed 5 percent of the approved original budget or the most recently approved revised budget.
- A change in the scope of work to be performed or the objectives of the project.
- A change in the project site.
- A change in the project period, such as an extension of the grant period or extension of the final financial or progress report deadline.
- Satisfaction of special conditions, if required.
- A change in or temporary absence of the project director.
- The assignment of an employee or consultant to a key staff position whose qualifications were not described in the application, or a change of a person assigned to a key project staff position.
- A change in or temporary absence of the person responsible for managing and reporting on the grant's finances.
- A change in the name of the grantee organization.
- A transfer or contracting out of grant-supported activities.
- A transfer of the grant to another recipient.
- Pre-agreement costs.
- The purchase of ADA equipment and software.
- Consultant rates.
- A change in the nature or number of the products to be prepared or the way a product would be distributed.

B. Requests for Grant Adjustments

All grantees must promptly notify SJI, in writing, of events or proposed changes that may require adjustments to the approved project design. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the program manager determines would help SJI's review. All requests for Grant Adjustments must be submitted via the SJI GMS.

C. Notification of Approval or Disapproval

If the request is approved, the grantee will be sent a Grant Adjustment signed by the SJI Executive Director. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

D. Changes in the Scope of the Grant

Major changes in scope, duration, training methodology, or other significant areas must be approved in advance by SJI. A grantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification to SJI.

E. Date Changes

A request to change or extend the grant period must be made at least 30 days in advance of the end date of the grant. A revised task plan should accompany a request for an extension of the grant period, along with a revised budget if shifts among budget categories will be needed. A request to change or extend the deadline for the final financial report or final progress report must be made at least 14 days in advance of the report deadline.

F. Temporary Absence of the Project Director

Whenever an absence of the project director is expected to exceed a continuous period of 1 month, the plans for the conduct of the project director's duties during such absence must be approved in advance by SJI. This

information must be provided in a letter signed by an authorized representative of the grantee or sub-grantee at least 30 days before the departure of the project director or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by SJI.

G. Withdrawal of or Change in Project Director

If the project director relinquishes or expects to relinquish active direction of the project, SJI must be notified immediately. In such cases, if the grantee or sub-grantee wishes to terminate the project, SJI will forward procedural instructions upon notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to SJI for review and approval. The grant may be terminated if the qualifications of the proposed individual are not approved in advance by SJI.

H. Transferring or Contracting Out of Grant-Supported Activities

No principal activity of a grant-supported project may be transferred or contracted out to another organization without specific prior approval by SJI. All such arrangements must be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval to SJI at the earliest possible time. The contract or agreement must state, at a minimum, the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, will be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to SJI.

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Jonathan D. Mattiello,

Executive Director.

[FR Doc. 2021–23227 Filed 10–22–21; 8:45 am]

BILLING CODE 6820–SC–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 646 (Sub-No. 1X)]

Atlantic and Western Railway, Limited Partnership—Abandonment Exemption—in Lee County, NC

Atlantic and Western Railway, Limited Partnership (ATW), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a rail line between approximately milepost 2.71 and milepost 3.76 in Sanford, NC (the Line). There are no stations on the Line. The Line traverses U.S. Postal Service Zip Codes 27330 and 27332.

ATW has certified that: (1) No local traffic has moved over the Line since 2016; (2) because the Line is not a through line, there is no overhead traffic on the Line that would need to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic reports), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[1] this exemption will be effective on November 24, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 4, 2021.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 15, 2021.

All pleadings, referring to Docket No. AB 646 (Sub-No. 1X), should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on ATW's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void ab initio.

ATW has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by October 29, 2021. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0294. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), ATW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by ATW's filing of a notice of consummation by October 25, 2022, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: October 19, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2021–23162 Filed 10–22–21; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2021–0018]

Applications for Inclusion on the Binational Panels Roster Under the United States-Mexico-Canada Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for applications.

SUMMARY: The United States-Mexico-Canada Agreement (USMCA) provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a USMCA Party. The United States annually renews its selections for the roster. The Office of the United States Trade Representative (USTR) invites applications from eligible individuals wishing to be included on the roster for the period April 1, 2022, through March 31, 2023.

DATES: USTR must receive your application by November 22, 2021.

ADDRESSES: You should submit your application through the Federal eRulemaking Portal: *http://www.regulations.gov* (*regs.gov*), using docket number USTR–2021–0018. Follow the instructions for submitting comments below.

FOR FURTHER INFORMATION CONTACT: Philip Butler, Associate General Counsel, *Philip.A.Butler@ustr.eop.gov,* (202) 395–5804.

SUPPLEMENTARY INFORMATION:

A. Binational Panel AD/CVD Reviews Under the USMCA

Article 10.12 of the USMCA provides that a party involved in an AD/CVD proceeding may obtain review by a binational panel of a final AD/CVD determination of one USMCA Party with respect to the products of another USMCA Party. Binational panels decide whether AD/CVD determinations are in accordance with the domestic laws of the importing USMCA Party using the standard of review that would have been applied by a domestic court of the importing USMCA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of 15 current or former judges.

Article 10.11 of the USMCA provides that a USMCA Party may refer an amendment to the AD/CVD statutes of another USMCA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (GATT), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the USMCA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two USMCA Parties must consult and seek to achieve a mutually satisfactory solution.

B. Roster and Composition of Binational Panels

Annex 10–B.1 of the USMCA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 10 binational panels, with each USMCA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two USMCA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist of lawyers in good standing, and the chair of the panel must be a lawyer.

When there is a request to establish a panel, roster members from the two involved USMCA Parties will complete a disclosure form that is used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

C. Criteria for Eligibility for Inclusion on Roster

The United States bases the selection of individuals for inclusion on the Chapter 10 roster on the eligibility criteria set out in Annex 10–B.1 of the USMCA. Annex 10–B.1 provides that Chapter 10 roster members must be citizens of a USMCA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment, and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with the governments of any of the three USMCA Parties. Annex 10–B.1 also provides that, to the fullest extent practicable, the roster shall include judges and former judges.

USTR is committed to diversity, equity, inclusion, and accessibility, and encourages all qualified individuals to apply.

D. Adherence to the USMCA Code of Conduct for Binational Panelists

The Code of Conduct under Chapter 10 and Chapter 31 (Dispute Settlement) (see *https://can-mex-usa-sec.org/secretariat/agreement-accord-acuerdo/usmca-aceum-tmec/code-code-codigo.aspx?lang=eng*), which was established pursuant to Article 10.17 of the USMCA, provides that current and former Chapter 10 roster members ''shall avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.'' The Code of Conduct also provides that candidates to serve on Chapter 10 panels, as well as those who ultimately are selected to serve as panelists, have an obligation to ''disclose any interest, relationship or matter that is likely to affect [their] impartiality or independence, or that might reasonably create an appearance of impropriety or an apprehension of bias.'' Annex 10–B.1 of the USMCA provides that roster members may engage in other business while serving as panelists, subject to the Code of Conduct and provided that such business does not interfere with the performance of the panelist's duties. In particular, Annex 10–B.1 states that

''[w]hile acting as a panelist, a panelist may not appear as counsel before another panel.''

E. Procedures for Selection of Roster Members

Section 412 of the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116–113 (19 U.S.C. 4582)), establishes procedures for the selection by USTR of the individuals chosen by the United States for inclusion on the Chapter 10 roster. The roster is renewed annually, and applies during the one-year period beginning April 1st of each calendar year.

Under Section 412, an interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the Chapter 10 roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, the U.S. Trade Representative selects the final list of individuals chosen by the United States for inclusion on the Chapter 10 roster.

F. Applications

USTR invites eligible individuals who wish to be included on the Chapter 10 roster for the period April 1, 2022, through March 31, 2023, to submit applications. In order to be assured of consideration, USTR must receive your application by November 22, 2021. Submit applications electronically to *regs.gov*, using docket number USTR–2021–0018. For technical questions on submitting comments on *regs.gov*, please contact the *regs.gov* help desk at 1–877–378–5457. If you need an alternative to online submission, please contact Sandy McKinzy at (202) 395–9483 before transmitting your application and in advance of the deadline.

In order to ensure the timely receipt and consideration of applications, USTR strongly encourages applicants to make on-line submissions, using *regs.gov*. To apply via *regs.gov*, enter docket number USTR–2021–0018 on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' on the left side of the search-results page, and click on the 'comment now' link. For further information on using *regs.gov* website, please consult the resources provided on the website by clicking on 'How to Use *Regulations.gov*' on the bottom of the page.

Regs.gov allows users to provide comments by filling in a 'type comment' field, or by attaching a document using an 'upload file field. USTR prefers that applications be provided in an attached document. If a document is attached, please type ''Application for Inclusion on USMCA Chapter 10 Roster'' in the 'upload file' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the 'type comment' field.

Applications must be typewritten, and should be headed ''Application for Inclusion on USMCA Chapter 10 Roster.'' Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone number, fax number, and email address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Spanish language fluency, written and spoken.
7. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony, and speeches, if any, concerning AD/CVD law. Judges or former judges should list relevant judicial decisions. Submit only one copy of publications, testimony, speeches, and decisions.
10. Summary of any current and past employment by, or consulting or other work for, the Governments of the United States, Canada, or Mexico.
11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.,* and the dates of all registration periods.
12. List of proceedings brought under U.S., Canadian, or Mexican AD/CVD law regarding imports of U.S., Canadian, or Mexican products in which the applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian, or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.
13. A short statement of qualifications and availability for service on Chapter 10 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.
14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with international trade law.

G. Current Roster Members and Prior Applicants

Current members of the Chapter 10 roster who remain interested in inclusion on the Chapter 10 roster only need to indicate that they are reapplying and submit updates (if any) to their applications on file. Current members do not need to resubmit their applications. Individuals who previously have applied but have not been selected must submit new applications to reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

H. Public Disclosure

Applications are covered by a Privacy Act System of Records Notice and are not subject to public disclosure and will not be posted publicly on *regs.gov*. They may be referred to other federal agencies and Congressional committees in the course of determining eligibility for the roster, and shared with foreign governments and the USMCA Secretariat in the course of panel selection.

I. False Statements

False statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicants' suitability for placement on the Chapter 10 roster or for appointment to binational panels, are subject to criminal sanctions under 18 U.S.C. 1001.

Juan Millán,

Assistant United States Trade Representative for Monitoring and Enforcement, Office of the United States Trade Representative.

[FR Doc. 2021–23173 Filed 10–22–21; 8:45 am]

BILLING CODE 3390–F2–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver for Aeronautical Land-Use Assurance at San Marcos Regional Airport, San Marcos, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent for waiver of aeronautical land-use.

SUMMARY: The Federal Aviation Administration is considering a proposal to change a portion of the airport from aeronautical to nonaeronautical use and to authorize the conversion of the airport property. The proposal consists of one parcel of land containing a total of approximately 16.6 acres.The land comprising this parcel is outside the forecasted need for aviation development and, thus, is no longer needed for indirect or direct aeronautical use. The income from the conversion of this parcel will benefit the aviation community by reinvestment into the airport.

Approval does not constitute a commitment by the FAA to financially assist in the conversion of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the conversion of the airport property will be in accordance with FAA's policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999. In accordance with Section 47107(h) of Title 49, United States Code, this notice is required in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before November 24, 2021.

ADDRESSES: Comments on this application may be emailed to the FAA at the following address: Mr. Jesse Carriger, Manager, *7-ASW-TX-ADO@faa.gov*, Federal Aviation Administration, Southwest Region, Airports Division, Texas Airports District Office, ASW–650, 10101 Hillwood Parkway, Fort Worth, Texas 76177.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Chase Stapp, Director of Public Safety, City of San Marcos, at the following address: 630 East Hopkins, San Marcos, Texas 78666.

FOR FURTHER INFORMATION CONTACT: Mrs. Jessica Bryan, Civil Engineer, Federal Aviation Administration, Texas Airports District Office, ASW–650, 10101 Hillwood Parkway, Fort Worth, TX 76177, Telephone: (817) 222–4039, email: *Jessica.l.bryan@faa.gov*.

Documents reflecting this FAA action may be reviewed at the above locations.

Issued in Fort Worth, Texas on October 13, 2021.

Ignacio Flores,

Manager, Airports Division, FAA, Southwest Region.

[FR Doc. 2021–23170 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2020–0010]

Re-Designation of the Primary Highway Freight System (PHFS)

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

ACTION: Notice of extension of comment period.

SUMMARY: The FHWA is extending the comment period for the Re-Designation of the PHFS notice. The original comment period is set to close on October 25, 2021. The extension is based on input received from DOT stakeholders that the October 25 closing date does not provide sufficient time for submission of comments to the docket. The FHWA agrees that the comment period should be extended. Therefore, the closing date for submission of comments is extended to December 15, 2021, which will provide others interested in commenting additional time to submit comments to the docket.

DATES: The comment period for the notice published August 26, 2021, at 86 FR 47705, is extended. Comments must be received on or before December 15, 2021.

ADDRESSES: Interested parties are invited to submit comments identified by DOT Docket ID FHWA–2020–0010 by any of the following methods:

Website: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal: *www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Birat Pandey, *birat.pandey@dot.gov,* 202–366–2842, Office of Freight Management & Operations (HOFM–1), Office of Operations, FHWA, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 7:30 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2021, at 86 FR 47705, FHWA published in the **Federal Register** a notice on the re-designation of the PHFS pursuant to 23 U.S.C. 167(d)(2).

Each re-designation of the network may increase the mileage on the PHFS by not more than 3 percent of the total mileage of the system. The current PHFS consists of 41,518 centerline miles of roadway and is a component of the National Highway Freight Network. The re-designation initiated through this notice may add up to 1,246 miles of additional mileage to the current PHFS. Please be advised that this notice and process is not related to prior notices and processes for the designation of the National Multimodal Freight Network at 81 FR 36381 (June 6, 2016) and 82 FR 49478 (October 25, 2017).

State Freight Advisory Committees, represented by their States, are invited to submit comments. Other entities are encouraged to engage directly with their State Freight Advisory Committee or the State department of transportation.

The original comment period for the notice closes on October 25, 2021. However, DOT stakeholders have expressed concern that this closing date does not provide sufficient time for submission of comments to the docket. To allow time for interested parties to submit comments, the closing date is changed from October 25, 2021, to December 15, 2021.

(Authority: 23 U.S.C. 167(d))

Stephanie Pollack,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2021–23130 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2021–0127]

Agency Information Collection Activities; Approval of a New Information Collection Request

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT or Department) invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for an information collection for the Department's Airport Concession Disadvantaged Business Enterprise (ACDBE) program.

DATES: Written comments should be submitted by December 27, 2021.

ADDRESSES: You may submit comments identified by Docket No. DOT–OST–2021–0127 through one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marcus England, (202) 267–0487, *marcus.england@faa.gov* or Nicholas Giles, (202) 267–0201, *nicholas.giles@faa.gov*/Office of Civil Rights, National Airport Civil Rights Policy and Compliance (ACR–4C), Federal Aviation Administration, 600 Independence Ave. SW, Washington, DC 20591.

SUPPLEMENTARY INFORMATION: The DOT has the important responsibility of ensuring that firms competing for concession opportunities are not disadvantaged by unlawful discrimination. The DOT's most important tool for meeting this requirement has been its ACDBE program, which is regulated by 49 CFR part 23 (ACDBE regulation) and is mandated by 49 U.S.C. 47107(e), originally enacted in 1987 and amended in 1992.

The information collections described in this notice are necessary to maintain successful implementation of the ACDBE program. The collections help ensure recipients that receive Federal financial assistance from the Airport Improvement Program (AIP) of the Federal Aviation Administration (FAA) do not discriminate in the provision of opportunities for disadvantaged business enterprises in airport concessions.

We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13 (PRA).

To assist in estimating the potential paperwork burden of these collections, the Department reached out to a subset of the 396 primary airports who are subject to the ACDBE program requirements to gain a general understanding of the associated costs and how much time they spend each year responding to these collections.

To help commenters provide information that will better allow the Department to include the appropriate paperwork burden within this collection, we offer the following clarifications: A ''collection of information,'' is defined as the obtaining, causing to be obtained, soliciting, or requiring the disclosure to an agency, third parties or the public of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons. 5 CFR part 1320. The activities that constitute the ''burden'' associated with a collection are defined in 5 CFR part 1320 as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. In addition, as stated in 5 CFR part 1320, recordkeeping requirement means a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to: (1) Retain such records; (2) notify third parties, the Federal Government, or the public of the existence of such records; (3) disclose such records to third parties, the Federal Government, or the public; or (4) report to third parties, the Federal Government, or the public regarding such records.

For purposes of this 60-day notice, we have included the burden estimates we received from the small number of stakeholders we contacted. To ensure that estimates contain burdens associated with aspects of the program that constitute paperwork burdens as defined by the PRA, the Department requests that commenters who provide burden estimates for aspects of the program identified below be as specific as possible, including what amount of time each task takes and what, if any, additional costs beyond labor costs (*e.g.,* copying, mailing, storage, or other technology costs) are associated with each aspect of the collection.

OMB Control Number: N/A.

Title: Airport Concession Disadvantaged Business Enterprise (ACDBE) Program Requirements.

Form Numbers: N/A.

Type of Review: Initial Approval of Information Collection.

1. Submission of ACDBE Program to the FAA

Section 23.21 requires recipients to submit an ACDBE program to the FAA for approval. The FAA evaluates submitted ACDBE programs to determine whether they include all the provisions and measures required by the regulation. Timely submission and FAA approval of a recipient's ACDBE program are conditions of eligibility for FAA financial assistance.

Paragraph (d) of § 23.21 requires recipients that make any significant changes to their ACDBE programs to provide an amended program to the FAA for approval before implementing the changes.

The FAA received total annual burden hours from eight recipients, two of each hub size (nonhub, small, medium and large), ranging from 19 to 40 hours. The average burden hour per recipient response, based on the information received from the eight recipients, is 28 hours. The FAA calculated the total annual cost burden by multiplying the total annual burden hours (56 hours × 396 respondents) against the fully loaded state government wage rate taken from Bureau of Labor and Statistics' (BLS's) estimate of median wages for employees in ''Management Occupations'' (SOC 11–000) working in ''State Government, excluding schools and hospitals'' (NAICS 999200) at *https://www.bls.gov/oes/current/naics4_999200.htm#11-0000.* The wage rate ($44.66/hour) is multiplied by 1.62 to get a fully loaded wage rate (compensation rate) of $72.35 to account for the cost of employer provided benefits.

Respondents: Recipients of FAA grants for Airport Development.

Number of Respondents: 396.

Frequency: Once, unless the recipient makes a significant change to its ACDBE program and is required to submit an amended program to the FAA for approval.

Number of Responses: 396.

Total Annual Burden Hours: 11,088 hours

Total Annual Burden Costs: $802,216.80.

2. Annual Report on ACBE Participation

Section 23.27 requires recipients with approved ACDBE programs to submit a ''Uniform Report of ACDBE Participation'' (Uniform Report). The Uniform Report is developed electronically and submitted annually to the FAA. The Uniform Report assists the FAA in conducting program oversight of recipients' ACDBE programs, identifying trends or problem areas in the program, and ensuring that the ACDBE program is achieving its goal of encouraging ACDBE participation in concession-related opportunities.

The reporting requirements of the Uniform Report include the following information:

- Overall percentage goals of ACDBE participation and their race-conscious (RC) and race-neutral (RN) components;
- new and continuing car rental concession opportunities and activity under the ACDBE program during the reporting period;
- total concession gross revenues for concessionaires (prime and sub) and purchases of goods and services at the airport;
- number of lease agreements, contracts, etc., in effect or taking place during the reporting period in each participation category for all concessionaires and purchases of goods and services;
- total gross revenues in each participation category for ACDBEs;
- total gross revenues attributable to race-conscious and race-neutral measures, respectively;
- overall car rental percentage goal and the race-conscious (RC) and race-neutral (RN) components of it; and
- The following information for each ACDBE firm participating in the ACDBE program during the period: (1) Firm name; (2) Type of business; (3) Beginning and expiration dates of the agreement, including options to renew; (4) Dates that material amendments have been or will be made to the agreement (if known); and (5) Estimated gross receipts for the firm during the reporting period.

The FAA received total annual burden hours from eight recipients, two of each hub size (nonhub, small, medium and large), ranging from 15 to 96 hours. The average burden hour per response. based on the information received from the eight recipients, is 56 hours. The FAA estimated the total annual cost burden by multiplying the total annual burden hours (56 hours × 396 respondents = 22,176) against the fully loaded state government wage rate of $72.35. The state government wage rate was taken from Bureau of Labor and Statistics' (BLS's) estimate of median wages for employees in ''Management Occupations'' (SOC 11–000) working in ''State Government, excluding schools and hospitals'' (NAICS 999200) at *https://www.bls.gov/oes/current/naics4_999200.htm#11-0000.* The wage rate ($44.66/hour) is multiplied by 1.62 to get a fully loaded wage rate (compensation rate) of $72.35 to account for the cost of employer provided benefits.

Respondents: Recipients of FAA grants for Airport Development.

Number of Respondents: 396.

Frequency: Once per year.

Number of Responses: 396.

Total Annual Burden Hours: 22,176 hours.

Total Annual Burden Costs: $1,604,433.60.

3. Monitoring and Compliance Procedures

Section 23.29 requires recipients to implement appropriate mechanisms to ensure that all ACDBE program participants comply with the regulation's requirements. Recipients must include in their ACDBE programs specific provisions to be inserted into concession agreements and management contracts setting forth the enforcement mechanisms and other means the recipient uses to ensure compliance. These provisions must include a written certification that recipients reviewed records of all contracts, leases, joint venture agreements, or other concession-related agreements, and monitored the work on-site at their airport for this purpose. If the FAA conducts a compliance review or investigation, it verifies whether the recipient has the written certifications and has monitored the work performed by ACDBEs; recipients do not otherwise submit the information. Recipients collect the information during on-site reviews of concession workplaces to determine whether ACDBEs are actually performing the work for which credit is being claimed.

The FAA received total annual burden hours from eight recipients, two of each hub size (nonhub, small, medium and large), ranging from 0 to 416 hours. The annual burden hours for this requirement can be zero if a recipient does not have any concessions or any ACDBE participation to monitor. The average burden hour per response, based on the information received from the eight recipients, is 153 hours. The FAA seeks comment on whether the estimates, and in particular the higher estimates, were based on the substantive monitoring requirement rather than the paperwork-specific requirements.

The FAA estimated the total annual cost burden by multiplying the total annual burden hours (153 hours × 396 respondents = 60,588) against the fully loaded state government wage rate of $72.35. The state government wage rate was taken from Bureau of Labor and Statistics' (BLS's) estimate of median wages for employees in ''Management Occupations'' (SOC 11–000) working in ''State Government, excluding schools and hospitals'' (NAICS 999200) at *https://www.bls.gov/oes/current/naics4_999200.htm#11-0000.* The wage rate ($44.66/hour) is multiplied by 1.62 to get a fully loaded wage rate (compensation rate) of $72.35 to account for the cost of employer provided benefits. DOT may adjust this estimate based on input received regarding the basis for the estimates previously provided, as well as any additional comments and information received.

Respondents: Recipients of FAA grants for Airport Development.

Number of Respondents: 396.

Frequency: 36 times per year (3 times per month).

Number of Responses: 14,256.

Total Annual Burden Hours: 2,181,168 hours;

Total Annual Burden Costs: $157,807,504.80.

4. Requirements for Submitting Overall Goal Information to the FAA

Congress carefully considered and concluded that race-neutral means alone are insufficient to remedy the effects of discrimination in airport concession opportunities. To meet Constitutional strict scrutiny requirements, ACDBE programs' race-conscious means must be narrowly tailored. Section 23.45 requires that recipients set and submit to the FAA an overall goal for ACDBE participation in concession opportunities every three years. The goal represents the ACDBE participation that would be expected in the relevant market area given the availability of ACDBEs. Paragraph (d)(5) of § 23.51 requires recipients to include with their overall goal submission a description of the methodology they used to establish the goal. Recipients must also include a projection of the portions of the overall goal that they expect to meet through race-neutral and race-conscious means, respectively, and the basis for the projection. Paragraph (d) of § 23.25 requires recipients to maximize the use of race-neutral measures, obtaining as much as possible of the ACDBE participation needed to meet overall goals through such measures.

The FAA received total annual burden hours from eight recipients, two of each hub size (nonhub, small, medium and large), ranging from 1 to 120 hours. The average burden hour per response, based on the information received from the eight recipients, is 53 hours. The FAA estimated the total annual cost burden by multiplying the total annual burden hours (53 hours × 396 respondents = 20,988) against the fully loaded state government wage rate of $72.35. The state government wage rate was taken from Bureau of Labor and Statistics' (BLS's) estimate of median wages for employees in ''Management Occupations'' (SOC 11–000) working in ''State Government, excluding schools and hospitals'' (NAICS 999200) at *https://www.bls.gov/oes/current/naics4_999200.htm#11-0000.* The wage rate ($44.66/hour) is multiplied by 1.62 to get a fully loaded wage rate (compensation rate) of $72.35 to account for the cost of employer provided benefits.

Respondents: Recipients of FAA grants for Airport Development.

Number of Respondents: 396.

Frequency: Annually.

Number of Responses: 396.

Total Annual Burden Hours: 20,988 hours.

Total Annual Burden Costs: $1,518,481.80.

5. Requirements Relating to Shortfalls in Meeting Overall ACDBE Goals

Section 23.57 requires recipients that do not meet their overall goal for ACDBE awards and commitments shown on their Uniform Report of ACDBE Participation (found in appendix A to part 23) at the end of any fiscal year to take the following steps to be regarded by the Department as implementing their ACDBE programs in good faith: (1) Analyze in detail the reasons for the difference between the overall goal and the recipient's awards and commitments in that fiscal year; and (2) establish specific steps and milestones to correct the problems the recipient identified in its analysis and to enable the recipient to meet fully its goal for the new fiscal year. CORE 30 airports or other airports designated by the FAA must submit by December 31st of each year, the analysis and corrective actions developed under § 23.57 to the FAA for approval and must retain the analysis and corrective actions for three years. Recipients that are not a CORE 30 airports must retain the analysis and corrective actions in their records for three years and make them available to the FAA, on request, for their review.

The FAA estimates 130 recipients are subject to developing, and either retaining or submitting, the shortfall analyses and corrective actions required under § 23.57 each year. This estimate is derived from the number of airport recipients whose ACDBE awards and commitments shown on their Uniform Report of ACDBE Participation were less than their overall goals for fiscal year 2020. The FAA received total annual burden hours from two recipients, one small hub airport and another medium hub size airport, ranging from 2 to 40 hours. The average burden hour per response, based on the information received from the two recipients, is 21 hours. The FAA estimated the total annual cost burden by multiplying the total annual burden hours (21 hours × 130 respondents = 2,730) against the fully loaded state government wage rate of $72.35. The state government wage rate was taken from Bureau of Labor and Statistics' (BLS's) estimate of median wages for employees in ''Management Occupations'' (SOC 11–000) working in ''State Government, excluding schools and hospitals'' (NAICS 999200) at *https://www.bls.gov/oes/current/naics4_999200.htm#11-0000.* The wage rate ($44.66/hour) is multiplied by 1.62 to get a fully loaded wage rate (compensation rate) of $72.35 to account for the cost of employer provided benefits.

Respondents: Recipients of FAA grants for Airport Development.

Number of Respondents: 130.

Frequency: Annually depending on if the awards and commitments shown on a recipient's Uniform Report of ACDBE Participation at the end of any fiscal year are less than the overall goal applicable to that fiscal year.

Number of Responses: 130.

Total Annual Burden Hours: 2,730 hours.

Total Annual Burden Costs: $197,515.50.

6. Requirements Relating to Approval of LTE Agreements

Paragraph (a) of § 23.75 prohibits recipients from entering into ''long-term, exclusive agreements'' (LTE agreements) for concessions without prior FAA approval, based on very limited conditions which are outlined in the regulation. This general prohibition is designed to limit the situation where an entire category of business activity is not subject to competition for an extended period of time through the use of an LTE agreement. Paragraph (c) of § 23.75 requires recipients to submit to the FAA various documents and information to obtain approval from the FAA of a long-term exclusive (LTE) agreement. The required information includes the following items:

- A description of the special local circumstances that warrant a long-term, exclusive agreement;
- A copy of the draft and final leasing and subleasing or other agreements with specific provisions;
- Assurances that any ACDBE participant will be in an acceptable form, such as a sublease, joint venture, or partnership;
- Documentation that ACDBE participants are properly certified;
- A description of the type of business or businesses to be operated *e.g.,* location, storage and delivery space, ''back-of-the-house facilities'' such as kitchens, window display space, advertising space, and other amenities that will increase the ACDBE's chance to succeed;
- Information on the investment required on the part of the ACDBE and any unusual management or financial arrangements between the prime concessionaire and ACDBE; and
- Information on the estimated gross receipts and net profit to be earned by the ACDBE.

The collection of information under this section is necessary for FAA to carry out oversight responsibilities in determining whether special local circumstances warrant approval of an LTE agreement.

The FAA estimates seven recipients are required to submit LTE agreements to FAA for approval under § 23.75(c) each year. This estimate is derived from the total number of recipients from whom the FAA received LTE agreements in fiscal year 2020.

The FAA received total annual burden hours from eight recipients, two of each hub size (nonhub, small, medium and large), ranging from 0 to 20 hours. The average burden hour per response, based on the information received from the eight recipients, is 6.25 hours. The FAA estimated the total annual cost burden by multiplying the total annual burden hours (6.25 hours × 7 respondents = 43.75) against the fully loaded state government wage rate of $72.35. The state government wage rate was taken from Bureau of Labor and Statistics' (BLS's) estimate of median wages for employees in ''Management Occupations'' (SOC 11–000) working in ''State Government, excluding schools and hospitals'' (NAICS 999200) at *https://www.bls.gov/oes/current/naics4_999200.htm#11-0000.* The wage rate ($44.66/hour) is multiplied by 1.62 to get a fully loaded wage rate (compensation rate) of $72.35 to account for the cost of employer provided benefits.

Respondents: Recipients of FAA grants for Airport Development.

Number of Respondents: 7.

Frequency: Annually depending on the number of leases and/or contracts with prime concessionaires that are long-term exclusive agreements and require FAA approval.

Number of Responses: 7.

Total Annual Burden Hours: 43.75 hours.

Total Annual Burden Costs: $3,165.31.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Signed in Washington, DC, on October 13, 2021.

Irene B. Marion,

Director, Departmental Office of Civil Rights, Department of Transportation.

[FR Doc. 2021–22627 Filed 10–22–21; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments must be received on or before November 24, 2021.

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: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. Title: Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

OMB Control Number: 1545–0499.

Type of Review: Extension of a currently approved collection.

Description: Form 5305–SEP is used by an employer to make an agreement to provide benefits to all employees under a Simplified Employee Pension (SEP) described in Internal Revenue Code section 408(k). This form is not to be filed with the IRS but is to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions to the SEP.

Form Number: IRS Form 5305–SEP.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 100,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 100,000.

Estimated Time per Respondent: 4 hours 57 minutes.

Estimated Total Annual Burden Hours: 495,000 hours.

2. Title: Internal Revenue Service Advisory Council Membership Application.

OMB Control Number: 1545–1791.

Type of Review: Revision of a currently approved collection.

Description: The Federal Advisory Committee Act (FACA) requires that committee membership be fairly balanced in terms of points of view represented and the functions to be performed. As a result, members of specific committees often have both the expertise and professional skills that parallel the program responsibilities of their sponsoring agencies. Selection of committee members is based on the FACA's requirements and the potential member's background and qualifications. Therefore, an application is needed to ascertain the desired skills set for membership. The IRS will also use the information to perform federal income tax, background, and practitioner checks as required of all members and applicants to the Committee or Council. Information provided will be used to qualify or disqualify individuals to serve as members.

Form Number: IRS Forms 12339.

Affected Public: Individuals or households.

Estimated Number of Respondents: 125.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 125.

Estimated Time per Response: 1 hour 30 minutes.

Estimated Total Annual Burden Hours: 187.5 hours.

3. Title: Consumer Cooperative Exemption Application.

OMB Control Number: 1545–1941.

Type of Review: Extension of a currently approved collection.

Description: A cooperative uses Form 3491 to apply for exemption from filing Form 1099–PATR, Taxable Distributions received from Cooperatives. To qualify for the exemption, 85% of the cooperative's gross receipts for the preceding tax year, or 85% of its total gross receipts for the preceding 3 tax years, must have been from retail sales of goods or services that are generally for personal, living, or family use (qualifying retail sales). See Regulations section 1.6044–4.

Form: IRS Form 3491.

Affected Public: Individuals or households; Businesses and other for-profit organizations; and Not-for-profit institutions.

Estimated Number of Respondents: 200.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 200.

Estimated Time per Response: 44 minutes.

Estimated Total Annual Burden Hours: 148 hours.

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

Dated: October 19, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021–23136 Filed 10–22–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Departmental Offices Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before November 24, 2021 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

1. Title: Treasury International Capital Form S, Purchases and Sales of Long-term Securities by Foreign-Residents.

OMB Control Number: 1505–0001.

Type of Review: Extension without change of a currently approved collection.

Description: Form S is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Form S is a monthly report used to cover transactions in long-term marketable securities undertaken *directly* with foreigners by banks, other depository institutions, brokers, dealers, underwriting groups, funds and other individuals and institutions. This information is used by the U.S. Government in the formulation of international financial and monetary policies and for the analysis of the U.S. international transactions (balance of payments).

Form: Form S.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 185.

Frequency of Response: Monthly.

Estimated Total Number of Annual Responses: 2,220.

Estimated Time per Response: Six and three-fourth hours per respondent per filing. The estimated average time per filing varies from 11.8 hours for the approximately 30 major reporters to 5.9 hours for the other reporters.

Estimated Total Annual Burden Hours: 15,010 hours.

2. Title: Treasury International Capital (TIC) Form SHL/SHLA, ''Survey of Foreign-Residents' Holdings of U.S. Securities, including Selected Money Market Instruments''.

OMB Control Number: 1505–0123.

Type of Review: Extension without change of a currently approved collection.

Description: This form collects foreign-residents' holdings of U.S. securities. These data are used by the U.S. Government in the formulation of international financial and monetary policies, and for the computation of the U.S. international transactions (balance of payments) and of the U.S. international investment position. These data are also used to provide information to the public and to meet international reporting commitments. The data collection includes large benchmark surveys (Form SHL) conducted every five years, and smaller annual surveys (Form SHLA) conducted in the non-benchmark years. The data collected under an annual survey are used in conjunction with the results of the preceding benchmark survey and of recent TIC form SLT (''Aggregate Holdings of Long-Term Securities by U.S. and Foreign Residents'') reporting to make economy-wide estimates for that non-benchmark year. Currently, the determination of who must report in the annual surveys is based primarily on the data submitted during the preceding benchmark survey and on data submitted on SLT reporting. The data requested in the annual survey will generally be the same as requested in the preceding benchmark report. Form SHL is used for the benchmark survey of all significant U.S.-resident custodians and U.S.-resident issuers of securities regarding foreign-residents' holdings of U.S. securities. In non-benchmark years, Form SHLA is used for the annual surveys of primarily the largest U.S.-resident custodians and issuers.

Form: TIC SHL/SHLA, Schedules 1 and 2.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 317 on average annually, but this varies widely from about 840 in benchmark years (once every five years) to about 185 in other years (four out of every five years).

Frequency of Response: Annually.

Estimated Time per Response: 133 hours on average annually, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey, which is conducted once every five years, it is estimated that exempt respondents will require an average of 17 hours; for custodians of securities, the estimate is a total of 321 hours on average, but this figure will vary widely for individual custodians; and for issuers of securities that have data to report and are not custodians, the estimate is 61 hours on average. (b) In a non-benchmark year, which occurs four years out of every five years, it is estimated that the largest custodians of securities will require a total of 486 hours on average; and for the largest issuers of securities that have data to report and are not custodians, the estimate is 110 hours on average. The exemption level for custodians and for issuers of securities filing Schedule 2 for a benchmark survey is the holding on June 30 of less than $200 million in reportable U.S. securities owned by foreign residents.

Estimated Total Annual Burden Hours: 42,035 hours.

3. Title: Treasury International Capital (TIC) Form SHC/SHCA ''U.S. Ownership of Foreign Securities, including Selected Money Market Instruments.''

OMB Control Number: 1505–0146.

Type of Review: Revision of a currently approved collection.

Description: Form SHC/SHCA is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 3101 *et seq.;* E.O. 11961; 31 CFR 129) and is used to conduct annual surveys of U.S. residents' ownership of foreign securities for portfolio investment purposes. These data are used by the U.S. Government in the formulation of international financial and monetary policies, and for the computation of the U.S. international transactions (balance of payments) and of the U.S. international investment position. These data are also used to provide information to the public and to meet international reporting commitments. The SHC/SHCA survey is part of an internationally coordinated effort under the auspices of the International Monetary Fund to improve data on securities worldwide. Most of the major industrial and financial countries conduct similar surveys.

The data collection includes large benchmark surveys (Form SHC) conducted every five years, and smaller annual surveys (Form SHCA) conducted in the non-benchmark years. The data collected under an annual survey are used in conjunction with the results of the preceding benchmark survey and of recent TIC form SLT (''Aggregate Holdings of Long-Term Securities by U.S. and Foreign Residents'') reporting to make economy-wide estimates for that non-benchmark year. Currently, the determination of who must report in the annual surveys is based primarily on the data submitted during the preceding benchmark survey and on data submitted on SLT reports. The data requested in the annual survey will generally be the same as requested in the preceding benchmark report. Form SHC is used for the benchmark survey

of all significant U.S.-resident custodians and end-investors regarding U.S. ownership of foreign securities. In non-benchmark years Form SHCA is used for the annual surveys of primarily the very largest U.S.-resident custodians and end-investors.

Form: SHC/SHCA, Schedules 1, 2 and 3.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 324 on average annually, but this varies widely from about 760 in benchmark years (once every five years) to about 215 in other years (four out of every five years).

Frequency of Response: Annually.

Estimated Time per Response: 200 hours on average annually, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey, which is conducted once every five years, it is estimated that exempt respondents will require an average of 17 hours; custodians of securities providing security-by-security information will require an average of 361 hours, but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 121 hours; and end-investors and custodians employing U.S. custodians will require an average of 41 hours. (b) In a non-benchmark year, which occurs four years out of every five years: Custodians of securities providing security-by-security information will require an average of 546 hours (because only the largest U.S.-resident custodians will report), but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 146 hours; and reporters entrusting their foreign securities to U.S. custodians will require an average of 49 hours. The exemption level for custodians and for end-investors filing Schedule 2 or 3 or both for a benchmark survey is the holding at end-year of less than $200 million in reportable foreign securities owned by U.S. residents. For Schedule 2, end-investors should exclude securities that are held with their unaffiliated U.S.-resident custodians.

Estimated Total Annual Burden Hours: 64,700 hours.

4. Title: Treasury International Capital Form D, ''Report of Holdings of, and Transactions in, Financial Derivatives Contracts with Foreign Residents.''

OMB Control Number: 1505–0199.

Type of Review: Extension without change of a currently approved collection.

Description: Form D is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international capital movements other than direct investment by U.S. persons. Form D is a quarterly report used to cover holdings and transactions in derivatives contracts undertaken between foreign resident counterparties and major U.S.-resident participants in derivatives markets. This information is used by the U.S. Government in the formulation of international financial and monetary policies and for the preparation of the U.S. international transactions (balance of payments) and the U.S. international investment position.

Form: Form D.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 29.

Frequency of Response: Quarterly.

Estimated Time per Response: 30 hours.

Estimated Total Annual Burden Hours: 3,480 hours.

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

Dated: October 20, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021–23199 Filed 10–22–21; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Title VI Compliance Worksheet

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before November 24, 2021 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Community Development Financial Institutions Fund (CDFI Fund)

Title: Title VI Compliance Worksheet.

OMB Control Number: 1559–NEW.

Type of Review: Request for a New OMB Control Number.

Description: The Community Development Financial Institutions Fund (CDFI Fund), Office of Certification, Compliance Monitoring and Evaluation (CCME) Title VI Compliance Worksheet (Worksheet) will capture qualitative information from all Applicants to the CDFI Fund's Federal Financial Assistance Programs. The Worksheet will be submitted once annually from all Applicants to assess their compliance with federal civil rights requirements via an online form through the CDFI Fund's Awards Management Information System (AMIS). Applicants must be compliant with federal civil rights requirements in order to be deemed eligible to receive Federal Financial Assistance grants from the CDFI Fund. The questions in the Worksheet are intended to assist the CDFI Fund in determining whether Federal Financial Assistance Applicants are compliant with the Treasury regulations implementing Title VI of the Civil Rights Act (Title VI), set forth in 31 CFR part 22.

Form: Title VI Compliance Worksheet.

Affected Public: Private Sector.

Estimated Number of Respondents: 900.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 900.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 450.

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

Dated: October 19, 2021.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2021–23138 Filed 10–22–21; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Fiscal Service Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before November 24, 2021 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Fiscal Service (FS)

1. *Title:* Claim Against the United States for the Proceeds of a Government Check.

OMB Control Number: 1530–0010.

Type of Review: Extension without change of a currently approved collection.

Description: The forms are used to collect information needed to process an individual's claim for non-receipt of proceeds from a U.S. Treasury check. Once the information is analyzed, a determination is made and a recommendation is submitted to the program agency to either settle or deny the claim.

Form: FS Form 1133 and FS Form 1133–A.

Affected Public: Individuals or households.

Estimated Number of Respondents: 51,640.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 51,640.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 8,609 hours.

2. *Title:* Special Form of Assignment for U.S. Registered Securities.

OMB Control Number: 1530–0058.

Type of Review: Extension without change of a currently approved collection.

Description: FS Form 1832 is used by owners, or authorized representatives, to complete transactions involving the assignment of U.S. Registered and Bearer Securities.

Form: FS Form 1832.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 10.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 2.5 hours.

3. *Title:* Disclaimer and Consent With Respect To United States Savings Bonds/Notes.

OMB Control Number: 1530–0059.

Type of Review: Extension without change of a currently approved collection.

Description: A disclaimer and consent may be necessary when, as the result of an error in registration or otherwise, the payment, refund of purchase price, or reissue of savings bonds/notes as requested by one person would appear to affect the right, title or interest of some other person.

Form: FS Form 1849.

Affected Public: Individuals or households.

Estimated Number of Respondents: 450.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 450.

Estimated Time per Response: 6 minutes.

Estimated Total Annual Burden Hours: 45 hours.

4. *Title:* Checklists of Filings for Certified Surety and/or Certified Reinsuring Companies and for Admitted Reinsurer Companies.

OMB Control Number: 1530–0061.

Type of Review: Extension without change of a currently approved collection.

Description: This information is collected from insurance companies to assist the Treasury Department in determining acceptability of the companies applying for a Certificate of Authority to write or reinsure Federal surety bonds and/or gain recognition as an Admitted Reinsurer.

Form: Annual Filing Checklist Certified Companies; Annual Filing Checklist Admitted Reinsurers.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 30.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 30.

Estimated Time per Response: 5 hours.

Estimated Total Annual Burden Hours: 150 hours.

5. *Title:* Subscription for Purchase and Issue of U.S. Treasury Securities—State and Local Government Series.

OMB Control Number: 1530–0065.

Type of Review: Extension without change of a currently approved collection.

Description: The information is requested to establish and maintain accounts for the owners of securities of the State and Local Government Series.

Form: FS Form 4144; FS Form 4144–1; FS Form 4144–2; FS Form 4144–5; FS Form 4144–6; FS Form 4144–7; FS Form 5377; FS Form 5237; and FS Form 5238.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 6,437.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 6,437.

Estimated Time per Response: 24 minutes.

Estimated Total Annual Burden Hours: 2,578 hours.

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

Dated: October 19, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021–23149 Filed 10–22–21; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0757]

Agency Information Collection Activity Under OMB Review: Supportive Services for Veteran Families (SSVF) Program—Grant Application & Report

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information

abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0757.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0757'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Supportive Services for Veteran Families (SSVF) Program—Grant Application & Report, VA Forms 10–10072, 10–10072a, 10–10072b and 10–10072c.

OMB Control Number: 2900–0757.

Type of Review: Reinstatement of a previously approved collection.

Abstract: The purpose of the Supportive Services for Veteran Families (SSVF) Program is to provide supportive services grants to private non-profit organizations and consumer cooperatives who will coordinate or provide supportive services to very low-income veteran families who are residing in permanent housing, are homeless and scheduled to become residents of permanent housing within a specified time period, or after exiting permanent housing, are seeking other housing that is responsive to such very low-income veteran family needs and preferences. The following VA forms are included in this collection, as well as templates and a certification that do not require PRA clearances.

a. Application for Supportive Services Grants, VA Form 10–10072
b. Participant Satisfaction Survey, VA Form 10–10072a
c. Quarterly Grantee Performance Report, VA Form 10–10072b
d. Renewal Application, VA Form 10–10072c
e. Applicant Budget Template
f. Financial Report Template
g. Grantee Certification

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 133 on July 15, 2021, page 37406.

Affected Public: Individuals or Households.

Estimated Annual Burden: 25,505 hours.

Estimated Average Burden per Respondent: 125 minutes.

Frequency of Response: Average of twice annually.

Estimated Number of Respondents: 12,270.

By direction of the Secretary:

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–23133 Filed 10–22–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Corporate Senior Executive Management Office; Notice of Performance Review Board Members

AGENCY: Corporate Senior Executive Management Office, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice announces the appointment of individuals to serve on the PRB of the Department of Veterans Affairs.

DATES: This appointment is effective October 25, 2021.

ADDRESSES: Corporate Senior Executive Management Office, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Contact Carrie Johnson-Clark, Executive Director, Corporate Senior Executive Management Office (006D), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–5181.

SUPPLEMENTARY INFORMATION: The membership of the Department of Veterans Affairs Performance Review Board is as follows:

Bradsher, Tanya (Chair)
Arnold, Kenneth
Billups, Angela
Bocchicchio, Alfred
Boerstler, John
Bonjorni, Jessica
Christy, Phillip W.
Czarnecki, Tammy
Duke, Laura
Eskenazi, Laura
Flint, Sandra
Galvin, Jack
Hogan, Michael
Lilly, Ryan
MacDonald, Edna
Marsh, Willie C.
McInerney, Joan
McDivitt, Robert
Mitrano, Catherine
Morton, Barbara
Murray, Edward J.
Pape, Lisa
Pope, Derwin B.
Rivera, Fernando O.
Scavella, Erica
Simpson, Todd
Tapp, Charles
Thomas, Lisa
Tibbits, Paul

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on October 19, 2021, 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.

(Authority: 5 U.S.C. 4314(c)(4))

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2021–23167 Filed 10–22–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0060]

Agency Information Collection Activity: Claim for One Sum Payment Government Life Insurance and Claim for Monthly Payments Government Life Insurance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed

extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 27, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0060'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0060'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Claim for One Sum Payment Government Life Insurance (29–4125); Claim for One Sum Payment Government Life Insurance (29–4125e); Claim for Monthly Payments Government Life Insurance (29–4125a).

OMB Control Number: 2900–0060.

Type of Review: Extension of a currently approved collection.

Abstract: These forms are used by beneficiaries applying for proceeds of Government Life Insurance policies. The VA Form 29–4125e has been added to this collection. This is an electronic version of the 29–4125. This form was created so beneficiaries can apply for insurance proceeds electronically. This will not affect the number of respondents but will make it easier and reduce the time it takes for beneficiaries to receive their insurance proceeds. The information requested on the forms is required by law, 38 U.S.C. Sections 1917 and 1952.

Affected Public: Individuals and households.

Estimated Annual Burden: 12,010 hours.

Estimated Average Burden per Respondent: 6 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 120,100.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–23234 Filed 10–22–21; 8:45 am]

BILLING CODE 8320–01–P

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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