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Presidential Documents

Title 3—

The President

Executive Order 14055 of November 18, 2021

Nondisplacement of Qualified Workers Under Service Contracts

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.,* and in order to promote economy and efficiency in procurement, it is hereby ordered as follows:

Section 1. *Policy.* When a service contract expires, and a follow-on contract is awarded for the same or similar services, the Federal Government's procurement interests in economy and efficiency are best served when the successor contractor or subcontractor hires the predecessor's employees, thus avoiding displacement of these employees. Using a carryover work force reduces disruption in the delivery of services during the period of transition between contractors, maintains physical and information security, and provides the Federal Government with the benefits of an experienced and well-trained work force that is familiar with the Federal Government's personnel, facilities, and requirements. These same benefits are also often realized when a successor contractor or subcontractor performs the same or similar contract work at the same location where the predecessor contract was performed.

Sec. 2. *Definitions.*

(a) ''Service contract'' or ''contract'' means any contract, contract-like instrument, or subcontract for services entered into by the Federal Government or its contractors that is covered by the Service Contract Act of 1965, as amended, 41 U.S.C. 6701 *et seq.,* and its implementing regulations.

(b) ''Employee'' means a service employee as defined in the Service Contract Act of 1965, as amended, 41 U.S.C. 6701(3).

(c) ''Agency'' means an executive department or agency, including an independent establishment subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A).

Sec. 3. *Nondisplacement of Qualified Workers.* (a) Each agency shall, to the extent permitted by law, ensure that service contracts and subcontracts that succeed a contract for performance of the same or similar work, and solicitations for such contracts and subcontracts, include the following clause:

''Nondisplacement of Qualified Workers: (a) The contractor and its subcontractors shall, except as otherwise provided herein, in good faith offer service employees (as defined in the Service Contract Act of 1965, as amended, 41 U.S.C. 6701(3)) employed under the predecessor contract and its subcontracts whose employment would be terminated as a result of the award of this contract or the expiration of the contract under which the employees were hired, a right of first refusal of employment under this contract in positions for which those employees are qualified. The contractor and its subcontractors shall determine the number of employees necessary for efficient performance of this contract and may elect to employ more or fewer employees than the predecessor contractor employed in connection with performance of the work solely on the basis of that determination. Except as provided in paragraph (b), there shall be no employment opening under this contract or subcontract, and the contractor and any subcontractors shall not offer employment under this contract to any person prior to having complied fully with the obligations described in this clause. The contractor and its subcontractors shall make an express offer of employment to each

employee as provided herein and shall state the time within which the employee must accept such offer, but in no case shall the period within which the employee must accept the offer of employment be less than 10 business days.

''(b) Notwithstanding the obligation under paragraph (a) above, the contractor and any subcontractors (1) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor who are not service employees within the meaning of the Service Contract Act of 1965, as amended, 41 U.S.C. 6701(3), and (2) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor for whom the contractor or any of its subcontractors reasonably believes, based on reliable evidence of the particular employees' past performance, that there would be just cause to discharge the employee(s) if employed by the contractor or any subcontractors.

''(c) The contractor shall, not less than 10 business days before the earlier of the completion of this contract or of its work on this contract, furnish the Contracting Officer a certified list of the names of all service employees working under this contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts either with the current or predecessor contractors or their subcontractors. The Contracting Officer shall provide the list to the successor contractor, and the list shall be provided on request to employees or their representatives, consistent with the Privacy Act, 5 U.S.C. 552a, and other applicable law.

''(d) If it is determined, pursuant to regulations issued by the Secretary of Labor (Secretary), that the contractor or its subcontractors are not in compliance with the requirements of this clause or any regulation or order of the Secretary, the Secretary may impose appropriate sanctions against the contractor or its subcontractors, as provided in Executive Order (No.) _____, the regulations implementing that order, and relevant orders of the Secretary, or as otherwise provided by law.

''(e) In every subcontract entered into in order to perform services under this contract, the contractor will include provisions that ensure that each subcontractor will honor the requirements of paragraphs (a) and (b) with respect to the employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor contractor and its subcontractors. The subcontract shall also include provisions to ensure that the subcontractor will provide the contractor with the information about the employees of the subcontractor needed by the contractor to comply with paragraph (c) of this clause. The contractor shall take such action with respect to any such subcontract as may be directed by the Secretary as a means of enforcing such provisions, including the imposition of sanctions for noncompliance: provided, however, that if the contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the contractor may request that the United States enter into such litigation to protect the interests of the United States.''

(b) Nothing in this order shall be construed to require or recommend that agencies, contractors, or subcontractors pay the relocation costs of employees who exercise their right to work for a successor contractor or subcontractor pursuant to this order.

Sec. 4. *Location Continuity.* (a) When an agency prepares a solicitation for a service contract that succeeds a contract for performance of the same or similar work, the agency shall consider whether performance of the work in the same locality or localities in which the contract is currently being performed is reasonably necessary to ensure economical and efficient provision of services.

(b) If an agency determines that performance of the contract in the same locality or localities is reasonably necessary to ensure economical and efficient provision of services, then the agency shall, to the extent consistent with law, include a requirement or preference in the solicitation for the successor contract that it be performed in the same locality or localities.

Sec. 5. *Exclusions.* This order shall not apply to:

(a) contracts under the simplified acquisition threshold as defined in 41 U.S.C. 134; or

(b) employees who were hired to work under a Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employees were not deployed in a manner that was designed to avoid the purposes of this order.

Sec. 6. *Exceptions Authorized by Agencies.* (a) A senior official within an agency may grant an exception from the requirements of section 3 of this order for a particular contract by, no later than the solicitation date, providing a specific written explanation of why at least one of the following circumstances exists with respect to that contract:

(i) Adhering to the requirements of section 3 of this order would not advance the Federal Government's interests in achieving economy and efficiency in Federal procurement;

(ii) Based on a market analysis, adhering to the requirements of section 3 of this order would:

(A) substantially reduce the number of potential bidders so as to frustrate full and open competition; and

(B) not be reasonably tailored to the agency's needs for the contract; or

(iii) Adhering to the requirements of section 3 of this order would otherwise be inconsistent with statutes, regulations, Executive Orders, or Presidential Memoranda.

(b) To the extent permitted by law and consistent with national security and executive branch confidentiality interests, each agency shall publish, on a centralized public website, descriptions of the exceptions it has granted under this section, and ensure that the contractor notifies affected workers and their collective bargaining representatives, if any, in writing of the agency's determination to grant an exception.

(c) On a quarterly basis, each agency shall report to the Office of Management and Budget descriptions of the exceptions granted under this section.

Sec. 7. *Regulations and Implementation.* (a) The Secretary of Labor (Secretary) shall, to the extent consistent with law, issue final regulations within 180 days of the date of this order to implement the requirements of this order, other than those specified in sections 6(b) and (c) of this order.

(b) Within 60 days of the Secretary issuing final regulations, the Federal Acquisition Regulatory Council (FAR Council), to the extent consistent with law, shall amend the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations and contracts subject to this order the clause described in section 3 of this order.

(c) The Director of the Office of Management and Budget shall, to the extent consistent with law, issue guidance to implement section 6(c) of this order.

Sec. 8. *Enforcement.* (a) The Secretary shall have the authority to investigate potential violations of, and obtain compliance with, this order. In such proceedings, the Secretary shall have the authority to issue final orders prescribing appropriate sanctions and remedies, including, but not limited to, orders requiring employment and payment of wages lost. The Secretary may also provide that, if a contractor or subcontractor has failed to comply with any order of the Secretary or has committed willful violations of this order or the regulations issued pursuant thereto, the contractor or subcontractor, and its responsible officers, and any firm in which the contractor

or subcontractor has a substantial interest, may be ineligible to be awarded any contract of the United States for a period of up to 3 years. Neither an order for debarment of any contractor or subcontractor from further Federal Government contracts under this section nor the inclusion of a contractor or subcontractor on a published list of noncomplying contractors shall be carried out without affording the contractor or subcontractor an opportunity to present information and argument in opposition to the proposed debarment or inclusion on the list.

(b) This order creates no rights under the Contract Disputes Act, 41 U.S.C. 7101 *et seq.,* and disputes regarding the requirements of the contract clause prescribed by section 3 of this order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued under this order.

Sec. 9. *Revocation.* Executive Order 13897 of October 31, 2019 (Improving Federal Contractor Operations by Revoking Executive Order 13495), is revoked. Executive Order 13495 of January 30, 2009 (Nondisplacement of Qualified Workers Under Service Contracts), remains revoked.

Sec. 10. *Severability.* If any provision of this order, or the application of any provision of this order to any person or circumstance, is held to be invalid, the remainder of this order and its application to any other person or circumstance shall not be affected thereby.

Sec. 11. *Effective Date.* This order shall become effective immediately and shall apply to solicitations issued on or after the effective date of the final regulations issued by the FAR Council under section 7 of this order. For solicitations issued between the date of this order and the date of the action taken by the FAR Council under section 7 of this order, or solicitations that have already been issued and are outstanding as of the date of this order, agencies are strongly encouraged, to the extent permitted by law, to include in the relevant solicitation the contract clause described in section 3 of this order.

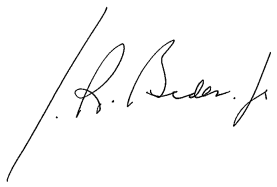
Sec. 12. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
November 18, 2021.

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Rules and Regulations

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DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2019–BT–STD–0002]

RIN 1904–AE31

Energy Conservation Program: Energy Conservation Standards for Direct Heating Equipment

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, including direct heating equipment (''DHE''). EPCA also requires the U.S. Department of Energy (''DOE'') to periodically determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would result in significant energy savings. After carefully considering the available market and technical information for these products, DOE has concluded in this document that the technology options, product cost, and energy use have not changed significantly, and that the market for DHE (*i.e.,* number of models available and annual shipments) has decreased since DOE's prior determination that the energy conservation standards do not need to be amended. As such, DOE has determined that amended energy conservation standards are not warranted.

DATES: The effective date of this final determination is December 23, 2021.

ADDRESSES: The docket for this activity, 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, some documents listed in the index, such as information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *www.regulations.gov/document?D=EERE-2019-BT-STD-0002.* 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:

Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC, 20585–0121. Telephone: (240) 597–6737. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Linda Field, U.S. Department of Energy, Office of the General Counsel, GC–62, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–3440. Email: *Linda.Field@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Synopsis of the Final Determination

Title III, Part B [1] of EPCA,[2] established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309) These products include direct heating equipment, the subject of this final determination. (42 U.S.C. 6292(a)(9))

DOE is issuing this final determination pursuant to the EPCA requirement that not later than 3 years after issuance of a final determination not to amend standards, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

''Direct heating equipment'' is defined at 10 Code of Federal Regulations (''CFR'') 430.2 as vented home heating

[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).

equipment and unvented home heating equipment (*i.e.,* ''vented heaters'' and ''unvented heaters,'' respectively). ''Vented home heating equipment'' and ''unvented home heating equipment'' are also defined at 10 CFR 430.2 in which, vented home heating equipment or vented heater means a class of home heating equipment, not including furnaces, designed to furnish warmed air to the living space of a residence, directly from the device, without duct connections (except that boots not to exceed 10 inches beyond the casing may be permitted) and includes: Vented wall furnace, vented floor furnace, and vented room heater. Whereby, unvented home heating equipment means a class of home heating equipment, not including furnaces, used for the purpose of furnishing heat to a space proximate to such heater directly from the heater and without duct connections and includes electric heaters and unvented gas and oil heaters. Federal energy conservation standards at 10 CFR 430.32(i) currently exist for vented home heating equipment, but there are currently no standards for unvented home heating equipment.

For this final determination, DOE evaluated whether energy conservation standards should be proposed for unvented heaters. In addition, DOE analyzed vented heaters subject to the standards specified in 10 CFR 430.32(i).

For unvented home heating equipment, DOE has previously determined that unvented heaters have minimal potential for energy savings, as they are installed within a conditioned space and all waste heat will be transferred to the conditioned space. 75 FR 20112, 20130 (April 16, 2010). Further, the test procedure only includes test methods for annual energy consumption for primary electric heaters and rated output for all unvented heaters and does not include a test method or metric for energy efficiency. *See* 10 CFR part 430 subpart B appendix G.

For vented home heating equipment, DOE analyzed the current vented heater market and compared it to the market during the previous rulemakings. DOE found that the number of shipments have reduced since these previous rulemakings and that the available technology options and efficiency levels have not changed significantly. In those earlier rulemakings, DOE found that while some efficiency levels were technologically feasible, they were not economically justified. DOE also examined the energy use of the vented heaters considered in the previous rulemakings.

Based on the results of these analyses, as summarized and explained in section III of this document, DOE has determined that energy conservation standards for unvented heaters are not warranted due to insignificant potential energy savings. Similarly, DOE has determined that amended energy conservation standards for vented heaters are not warranted due to the lack of changes in the market for these products since DOE's prior determination that the applicable energy conservation standards do not need to be amended. Consequently, DOE has determined to take no further action vis-à-vis the energy conservation standards for DHE at this time.

II. Authority and Background

The following section briefly discusses the statutory authority underlying this final determination, as well as some of the historical background relevant to the establishment of energy conservation standards for unvented home heating equipment and vented home heating equipment.

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 DHE which is the subject of this document. (42 U.S.C. 6292(a)(9)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(e)(3)), and directs DOE to conduct future rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(e)(4))

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).

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 42 U.S.C. 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 unvented home heating equipment and vented home heating equipment, subsets of DHE, appear at 10 CFR part 430, subpart B, appendix G (''Appendix G'') and appendix O (''Appendix O''), respectively.

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

Pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) In this analysis, DOE considers such energy use in its final determination not to amend energy conservation standards.

DOE must periodically review its already established energy conservation standards for a covered product no later than 6 years from the issuance of a final rule establishing or amending a standard for a covered product. This 6-year look-back provision requires that DOE publish either a determination that standards do not need to be amended or a NOPR, including new proposed standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) EPCA further provides that, not later than 3 years after the issuance of a final determination not to amend standards, DOE must publish either a notification

of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which the determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6295(m)(2))

A determination that amended standards are not needed must be based on consideration of whether amended standards will result in significant conservation of energy, are technologically feasible, and are cost-effective. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) Additionally, any new or amended energy conservation standard prescribed by the Secretary for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Among the factors DOE considers in evaluating whether a proposed standard level is economically justified includes whether the proposed standard at that level is cost-effective, as defined under 42 U.S.C. 6295(o)(2)(B)(i)(II). Under 42 U.S.C. 6295(o)(2)(B)(i)(II), an evaluation of cost-effectiveness requires DOE to consider savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered product that are likely to result from the standard. (42 U.S.C. 6295(n)(2) and 42 U.S.C. 6295(o)(2)(B)(i)(II))

A NOPR including new proposed standards, must be based on the criteria established under 42 U.S.C. 6295(o). (42 U.S.C. 6295(m)(1)(B)) The criteria in 42 U.S.C. 6295(o) require that standards be designed to achieve the maximum improvement in energy efficiency, which the Secretary determines is technologically feasible and economically justified, and they must result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A) and 42 U.S.C. 6295(o)(3)(B)) In deciding whether a proposed standard is economically justified, DOE must determine, after receiving public comment, whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

(1) The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE is publishing this final determination in satisfaction of the three-year review requirement in EPCA.

B. Rulemaking History

The National Appliance Energy Conservation Act of 1987 (''NAECA''), Public Law 100–12, amended EPCA to include the initial energy conservation standards for DHE—limited to gas DHE only—which were based on annual fuel utilization efficiency (''AFUE''). NAECA established separate standards for ''wall fan type,'' ''wall gravity type,'' ''floor,'' and ''room'' DHE, further divided by input capacity.[3] (42 U.S.C. 6295(e)(3))

DOE codified the statutory standards for gas DHE into the CFR in a final rule published February 7, 1989 (''February 1989 final rule''). 54 FR 6062. Pursuant to the requirements in EPCA (42 U.S.C. 6295(e)(4)), DOE conducted two cycles of rulemaking for DHE to determine whether to amend these standards. DOE published a final rule concluding the first round of rulemaking on April 16, 2010 (75 FR 20112 (''April 2010 final rule'')), and the Department published a final rule concluding the second round on October 17, 2016 (81 FR 71325 (''October 2016 final determination'')).

1. Current Standards

In the April 2010 final rule, DOE prescribed the current energy conservation standards for gas vented home heating equipment manufactured on and after April 16, 2013. 75 FR 20112, 20234–20235 (April 16, 2010). These standards are set forth in DOE's regulations at 10 CFR 430.32(i)(2) and repeated in Table II.1 of this document. There are currently no standards for unvented home heating equipment.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR GAS VENTED HOME HEATING EQUIPMENT

DHE type	Heat circulation type	Input rate, Btu/h	AFUE, percent
Wall	Fan Type	≤42,000	75
		>42,000	76
	Gravity Type	≤27,000	65
		>27,000 and ≤46,000	66
		>46,000	67
Floor	All	≤37,000	57
		>37,000	58
Room	All	≤20,000	61
		>20,000 and ≤27,000	66
		>27,000 and ≤46,000	67
		>46,000	68

[3] DOE defines ''direct heating equipment'' as vented home heating equipment and unvented home heating equipment. 10 CFR 430.2. For the purpose of the energy conservation standards, DOE further delineates vented home heating equipment as ''gas wall fan type,'' ''gas wall gravity type,'' ''gas floor,'' and ''gas room,'' and then further divides product classes by input capacity. 10 CFR 430.32(i).

2. October 2016 Final Determination

a. Unvented Heaters

In the October 2016 final determination, DOE concluded that energy conservation standards for unvented heaters would result in negligible energy savings. 81 FR 71325, 71327 (Oct. 17, 2016). DOE also explained that the test procedure for unvented heaters in Appendix G, includes a calculation of annual energy consumption based on a single assignment of active mode hours for unvented heaters that are used as the primary heating source for the home. *Id.* at 81 FR 71328. For unvented heaters that are not used as the primary heating source for the home, there are no provisions for calculating either the energy efficiency or annual energy consumption. *Id.* DOE further explained that pursuant to 42 U.S.C. 6295(o)(3), DOE is prohibited from prescribing a new or amended standard for a covered consumer product if a test procedure has not been prescribed for that consumer product, and as such, DOE could not consider standards for these products at that time. *Id.*

b. Vented Heaters

In the October 2016 final determination, DOE found that few changes to the industry and product offerings had occurred since the April 2010 final rule, and, therefore, the conclusions presented in that final rule were still valid. 81 FR 71325, 71327–71328 (Oct. 17, 2016). For the October 2016 final determination, DOE reviewed the vented heater market, including product literature and product listings in the DOE Compliance Certification Management System (''CCMS'') database and the Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') product directory.[4] *Id.* at 81 FR 71327. DOE found that the number of models offered in each of the vented heater product classes had decreased overall since the April 2010 final rule, and the agency concluded that this finding supported the notion that the vented heater market was shrinking and that product lines were mainly maintained as replacements for existing vented heater units, and that new product lines generally were not being developed. *Id.*

For the October 2016 final determination DOE also examined available technologies used to improve the efficiency of vented heaters. DOE analyzed products on the market at the time through product teardowns and engaged in manufacturer interviews to obtain further information in support of its analysis. 81 FR 71325, 71327 (Oct. 17, 2016). Most of the technology options on the market and evaluated for the October 2016 final determination (*i.e.,* improved heat exchanger, induced draft, electronic ignition, and a two-speed blower for gas wall fan type vented heaters) were those considered as part of the vented heater rulemaking analysis for the April 2010 final rule. *Id.* DOE determined that the technology options available for vented heaters were likely to have limited potential for achieving energy savings.[5] *Id.* Furthermore, DOE concluded that the costs of technology options would likely be similar or higher than in the previous rulemaking analysis due to reduced shipments and, therefore, reduced purchasing power of vented heater manufacturers. *Id.* DOE also evaluated condensing technology for gas wall fan type vented heaters, which had become available after the April 2010 final rule, and, therefore, was not evaluated as part of that rulemaking. *Id.* DOE concluded that this technology option would not be economically justified when analyzed for the Nation as a whole due to the significant increase in initial product cost for products using this technology and the potential for severe manufacturer impacts due to the necessary capital conversion costs if an energy conservation standard were adopted at this level. *Id.* at 81 FR 71327–71328.

DOE acknowledged that the vented heater industry had seen further consolidation since the April 2010 final rule, with the total number of manufacturers declining from six to four. *Id.* at 81 FR 71328. Furthermore, according to manufacturers,[6] shipments further decreased since the April 2010 final rule, and, therefore, it would be more difficult for manufacturers to recover capital expenditures resulting from increased standards. *Id.* DOE acknowledged that vented heater units continue to be produced primarily as replacements and that the market is small, and expected that shipments would continue to decrease and amended standards would likely accelerate the trend of declining shipments. *Id.* Moreover, DOE anticipated that small business impacts resulting from amended standards could be significant, as two of the four remaining manufacturers subject to vented heater standards were small businesses. *Id.*

DOE concluded in the October 2016 final determination that due to the lack of advancement in the vented heater industry since the April 2010 final rule in terms of product offerings, available technology options and associated costs, and declining shipment volumes, amending the vented heater energy conservation standards would impose a substantial burden on manufacturers of vented heaters, particularly to small manufacturers. 81 FR 71325, 71328 (Oct. 17, 2016). DOE noted that it had rejected higher TSLs for vented heaters in the April 2010 final rule due to significant impacts on industry profitability, risks of accelerated industry consolidation, and the likelihood that small manufacturers would experience disproportionate impacts that could lead them to discontinue product lines or exit the market altogether, and the Department stated that the market and the manufacturers' circumstances at the time were similar to when DOE evaluated amended energy conservation standards for vented heaters for the April 2010 final rule. *Id.* at 81 FR 71328–71329. Accordingly, DOE concluded that amended energy conservation standards for vented heaters were not economically justified at any level above the current standard levels because benefits of more-stringent standards would not outweigh the burdens, and the Department determined not to amend the vented heater energy conservation standards. *Id.* at 81 FR 71329.

In the October 2016 final determination, DOE also considered whether to establish energy conservation standards for standby mode and off mode electrical energy use, noting that fossil fuel energy use in standby mode and off mode is already included in the AFUE metric and that electric standby mode and off mode energy use is small in comparison to fossil fuel energy use. *Id.* Given that the

[4] The AHRI directory for DHE can be found at: *www.ahridirectory.org/NewSearch?programId=23&searchTypeId=3* (Last accessed for the October 2016 final determination on July 16, 2015). The DOE CCMS database can be found at: *www.regulations.doe.gov/certification-data/CCMS-4-Direct_Heating_Equipment.html#q=Product_Group_s%3A%22Direct%20Heating%20Equipment%22* (Last accessed for the October 2016 final determination on July 16, 2015).

[5] DOE noted that for gas room vented heaters with input capacity up to 20,000 Btu/h, the maximum AFUE available on the market increased from 59 percent in 2009 (only one unit at this input capacity was available on the market at that time) to 71 percent in 2015. DOE found that this was due to heat exchanger improvements only because these units do not use electricity. Due to the small input capacity, DOE found that this increase in AFUE (based on heat exchanger improvements relative to input capacity) was not representative of or feasible for the other gas room vented heater product classes.

[6] Information obtained during confidential manufacturer interviews.

standards for vented heaters were not amended, DOE concluded it was not required under EPCA to adopt amended standards which include standby mode and off mode energy use, and due to the relatively small potential for energy savings, DOE declined to do so. *Id.*

3. Current Rulemaking

On February 26, 2019, DOE published a request for information (''RFI'') (''February 2019 RFI'') to solicit information from the public to help DOE determine whether amended standards for DHE would result in significant energy savings and whether such standards would be technologically feasible and economically justified. 84 FR 6095.

On December 1, 2020, DOE published a notice of proposed determination (''NOPD'') (''December 2020 NOPD'') to not amend its energy conservation standards for DHE. 85 FR 77017. DOE estimated that for gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters, potential site energy savings at due to more-stringent standards at the maximum technologically feasible (''max-tech'') TSL would be 0.13 quadrillion Btus (''quads''), a reduction of 6 percent in site energy use. Thus, DOE tentatively concluded in the December 2020 NOPD that more-stringent standards for DHE would not save a significant amount of energy. *Id.* at 85 FR 77037. Additionally, for these product classes, DOE tentatively determined that the potential benefits from amended standards would be outweighed by burdens on manufacturers, thereby tentatively concluding that amended standards would not be economically justified. *Id.* at 85 FR 77038. Further, DOE tentatively concluded in the December 2020 NOPD that more-stringent standards for gas floor vented heaters were not technologically feasible, and that amended standards for these products are not needed. *Id.* In this final determination, DOE finalizes its proposed determination from the December 2020 NOPD.

III. General Discussion

DOE developed this final determination after a review of the DHE market, including product literature and product listings in the DOE CCMS database and the AHRI product directory. DOE also considered written comments, data, and information from interested parties that represent a variety of interests. In response to the December 2020 NOPD, DOE received seven substantive comments from interested parties, which are listed in Table III.1 of this document. DOE also received comments from three stakeholders during a webinar held on January 25, 2021 which discussed the analysis presented in the December 2020 NOPD. This notice addresses issues raised by these commenters.

TABLE III.1—INTERESTED PARTIES PROVIDING WRITTEN OR ORAL RESPONSE TO THE DECEMBER 2020 NOPD

Name(s)	Commenter type *	Acronym	Written comment	Oral comment
Abby Spotswood	I	Ms. Spotswood	X	
Air-conditioning, Heating, and Refrigeration Institute	TA	AHRI	X	
American Public Gas Association (''APGA'') and the American Gas Association (''AGA'').	U	Joint Gas Utilities	X	
Appliance Standards Awareness Project (''ASAP''), American Council for an Energy-Efficient Economy (''ACEEE''), and Natural Resources Defense Council (''NRDC'').	EA	Joint Advocates	X	
Association of Home Appliance Manufacturers	TA	AHAM	X	
Flux Tailor LLC	UC	Flux Tailor		X
Northwest Energy Efficiency Alliance	EA	NEEA	X	X
Pacific Gas and Electric (''PG&E''), Southern California Edison (''SCE''), San Diego Gas and Electric (''SDG&E'') (*i.e.,* California Investor-Owned Utilities).	U	CA IOUs	X	X

* EA: Efficiency/Environmental Advocate; I: Individual; TA: Trade Association; U: Utility or Utility Trade Association; UC: Utility Consultant.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public docket.[7]

A. Product Classes and Scope of Coverage

When evaluating and establishing new or amended energy conservation standards, DOE divides covered products into product classes (or types) based on a specified level of energy used or by capacity or other performance-related features that justify differing standards. (42 U.S.C. 6295(q)) 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. *Id.* The scope of coverage is discussed in further detail in section III.A.1 of this document. The product classes for this final determination are discussed in further detail in section III.A.2 of this document.

1. Scope of Coverage and Definitions

This final determination covers those products that meet the definitions of ''direct heating equipment,'' which is defined as vented home heating equipment and unvented home heating equipment. 10 CFR 430.2. ''Home heating equipment, not including furnaces'' likewise means vented home heating equipment and unvented home heating equipment. *Id.* The existing energy conservation standards at 10 CFR 430.32(i)(2) apply only to product classes of vented home heating equipment. There are no existing energy conservation standards for unvented home heating equipment.

a. Unvented Heaters

Unvented heaters are those products that meet the definition for ''unvented home heating equipment,'' as codified at 10 CFR 430.2. Under that provision, ''Unvented home heating equipment'' means a class of home heating equipment, not including furnaces, used for the purpose of furnishing heat to a space proximate to such heater directly from the heater and without duct connections and includes electric heaters and unvented gas and oil heaters. DOE further defines the various

[7] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to consider amended energy conservation standards for DHE. (Docket No. EERE–2019–BT–STD–0002, which is maintained at *www.regulations.gov/docket?D=EERE–2019–BT–STD–0002*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

sub-types of unvented heaters at 10 CFR 430.2 as follows:

(1) ''Baseboard electric heater'' means an electric heater which is intended to be recessed in or surface mounted on walls at floor level, which is characterized by long, low physical dimensions, and which transfers heat by natural convection and/or radiation.

(2) ''Ceiling electric heater'' means an electric heater which is intended to be recessed in, surface mounted on, or hung from a ceiling, and which transfers heat by radiation and/or convection (either natural or forced).

(3) ''Electric heater'' means an electric appliance in which heat is generated from electrical energy and dissipated by convection and radiation and includes baseboard electric heaters, ceiling electric heaters, floor electric heaters, portable electric heaters, and wall electric heaters.

(4) ''Floor electric heater'' means an electric heater which is intended to be recessed in a floor, and which transfers by radiation and/or convection (either natural or forced).

(5) ''Portable electric heater'' means an electric heater which is intended to stand unsupported, and can be moved from place to place within a structure. It is connected to electric supply by means of a cord and plug, and transfers heat by radiation and/or convention (either natural or forced).

(6) ''Primary heater'' means a heating device that is the principal source of heat for a structure and includes baseboard electric heaters, ceiling electric heaters, and wall electric heaters.

(7) ''Supplementary heater'' means a heating device that provides heat to a space in addition to that which is supplied by a primary heater. Supplementary heaters include portable electric heaters.

(8) ''Unvented gas heater'' means an unvented, self-contained, free-standing, non-recessed gas-burning appliance which furnishes warm air by gravity or fan circulation.

(9) ''Unvented oil heater'' means an unvented, self-contained, free-standing, non-recessed oil-burning appliance which furnishes warm air by gravity or fan circulation.

(10) ''Wall electric heater'' means an electric heater (excluding baseboard electric heaters) which is intended to be recessed in or surface mounted on walls, which transfers heat by radiation and/or convection (either natural or forced) and which includes forced convectors, natural convectors, radiant heaters, high wall or valance heaters.

DOE received no recommended changes to the unvented heater definitions in response to the December 2020 NOPD and is not amending these definitions in this final determination.

b. Vented Heaters

Vented heaters are those products that meet the definitions for ''vented home heating equipment,'' as codified at 10 CFR 430.2. Under that provision, ''vented home heating equipment'' or ''vented heater'' means a class of home heating equipment, not including furnaces, designed to furnish warmed air to the living space of a residence, directly from the device, without duct connections (except that boots not to exceed 10 inches beyond the casing may be permitted) and includes: Vented wall furnace, vented floor furnace, and vented room heater. DOE further defines the various sub-types of vented heaters at 10 CFR 430.2 as follows:

(1) ''Vented floor furnace'' means a self-contained vented heater suspended from the floor of the space being heated, taking air for combustion from outside this space. The vented floor furnace supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

(2) ''Vented room heater'' means a self-contained, free standing, non-recessed, vented heater for furnishing warmed air to the space in which it is installed. The vented room heater supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

(3) ''Vented wall furnace'' means a self-contained vented heater complete with grilles or the equivalent, designed for incorporation in, or permanent attachment to, a wall of a residence and furnishing heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

DOE received no recommended changes to the vented heater definitions in response to the December 2020 NOPD and is not amending these definitions in this final determination.

2. Product Classes

In general, when evaluating and establishing energy conservation standards, DOE divides the covered product into classes (or types) based on the level of energy used, the capacity, or other performance-related feature that justifies 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.*

For vented heaters, the current energy conservation standards specified in 10 CFR 430.32(i)(2) are based on 11 product classes divided by DHE type (*i.e.,* gas wall, gas floor, or gas room), heat circulation type (*i.e.,* fan type or gravity type), and input capacity. Table III.2 lists the current product classes for vented heaters.

TABLE III.2—CURRENT VENTED HEATER PRODUCT CLASSES

DHE type	Heat circulation type	Input rate, Btu/h
Gas Wall	Fan Type	≤42,000.
		>42,000.
	Gravity Type	≤27,000.
		>27,000 and ≤46,000.
		>46,000.
Gas Floor	All	≤37,000.
		>37,000.
Gas Room	All	≤20,000.
		>20,000 and ≤27,000.
		>27,000 and ≤46,000.
		>46,000.

In response to the December 2020 NOPD, NEEA stated that gas wall gravity type vented heaters do not provide a unique consumer utility and therefore do not warrant a separate product class from gas wall fan type vented heaters. (NEEA, No. 20 at p. 2) NEEA further stated that although some gas wall gravity type vented heaters do not require electricity, while all gas wall fan type vented heaters do, this is not a distinguishing factor since some gas wall gravity type vented heater models require electricity to operate. (NEEA, No. 20 at p. 2) Gas wall fan and gravity type vented heaters are separated into different product classes in the current energy conservation standards. As discussed, EPCA requires DOE to consider product classes when prescribing energy conservation

standards. (42 U.S.C. 6295(q)) Because DOE is not prescribing new or amended standards for DHE, it is not amending the product classes for these products.

3. Hearth Heaters

In comments to the December 2020 final rule, the Joint Advocates and NEEA referenced DOE's prior analysis of hearth products and recommended the elimination of standing pilot lights. (Joint Advocates, No. 16 at p. 1; NEEA, No. 20 at p. 2) DOE clarifies that while hearth heaters are direct heating equipment per the definition in 10 CFR 430.2, such products were not considered in the context of this determination and such products are not subject to the standards for direct heating equipment at 10 CFR 430.32(i).

In the NOPR that preceded the April 2010 final rule, DOE proposed that its test procedures for vented DHE (*i.e.,* Appendix O) be applied to establish the efficiencies of vented gas hearth DHE. 74 FR 65852, 65861 (Dec. 11, 2009; ''December 2009 NOPR''). DOE described vented hearth products as including gas-fired products such as fireplaces, fireplace inserts, stoves, and log sets that typically include aesthetic features such as a yellow flame, and stated that consumers typically purchase these products to add aesthetic qualities and ambiance to a room, and the products also provide space heating. 74 FR 65852, 65866. DOE stated that ''vented hearth products'' meet DOE's definition of ''vented home heating equipment,'' because they are designed to furnish warmed air to the living space of a residence without duct connections. *Id.* DOE proposed to establish standards for such products. *Id.*

In the April 2010 final rule DOE concluded that vented hearth products as described December 2009 NOPR meet the definition of ''vented home heating equipment.'' 75 FR 20112, 20128. DOE also adopted a definition of ''vented hearth heater'' different from that proposed in that, among other changes, removed explicit reference to fireplace heaters and included a maximum capacity threshold to distinguish vented hearth heaters from purely decorative heaters excluded from DOE's regulations. 75 FR 20112, 20130.

Following the April 2010 final rule, the Hearth, Patio & Barbecue Association (''HPBA'') challenged DOE in the United States Court of Appeals for the District of Columbia Circuit (''D.C. Circuit'') to invalidate the April 2010 final rule and an amendment to that rule published on November 18, 2011 (76 FR 71836; ''November 2011 final rule'') [8] as those rules pertained to vented gas hearth products. *Hearth, Patio & Barbecue Association* v. *Department of Energy, et al.,* No. 10–1113 (D.C. Cir. filed July 1, 2010). On February 8, 2013, the Court ruled that DOE had improperly covered decorative fireplaces in the definition of ''vented hearth heater'' as established in the April 2010 final rule and amended in the November 2011 final rule. *Hearth, Patio & Barbecue Association* v. *Department of Energy, et al.,* 706 F.3d 499 (D.C. Cir. 2013). The Court held that the phrase ''vented hearth heater'' did not encompass decorative fireplaces as that term is traditionally understood, vacated the entire statutory definition of ''vented hearth heater'' and remanded for DOE to interpret the challenged provisions consistent with the court's opinion. *Id. at* 509. On July 29, 2014, DOE published a final rule amending the relevant portions of its regulation to reflect the Court's decision to vacate the regulatory definition of ''vented hearth heater'' (and by implication, the associated energy conservation standards). 79 FR 43927.

On December 31, 2013, DOE published a proposed determination of coverage for hearth products. 78 FR 79638 (''December 2013 NOPD''). DOE stated that hearth products are gas-fired equipment that provide space heating and/or provide an aesthetic appeal to the living space. 78 FR 79638, 79639. DOE also stated vented hearth heaters are no longer covered products as a result of the Court ruling. On February 9, 2015, DOE published a NOPR proposing energy conservation standards for hearth products. 80 FR 7082. This NOPR covered both vented and unvented (vent-less) hearth products. *Id.* at 80 FR 7088–7089. On March 31, 2017, DOE withdrew the December 2013 NOPD [9] in the bi-annual publication of the DOE Regulatory Agenda.[10] On further consideration, DOE believes that it was overly broad in its discussing the Court's holding in the context of hearth heaters. Given that hearth heaters (vented or unvented) provide space heating and classifying hearth heaters as vented or unvented (as applicable) home heating equipment would be consistent with the Court's opinion. *See* 706 F.3d 499, 505. As discussed, currently there are not energy conservation standards for such products and such products were not considered in the analysis of whether the existing standards for vented and unvented home heating equipment should be amended. To the extent DOE considers energy conservation standards for hearth heaters, it intends to do so in a separate rulemaking.

B. Analysis for This Final Determination

1. Overview of the Analysis

As stated previously, in determining that amended standards are not needed, DOE must consider whether amended standards would result in significant conservation of energy, are technologically feasible, and are cost-effective as described in 42 U.S.C. 6295(o)(2)(B)(i)(II). (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)). An evaluation of cost-effectiveness under 42 U.S.C. 6295(o)(2)(B)(i)(II) requires that DOE consider savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard. (42 U.S.C. 6295(n)(2) and 42 U.S.C. 6295(o)(2)(B)(i)(II)) Before potential energy savings and cost-effectiveness of amended standards can be estimated, available and working prototype technologies with the potential to improve energy efficiency must first be evaluated. Accordingly, DOE generally starts with this technology evaluation.

a. Technological Feasibility

In evaluating potential amendments to energy conservation standards, DOE first conducts a market and technology assessment to survey the products currently available on the market and identify technology options (including prototype technologies) that could improve the efficiency of the products or equipment that are the subject of the rulemaking. DOE then conducts a screening analysis for the technologies identified, and, as a first step, determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially-available products or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, sections 6(a)(3)(iii)(A) and 7(b)(1) (''Process Rule'').

[8] In the November 2011 final rule DOE amended the definition of ''vented hearth heater,'' to clarify the scope of the current exclusion for those vented hearth heaters that are primarily decorative hearth products by shifting the focus from a maximum input capacity limitation (*i.e.,* 9,000 Btu/h) to a number of other factors, including the absence of a standing pilot light or other continuously-burning ignition source. *Id.*

[9] Withdrawal of the December 2013 NOPD also withdraws the February 2016 NOPR.

[10] Past publications of DOE's Regulatory Agenda can be found at: *https://resources.regulations.gov/public/component/main.*

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(a)(3)(iii)(B)–(E) and 7(b)(2)–(5) of the Process Rule. The technology options identified for this final determination are essentially those technologies identified and considered for the October 2016 final determination. *See* sections III.B.3.b. and III.B.3.c. of this document for additional discussion.

EPCA requires that in proposing to adopt an amended or new energy conservation standard, or proposing no amendment or no new standard for a type (or class) of covered product, DOE must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of covered product. (42 U.S.C. 6295(p)(1)) Accordingly, DOE determined the max-tech improvements in energy efficiency for vented heaters, using the design parameters for the most efficient products available on the market or in working prototypes. *See* section III.B.3.d. of this document for further discussion.

b. Energy Savings

To adopt any new or amended standards for a covered product, 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.''

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking. For example, the United States has now rejoined the Paris Agreement and will exert leadership in confronting the climate crisis.[11] Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in primary energy and FFC effects for different covered products and equipment when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus present a more complete picture of the impacts of energy conservation standards. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

c. Cost-Effectiveness

Under EPCA's 6-year-lookback review provision for existing energy conservation standards at 42 U.S.C. 6295(m)(1), cost-effectiveness of potential amended standards is a relevant consideration both where DOE proposes to adopt such standards, as well as where it does not. In considering cost-effectiveness when making a determination of whether existing energy conservation standards do not need to be amended, DOE considers the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product that are likely to result from a standard. (42 U.S.C. 6295(m)(1)(A)(*referencing* 42 U.S.C. 6295(n)(2))) Additionally, any new or amended *energy conservation standard* prescribed by the *Secretary* for any type (or class) of *covered product* shall be designed to achieve the maximum improvement in energy efficiency which the *Secretary* determines is technologically *feasible* and economically justified. (42 U.S.C. 6295(o)(2)(A)) Cost-effectiveness is one of the factors that DOE must ultimately consider under 42 U.S.C. 6295(o)(2)(B) to support a finding of economic justification, if it is determined that amended standards are appropriate under the applicable statutory criteria. (42 U.S.C. 6295(o)(2)(B)(i)(II))

In determining cost effectiveness of potential amended standards for DHE, DOE considered the life-cycle cost (''LCC'') and payback period (''PBP'') analyses that estimate the costs and benefits to users from the standards. The LCC is the sum of the initial price of equipment (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the equipment. The LCC analysis requires a variety of inputs, such as equipment prices, equipment energy consumption, energy prices, maintenance and repair costs, equipment lifetime, and discount rates appropriate for consumers. To account for uncertainty and variability in specific inputs (*e.g.,* equipment 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 more-efficient equipment through lower operating costs. DOE calculates the PBP by dividing the change in total installation cost due to a more-stringent standard by the change in annual operating cost for the year that standards are assumed to take effect.

To further inform DOE's consideration of the cost-effectiveness of potential amended standards, DOE may also consider the NPV of total costs and benefits estimated as part of the national impact analysis (NIA). The inputs for determining the NPV of the total costs and benefits experienced by consumers 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.

For the determination in this document, DOE considered the LCC and PBP analyses from the April 2010 final rule, as well as the evaluation in the October 2016 final determination, and information gathered on the current market and technologies.

d. Further Considerations

As stated previously, pursuant to EPCA, if DOE does not issue a notification of determination that energy conservation standards for DHE do not need to be amended, DOE must issue a NOPR that includes new proposed standards. (42 U.S.C. 6295(m)(1)(B)) The new proposed standards in any such NOPR must be based on the criteria established under 42 U.S.C. 6295(o). (42 U.S.C. 6295(m)(1)(B)) The criteria in 42 U.S.C. 6295(o) require that standards be designed to achieve the maximum improvement in energy efficiency, which the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its

[11] See Executive Order 14008, 86 FR 7619 (Feb. 1, 2021) (''Tackling the Climate Crisis at Home and Abroad'').

burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

(1) The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges for, or maintenance expenses of the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

As discussed in the October 2016 final determination, DOE found that amended standards for vented heaters would not be economically justified under the considerations of the seven factors prescribed in EPCA. 81 FR 71325, 71328–71329 (Oct. 17, 2016). For the determination in this document, DOE has considered the previous evaluation of amended standards in the October 2016 final determination.

2. Unvented Heaters

In response to the December 2020 NOPD, the Joint Advocates and NEEA stated that the technology to eliminate standing pilot lights (*i.e.,* electronic ignition) is readily available and low cost and urged DOE to consider standards specifically for unvented gas heaters that would ban standing pilot lights. (Joint Advocates, No. 16 at p. 1–2; NEEA, No. 20 at p. 2) The Joint Advocates further stated that in the technical support document (TSD) for the hearth products NOPR that DOE published on February 9, 2015, DOE found that electronic ignition systems operate an average of 3.94 hours per year at an estimated 50 W, could be manufactured at an incremental price of approximately $80 and have a PBP and LCC savings of 2.9 years and $327, respectively. (Joint Advocates, No. 16 at p. 1–2; see also chapter 8 of the TSD to the February 2015 NOPR (80 FR 7082 (Feb. 9, 2015))) NEEA also referenced the February 2015 NOPR for hearth products stating that eliminating standing pilots could save an average of $165 over the life of the product. 80 FR 7082, 7084. (NEEA, No. 20 at p. 2)

The CA IOUs and Joint Advocates stated that Appendix G, which does not require the energy consumption of the standing pilot light to be measured if there are instructions for turning the pilot light off when the heater is not in use, may not account for actual consumer behavior and stated that DOE did not provide evidence to support the assumption that consumers will follow the instructions in manufacturer-provided literature and urged DOE to conduct further research. (CA IOUs, No. 17 at p. 3; Joint Advocates, No. 16 at p. 1) The Joint Advocates stated that in the February 2015 NOPR for hearth products DOE analysis showed that 40 percent of the consumers of hearth products leave standing pilot lights on all year and that the average operating hours for standing pilot lights is close to 4,000 hours per year. (Joint Advocates, No. 16 at p. 1)

Section 2.3.1 of Appendix G states that measurement of the pilot light input rate is not required for unvented heaters where the pilot light is designed to be turned off by the user when the heater is not in use (*i.e.,* for units where turning the control to the OFF position will shut off the gas supply to the burner(s) and the pilot light) and instruction to turn off the unit is provided on the heater near the gas control value (*e.g.,* by label). Section 2.3.1 of Appendix G requires for unvented heaters with a pilot light that is not designed to be turned off when not in use, or that does not include an instruction to do so, the pilot light input rate must be measured, but is not used in the calculation of rated output in section 3.4 of Appendix G. As explained in the final rule published December 17, 2012, that addressed standby and off mode energy use for unvented heaters, these provisions exclude from the standby mode and off mode requirements a standing pilot light if there are means to disconnect the electric or gas power source when not in use and instructions to do so are clearly visible. 77 FR 74559, 74563 (''December 2012 final rule''). DOE explained that the exclusion is identical to that applicable to manually-controlled vented heaters [12] and that DOE believes this exclusion should also apply to unvented heaters so equipped. *Id.*

The discussion in the December 2012 final rule and the reference to a comparable application for manually-controlled vented heaters indicates that the exclusion in section 2.3.1 of Appendix G was to exclude manually-controlled heaters (*i.e.,* without thermostats) in which the burner and pilot light are turned off when the consumer turns the unit off. As a manually-controlled heater operates only when heat is desired by the consumer, all energy use is useful to the consumer. However, the exclusion in section 2.3.1 of Appendix G is more broadly written than the similar exclusion in section 3.5.2 of Appendix O for manually-controlled vented heaters and applies to products that operate with a thermostat or that are manually-controlled. Further, DOE has found that there are manually-controlled unvented gas heaters on the market [13] that have both a fully off mode (*i.e.,* turning the unit off will turn off the gas to the burner and pilot light) and a mode in which the pilot stays on when heat from the burner is not desired. Such products meet the exclusion criteria in section 2.3.1 of Appendix G but also may not be turned fully off by a consumer when heat is not desired. DOE agrees that amendments to Appendix G to limit the exclusion to unvented heaters that are controlled with a thermostat or manually-controlled unvented heaters with both a fully off mode and a pilot on mode may be appropriate. DOE intends to address this issue further in the ongoing test procedure rulemaking for unvented heaters.[14]

There may be the potential for energy savings if consumer behavior regarding the operation of the standing pilot lights for unvented heaters is examined further. However, the values stated by the Joint Advocates cannot be used directly as hearth products, as defined in the February 2015 NOPR, but may be used differently than unvented heaters. At the time of this analysis, DOE has not received information regarding consumer behavior for unvented heaters, but will continue to evaluate in subsequent rulemakings.

The Joint Gas Utilities stated that unvented gas heaters are required by the consensus safety standard ANSI

[12] Section 1.21 of Appendix O defines a ''manually controlled vented heater'' as ''either gas or oil fueled vented heaters equipped without thermostats.''

[13] For example, the installation and operations manual for an unvented gas heater that can be manually-controlled and has fully off and pilot modes can be found at: *https://images.thdstatic.com/catalog/pdfImages/2e/2e682fa1-3dba-4905-8cb5-785611455daa.pdf.*

[14] DOE published an NOPR regarding test procedures for DHE. 86 FR 20053 (April 16, 2021). The docket for the test procedure NOPR is available at: *www.regulations.gov/docket?D=EERE-2019-BT-TP-0003.*

Z21.11.1, ''Gas-Fired Room Heaters V: Vented Room Heaters,'' to incorporate an oxygen depletion safety (ODS) system that also acts as a burner ignition system and stated that because of this requirement in the safety standard, prohibition of standing pilot lights would essentially prohibit manufacturing unvented gas heaters. (Joint Gas Utilities, No. 15 at p. 4) DOE found that CSA/ANSI Z21.11.2–2019 (ANSI Z21.1.2–2019), ''Gas-Fired Room Heaters, Volume II, Unvented Room Heaters'' covers unvented gas heaters and that while section 4.9 of ANSI Z21.11.2–2019 does specify that an ODS system be equipped at the point of manufacture, it does not require that a standing pilot light be used in the ODS system. Further, DOE has found that unvented heaters exist on the market [15] with ODS systems and without standing pilot lights.

AHAM supported DOE's assessment from the December 2020 NOPD which stipulated that for unvented heaters any heat losses are lost to the living space and, therefore, unvented heaters are nearly 100 percent efficient. (AHAM, No. 19 at p. 2) Flux Tailor urged DOE to reconsider its blanket assumption that all unvented heaters are 100 percent efficient, suggesting that, depending on type of convection technology and other factors, the heater's real capacity to heat a given space may vary significantly and ultimately effect overall energy consumption. (Flux Tailor, No. 21 at p. 21)

Section 3.1 of Appendix G contains a calculation for annual energy consumption for primary electric heaters. This calculation uses the national average heating load hours (*i.e.,* 2,080 hours). Appendix G does not provide for calculating the annual energy consumption of supplementary electric heaters or unvented gas or oil heaters. To account for potential variation in a unit's ''real'' heating capacity, as suggested by Flux Tailor, an annual energy consumption calculation would need to be developed for all unvented heaters that addressed the heating load hours based on quantity of heat a unit provides to a given space. As this would necessitate amendment to the test procedure, Flux Tailor's comment is more appropriately addressed in the ongoing test procedure rulemaking.[16]

As stated in section III.A.3., this final determination does not consider unvented hearth heaters. To the extent DOE will consider energy conservation standards for unvented hearth heaters it would do so in a separate rulemaking.

3. Vented Heaters

a. Market Assessment

Models on the Market

DOE has conducted a review of the vented heater market, including product literature and product listings in the CCMS database and AHRI product directory. DOE has concluded that the number of models offered in each of the vented heater product classes has continued to decrease overall since the October 2016 final determination, as shown in Table III.3 of this document. The model counts presented in Table III.3 of this document are counts of individual model numbers, as opposed to basic model numbers. A basic model can have multiple individual model numbers certified under it. The model counts from previous rulemakings were individual model numbers, so for consistency of comparison, the model counts for 2021 that are presented in Table III.3 of this document are also in terms of individual model number. DOE acknowledges that, although changes in model counts and shipments sometimes correlate, changes to available model counts do not necessarily indicate a change in the number of units sold. For example, a model could be taken off of the market, but more units of another model could be sold, thereby resulting in roughly the same amount of sales as before the first model was taken off the market. Shipments of vented heaters are discussed is section III.B.3.g of this document.

TABLE III.3—VENTED HEATER INDIVIDUAL MODEL COUNTS BY PRODUCT CLASS FOR CURRENT AND PREVIOUS RULEMAKINGS

Product class	Model count by product class		
	2021 *	October 2016 final determination **	April 2010 final rule ***
Gas Wall Fan Type	51	64	82
Gas Wall Gravity Type	57	56	52
Gas Floor	10	15	15
Gas Room	19	28	29

* CCMS database (last accessed on July 8, 2021), with further information taken from the AHRI Directory (last accessed on July 8, 2021). Models designated as ''Production Stopped'' within the AHRI Directory are not included in the model count.

** CCMS database (last accessed on July 16, 2015), with further information taken from the AHRI Directory (last accessed on July 16, 2015). Models designated as ''Discontinued'' within the AHRI Directory are not included in the model count.

*** Gas Appliance Manufacturers Association (GAMA) Directory for Direct Heating Equipment [17] (downloaded March 2, 2009). Models designated as ''Discontinued'' within the GAMA Directory are not included in the model count.

In response to the February 2019 RFI, AHRI confirmed that there are fewer models in the AHRI Directory now than there were at the time of the October 2016 final determination. (AHRI, No. 6 at p. 4)

In response to the December 2020 NOPD, the Joint Gas Utilities supported DOE's tentative conclusion that new DHE product lines are generally not being developed, the market for DHE is declining, and most product lines function mainly to replace existing units. (Joint Gas Utilities, No. 15 at p. 3) AHAM and AHRI stated that DHE products have not seen significant technological advancement since 2016 (*i.e.,* when the October 2016 final

[15] Specification sheet for an unvented gas heater with electronic ignition and a ODS system: www.*media.rinnai.us/salsify_asset/s-515b633c-2926-43a2-98ff-7ac8fbc7c1ab/FC510%20(RCE-391A-H)%20SP.pdf?_ga=2.116400966.1386589753.1625773392-36239730.1625773392*.

[16] DOE published an NOPR regarding test procedures for DHE. 86 FR 20053 (April 16, 2021). The docket for the test procedure NOPR is available at: *www.regulations.gov/docket?D=EERE-2019-BT-TP-0003*.

[17] AHRI is the trade association that represents manufacturers of heating products. It was formed on January 1, 2008, by the merger of GAMA, which formerly represented these manufacturers, and the Air-Conditioning and Refrigeration Institute. As stated previously, AHRI maintains a Consumers' Directory of Certified Product Performance for direct heating equipment, which can be found on AHRI's website at: *www.ahridirectory.org/Search/SearchHome?ReturnUrl=%2f*.

determination was published) and that products on the market today are approximately the same as those available in 2016. (AHAM, No. 19 at p. 2; AHRI, No. 18 at p. 2) DOE has also found that the products available on the market today are approximately the same as those available in 2016, as discussed in section III.B.3.d, and that the market for DHE is declining, as discussed in section III.B.3.g. of this document.

Manufacturers

In the December 2020 NOPD, DOE noted that the number of manufacturers producing vented heaters increased in the CCMS database from four to five between the October 2016 final determination and the December 2020 NOPD. 85 FR 77017, 77028–77029 (Dec. 1, 2020). This new manufacturer mainly produces hearth products (which are not subject to this final determination) but also manufactures two gas wall gravity type vented heaters with input rate and AFUE values that are comparable to the input rate and AFUE values of other models available on the market, and that are similar in design. Since the publication of the December 2020 NOPD, one manufacturer acquired another manufacturer's vented heater brand, resulting in four manufacturers producing vented heaters.[18]

b. Technology Options for Efficiency Improvement

In the February 2019 RFI and December 2020 NOPD, DOE listed the technology options considered in the previous rulemakings to increase AFUE and requested comment on these options and any other technology options that would be relevant to vented heaters. 84 FR 6095, 6099 (Feb. 26, 2019); 85 FR 77017, 77029 (Dec. 1, 2020). Specifically, DOE identified the technologies in the following Table III.4 for improving the efficiency of vented heaters.

TABLE III.4—TECHNOLOGY OPTIONS FOR VENTED HEATERS

Technology options
Increased heat exchanger surface area.
Multiple flues.
Multiple turns in flue.
Direct vent (concentric).
Increased heat transfer coefficient.
Electronic ignition.
Thermal vent damper.
Electrical vent damper.
Power burner.
Induced draft.
Two-stage and modulating operation.
Improved fan or blower motor efficiency.
Increased insulation.
Condensing.
Condensing Pulse Combustion.
Air circulation fan.
Sealed combustion.

As stated in the December 2020 NOPD, DOE found that the available range of input rates and AFUE values of vented heater products available on the market have stayed largely the same since the October 2016 final determination. 85 FR 77017, 77029 (Dec. 1, 2020). DOE further stated that differences in the available input rate and AFUE were mostly due to models being taken off the market as opposed to new models being added and that this indicates that the technology options currently available are similar to those examined in both the April 2010 final rule and October 2016 final determination. *Id.* DOE did not identify any additional technologies, and there were not any comments suggesting additional technology options for vented heaters that were not previously considered. Therefore, DOE used the technology options in Table III.4 of this document for its review of potential amended vented heater energy conservation standard levels in this document.

c. Screening Analysis

In the February 2019 RFI, DOE identified and explained why four of the technologies on its initial list had been previously screened out: (1) Increased heat transfer coefficient (practicability to manufacture, install, and service); (2) power burner (practicability to manufacture, install, and service); (3) condensing pulse combustion (technological feasibility); and (4) improved fan or blower motor efficiency (practicability to manufacture, install, and service). 84 FR 6095, 6099–6100 (Feb. 26, 2019). DOE also noted that it only considers potential efficiency levels achieved through the use of proprietary designs in the engineering analysis if they are not part of a unique pathway to achieve the efficiency level (*i.e.,* if there are other non-proprietary technologies capable of achieving the same efficiency level). 84 FR 6095, 6099 (Feb. 26, 2019). In the December 2020 NOPD, DOE maintained the tentative screening approach presented in the February 2019 RFI. 85 FR 77017, 77029 (Dec. 1, 2020). DOE did not receive comments on the screening analysis in response to the December 2020 NOPD.

In evaluating potential technology options for this final determination, DOE maintained the list from the February 2019 RFI and December 2020 NOPD, as discussed in section III.B.3.b. of this document. In addition, DOE did not find that any of the technology options should be screened out from consideration as options for improving the AFUE of vented heaters other than the four previously screened-out.

d. Engineering Analysis

For the April 2010 final rule, DOE determined technology options by efficiency level for each of the vented heater product classes. These technology options are found in section 5.7 of the April 2010 final rule TSD[19] and are reproduced in Table III.5 of this document. The representative input rate ranges from the April 2010 final rule are: >42,000 Btu/h for gas wall fan type vented heaters, >27,000 Btu/h and ≤46,000 Btu/h for gas wall gravity type vented heaters, >37,000 Btu/h for gas floor vented heaters, and >27,000 Btu/h and ≤46,000 Btu/h for gas room vented heaters. 75 FR 20112, 20114 (April 16, 2010).

TABLE III.5—APRIL 2010 FINAL RULE TECHNOLOGY OPTIONS BY EFFICIENCY LEVEL FOR THE REPRESENTATIVE INPUT RATE RANGES OF THE VENTED HEATER PRODUCT CLASSES

DHE type	Heat circulation type	Efficiency level (AFUE)	Technology
Gas Wall	Fan Type	*74	Standing Pilot.
		* 75	Intermittent Ignition and Two-Speed Blower.
		** 76	Intermittent Ignition and Improved Heat Exchanger.

[18] HVAC Insider, *Williams Acquires Cozy Heating Systems,* 2021. *www.hvacinsider.com/williams-acquires-cozy-heating-systems/* (Last accessed July 20, 2021).

[19] Available at: *www.regulations.gov/document?D=EERE-2006-STD-0129-0149.*

TABLE III.5—APRIL 2010 FINAL RULE TECHNOLOGY OPTIONS BY EFFICIENCY LEVEL FOR THE REPRESENTATIVE INPUT RATE RANGES OF THE VENTED HEATER PRODUCT CLASSES—Continued

DHE type	Heat circulation type	Efficiency level (AFUE)	Technology
		77	Intermittent Ignition, Two-Speed Blower, and Improved Heat Exchanger.
		80	Induced Draft and Electronic Ignition.
	Gravity Type	*64	Standing Pilot.
		** 66	Standing Pilot and Improved Heat Exchanger.
		* 68	Standing Pilot and Improved Heat Exchanger.
		* 69	Standing Pilot and Improved Heat Exchanger.
		70	Electronic Ignition.
Gas Floor	All	* 57	Standing Pilot.
		** 58	Standing Pilot and Improved Heat Exchanger.
Gas Room	All	* 64	Standing Pilot.
		* 65	Standing Pilot and Improved Heat Exchanger.
		* 66	Standing Pilot and Improved Heat Exchanger.
		** 67	Standing Pilot and Improved Heat Exchanger.
		68	Standing Pilot and Improved Heat Exchanger.
		* †83	Electronic Ignition and Multiple Heat Exchanger Design.

* No longer available on the market.
** Efficiency level adopted in as the Federal standard the April 2010 final rule at the representative input rate.
† This was a theoretical model and was not on the market at the time of the April 2010 final rule analysis.

DOE reviewed the technology options available in the current vented heater market for the representative input rate ranges from the April 2010 final rule. The available efficiency levels and associated technologies are shown in Table III.6 of this document.

TABLE III.6—CURRENT TECHNOLOGY OPTIONS BY EFFICIENCY LEVEL OF THE REPRESENTATIVE INPUT RATE RANGES OF THE VENTED HEATER PRODUCT CLASSES FROM THE APRIL 2010 FINAL RULE

DHE type	Heat circulation type	Efficiency level (AFUE)	Technology
Gas Wall	Fan Type	76	Intermittent Ignition and Improved Heat Exchanger.
		77	Intermittent Ignition, Two-Speed Blower, and Improved Heat Exchanger.
		80	Induced Draft and Electronic Ignition
		* 90	Electronic Ignition and Condensing.
	Gravity Type	66	Standing Pilot and Improved Heat Exchanger.
		68	Standing Pilot and Improved Heat Exchanger.
		69	Standing Pilot and Improved Heat Exchanger.
		70	Electronic Ignition.
Gas Floor	All	58	Standing Pilot and Improved Heat Exchanger.
Gas Room	All	67	Standing Pilot and Improved Heat Exchanger.
		68	Standing Pilot and Improved Heat Exchanger.
		** 83	Electronic Ignition and Multiple Heat Exchanger Design.

* Condensing gas wall fan type vented heaters exist in an input rate range that was not the representative input rate range in the April 2010 final rule. Thus, the max-tech level presented is theoretical for the representative input range, but exists in models on the market in other input ranges.
** This is a theoretical efficiency level based on the analysis for the April 2010 final rule, and is not available in any model currently on the market.

The maximum available efficiency level is the highest efficiency model currently available on the market for that class. The max-tech efficiency level represents the theoretical maximum possible efficiency if all available design options are incorporated in a model. In some cases, models at the max-tech efficiency level are not commercially available because, although the level is technically achievable, manufacturers have determined that it is not economically feasible (either for the manufacturer to produce or for consumers to purchase). However, DOE seeks to determine the max-tech level for purposes of its analyses. The current maximum available efficiencies for the 11 existing product classes are included in Table III.7, along with the maximum available efficiencies from the April 2010 final rule and those evaluated for the October 2016 final determination.

TABLE III.7—MAXIMUM AVAILABLE EFFICIENCY LEVELS FOR THE VENTED HEATER PRODUCT CLASSES—CURRENT AND PREVIOUS RULEMAKINGS

Product class	Input rate, kBtu/h	2021	October 2016 final determination	April 2010 final rule
Gas Wall Fan Type	≤42	90	92	83
	>42	80	80	80
Gas Wall Gravity Type	≤27	72	80	80
	>27 and ≤46	70	69	69
	>46	70	70	69
Gas Floor	≤37	57	57	57
	>37	58	58	58
Gas Room	≤20	71	71	59
	>20 and ≤27	66	66	63
	>27 and ≤46	68	68	83
	>46	70	70	70

In the April 2010 final rule, DOE determined max-tech efficiency levels using the technology options available at that time. For gas wall fan type vented heaters with an input rate over 42,000 Btu/h, DOE identified a max-tech efficiency level design with induced draft combustion and electronic ignition, resulting in an AFUE of 80 percent. For gas wall gravity type vented heaters with an input rate over 27,000 Btu/h and up to 46,000 Btu/h, DOE identified 70 percent AFUE as a theoretical max-tech level, which was achievable with an improved heat exchanger design and electronic ignition. For gas floor vented heaters with an input rate over 37,000 Btu/h, DOE identified the max-tech efficiency level as 58 percent AFUE, which DOE stated could be reached using a standing pilot light and an improved heat exchanger design. For gas room vented heaters with an input rate over 27,000 Btu/h and up to 46,000 Btu/h, DOE identified a theoretical max-tech efficiency level of 83 percent AFUE, which manufacturers could achieve using an electronic ignition and a multiple heat exchanger design. 75 FR 20112, 20145–20146 (April 16, 2010).

In the October 2016 final determination, DOE noted that condensing gas wall fan type vented heater models with input rates at or below 42,000 Btu/h had become available, and DOE considered this the max-tech level for all gas wall fan type vented heaters. Based on information obtained during manufacturer interviews and a manufacturer production cost developed through a teardown analysis performed for the proposed determination, DOE determined that condensing technology was not economically justified for gas wall fan type vented heaters at that time. 81 FR 21276, 21280 (April 11, 2016); 81 FR 71325, 71328–71329 (Oct. 17, 2016).

Since the October 2016 final determination, the highest efficiency condensing gas wall fan type vented heater, with an input rate at or below 42,000 Btu/h, available on the market has been rerated (*e.g.,* the same model number has been rated with at least two different AFUE values between the October 2016 final determination and this NOPD) from an AFUE of 92 percent to an AFUE of 90 percent, which is the only condensing AFUE level on the market. The maximum available AFUE for gas wall gravity type vented heaters, with an input rate over 27,000 Btu/h and up to 46,000 Btu/h, increased to 70 percent, which is the max-tech level analyzed in the April 2010 final rule. In total, the maximum available AFUE decreased for two input rate ranges and increased for one input rate range. All other input rate ranges have the same maximum available AFUE as in the October 2016 final determination.

In response to the December 2020 NOPD, NEEA urged DOE to consider condensing technology as a technology option and analyze the maximum levels technologically feasible, not just those available. (NEEA, No. 150 at p. 2) The CA IOUs recommended DOE conduct an updated analysis to reconsider the max-tech levels for all DHE products rather than rely on max-tech levels from the analysis conducted for the April 2010 final rule. (CA IOUs, No. 17 at p. 1) The CA IOUs also stated that without a thorough engineering analysis of gas wall fan type vented heaters, the December 2020 NOPD gives insufficient justification that the AFUE level attained by the few condensing products on the market can be considered max-tech and that if DOE were to apply a different max-tech level for condensing technology, the energy savings threshold to initiate a new rulemaking could be met. (CA IOUs, No. 17 at p. 2) For gas wall gravity type and gas room vented heaters, CA IOUs asserted that the absence of any condensing efficiency level products on the market does not relieve DOE of the obligation to explore condensing tech as max-tech for these categories. (CA IOUs, No. 17 at p. 2)

DOE has included condensing technology in the list of technology options for the entirety of the analysis conducted for this final determination. Gas wall fan type vented heaters could have a theoretical AFUE above the level analyzed in the October 2016 final determination and December 2020 NOPD as max-tech and this theoretical level results in increased energy savings. 81 FR 71325, 71327 (Oct. 17, 2016); 85 FR 77017, 77030 (Dec. 1, 2020). As discussed in section III.B.1.a, in screening for technologies that are technologically feasible, DOE considers technologies incorporated in commercial products or in working prototypes. 10 CFR part 430 subpart C appendix A section 6(c)(3)(i). DOE did not identify gas wall gravity type and gas room vented heaters with condensing technologies on the market or as prototypes that incorporated condensing technology, that achieved an AFUE higher than that considered.

As discussed in the following sections, DOE has determined that energy conservation standards do not need to be amended based on the continued likelihood that amending the vented heater energy conservation standards would impose a substantial burden on manufacturers of vented heaters, particularly to small manufacturers. For gas wall gravity type, gas floor, and gas room vented heaters, the technologies available on the market produce AFUE values that are well below near-condensing operation, suggesting significant redesign would be required to incorporate condensing technology, likely resulting in increasing potential costs to manufacturers. Given that an

energy conservation standard that required use of condensing technology would further exacerbate the estimated impacts of amended standards as determined in the prior determinations, DOE did not include condensing technology in its engineering analysis beyond that considered in the prior engineering analysis conducted for the October 2016 final determination. 81 FR 71325, 71327–71328 (Oct. 17, 2016).

In response to the December 2020 NOPD, CA IOUs stated that DOE has not presented information to suggest that electronic ignition could not be included in gas floor vented heaters, and encouraged DOE to complete a thorough analysis that appropriately considers electronic ignition technology. (CA IOUs, No. 17 at p. 3) As stated, DOE has determined that standards do not need to be amended based on the continued likelihood that amending the vented heater energy conservation standards would impose a substantial burden on manufacturers of vented heaters, particularly to small manufacturers. As discussed in sections III.B.3.g and III.B.3.i, vented heater shipments have declined since the April 2010 final rule and one of the two manufacturers of gas floor vented heaters is a small business while it is unclear whether the other manufacturer remains a small business after acquiring another small business manufacturer's gas floor vented heater brand. Gas floor vented heaters are also the smallest product class by model count. As such, DOE did not include electronic ignition in its engineering analysis.

The Joint Advocates asserted that some models of vented heaters meet the current energy conservation standards but still have standing pilot lights, and that pilot lights left burning year-round can consume 6.8 MMBtu of fuel per year, which would account for around 25 percent of total annual gas consumption for vented heaters. (Joint Advocates, No. 16 at p. 1) DOE has identified vented heaters on the market with standing pilot lights that meet the current energy conservation standards. The energy conservation standards established in the April 2010 final rule were set at a level attainable by units that use standing pilot lights as evidenced by the technology options listed for each efficiency level in chapter 5 of the TSD for the April 2010 final rule.

Manufacturer Production Costs

After establishing the efficiency levels in the April 2010 final rule, DOE estimated the manufacturer production cost (MPC) of attaining each efficiency level based on the technology options identified for that level. The MPC takes into account the costs for material, labor, depreciation, and overhead. These values were developed based on product teardowns that generated bills of materials for all components and manufacturing processes required to manufacture vented heaters at a given efficiency level for each product class. DOE uses these bills of material, along with information on material and component prices, costs for labor, depreciation, and overhead to derive the MPC. In development of the April 2010 final rule, manufacturer interviews were conducted to verify the accuracy of the inputs to DOE's analysis of MPCs (*e.g.,* material prices, labor rates) and the resulting MPCs. 75 FR 20112, 20147–20148 (April 16, 2010). As discussed in section II.B.3.b., after the April 2010 final rule and before October 2016 final determination, a condensing gas was fan type vented heater came on the market. In a NOPD which preceded the October 2016 final determination, DOE stated that the MPC for a condensing gas wall fan type vented heater had a 23 percent higher incremental cost than a unit at 80 percent AFUE (*i.e.,* the max-tech efficiency level evaluated in the April 2010 final rule). 81 FR 21276, 21280 (April 11, 2016) (April 2016 NOPD). DOE received feedback during manufacturer interviews which indicated that condensing models are significantly more expensive to manufacture than non-condensing models and to confirm these statements, DOE performed a product teardown of a condensing model. *Id.*

DOE reviewed its April 2010 final rule and October 2016 final determination engineering analyses to determine whether the results are still valid in the context of the current market. As the market conditions for manufacturers remains substantially the same as the previous rulemakings (*i.e.,* production volumes remain similar or slightly lower than previously projected, while material prices and labor rates are also similar), DOE has determined that the engineering analysis performed during the April 2010 final rule and October 2016 final determination are still valid for estimating MPC. DOE also reviewed retail prices for models currently available on the market and found that the current retail prices are comparable to those published in chapter 8, section 8.2.3.5 of the April 2010 final rule TSD, when adjusted for inflation. Because DOE has not found distribution channels or mark-ups to have changed since the April 2010 final rule, the similarity of the predicted retail prices in the April 2010 final rule analysis to those of current products indicates that the MPC are likely to be unchanged from the April 2010 final rule analysis.

e. Energy Use Analysis

Table III.8 presents the average energy consumption, from section 7.3.6 of the April 2010 final rule TSD, for each vented heater product class and efficiency level. DOE has concluded that the current average energy consumption for these vented heaters is comparable to the estimates developed for the April 2010 final rule and relied on in the October 2016 final determination, as the technology options at each efficiency level have not changed substantially.

TABLE III.8—AVERAGE ENERGY CONSUMPTION FOR THE VENTED HEATER PRODUCT CLASSES FROM APRIL 2010 FINAL RULE

DHE type	Heat circulation type	Efficiency level (AFUE)	Average energy consumption	
			Gas (MMBtu/yr)	Electricity (kWh/yr)
Gas Wall	Fan Type	*74	29.9	38.6
		*75	28.2	45.7
		**76	27.8	45.2
		77	27.4	44.7
		80	26.3	66.2
	Gravity Type	*64	29.9	0.0
		**66	29.0	0.0
		*68	28.2	0.0
		*69	27.8	0.0

TABLE III.8—AVERAGE ENERGY CONSUMPTION FOR THE VENTED HEATER PRODUCT CLASSES FROM APRIL 2010 FINAL RULE—Continued

DHE type	Heat circulation type	Efficiency level (AFUE)	Average energy consumption	
			Gas (MMBtu/yr)	Electricity (kWh/yr)
		70	26.5	17.7
Gas Floor	All	*57	30.8	0.0
		**58	30.3	0.0
Gas Room	All	*64	27.5	0.0
		*65	27.1	0.0
		*66	26.7	0.0
		**67	26.3	0.0
		68	26.0	0.0
		*† 83	20.2	81.1

* No longer available on the market.
** Efficiency level adopted in as the Federal standard the April 2010 final rule at the representative input rate.
† This was a theoretical model and was not on the market at the time of the April 2010 final rule analysis.

The Joint Advocates stated that in the February 2015 NOPR for hearth products, DOE analysis showed that 40 percent of the consumers of hearth products leave standing pilot lights on all year and that the average operating hours for standing pilot lights is close to 4,000 hours per year. (*Id.*) CA IOUs asserted that vented heaters are not often used in an on/off configuration and that intermittent heating use during shoulder seasons will also lead to wasted energy if the standing pilot light is burning the whole time but the heater is only used during small portions of the day. (CA IOUs, No. 21 at p. 20)

DOE notes that the estimates developed for the April 2010 final rule assumes that 100 percent of consumers have the pilot on year-round, so the impact of pilot use is considered in this analysis. DOE believes that the fraction of vented heaters that have standing pilot on during the non-heating season is likely much higher than for hearth products, but likely not 100 percent. Therefore, the April 2010 final rule analysis likely overestimates the potential energy savings from electronic ignition since a fraction of consumers might turn the standing pilot off during the non-heating season. DOE also notes that standing pilot energy use during the shoulder season could offset some time that the main burner would be on, which is not considered in the April 2010 final rule analysis, and could offset some of the energy savings as well.

f. Life-Cycle Cost and Payback Period Analysis

LCC is the total consumer expense over the life of an appliance, including the total installed cost and operating costs (including energy expenditures, maintenance, and repair). DOE discounts future operating costs to the time of purchase, and sums them over the lifetime of the product.

The total installed cost is determined by combining the installation cost with the equipment price. The equipment price is determined using the MPC and applying a manufacturer mark-up, a wholesaler mark-up, a mechanical contractor mark-up, and sales tax.[20] As presented in section III.B.3.d. of this document, DOE has determined that the MPC has not changed significantly since the April 2010 final rule. DOE has also concluded that the average mark-ups, sales taxes, and installation costs are comparable to the estimates developed for the April 2010 final rule. Therefore, the total installed costs for the products and efficiency levels that are still on the market and were evaluated during the April 2010 final rule are estimated to have remained approximately the same given that the analyzed technology options have not changed. As discussed in section II.B.3.b., condensing gas wall fan type vented heaters came on the market between the April 2010 final rule and October 2016 final determination. DOE additionally estimates that the total installed cost for the 90-percent AFUE gas wall fan type vented heater would be considerably higher compared to lower efficiency gas wall fan type vented heaters, since there are considerable development and production costs (as discussed in section III.B.3.d. of this document), as well as additional installation costs.

The annual operating cost is determined by the energy consumption of vented heaters, the energy prices of the fuel used, and any repair and maintenance costs that would be required. DOE has determined that the energy consumption (as discussed in section III.B.3.e. of this document) and repair and maintenance costs associated with each efficiency level have not changed significantly from that in the April 2010 final rule for the vented heaters that are still on the market, as the technology options have not changed. DOE additionally estimates that the average energy consumption for the 90-percent AFUE gas wall fan type vented heater would be proportionally lower compared to the 80-percent AFUE gas wall fan type vented heaters, and repair and maintenance costs would be higher than for the 80-percent AFUE gas wall fan type vented heaters. To assess the impact of energy prices, DOE compared the April 2010 final rule's average energy prices for 2013 (*i.e.,* the starting year in the analysis) to a likely starting year if DOE performed a revised analysis in a new rulemaking. The April 2010 final rule used Energy Information Administration's (EIA) *Annual Energy Outlook* (*AEO*) 2010 energy price trends.[21] To assess the impact of updated energy price estimates, DOE used EIA's *AEO* 2021 energy price trends to estimate the energy prices in 2027,[22] the expected compliance year for the updated analysis.[23] Both the

[20] For new construction, builder mark-up is also included. For the April 2010 final rule, the new construction market shares are 10 percent for vented gas wall fan, vented gas wall gravity, and vented gas room heaters, and 0 percent for vented gas floor furnace heaters.

[21] U.S. Department of Energy—Energy Information Administration, *Annual Energy Outlook 2010 with Projections to 2035 (Early Release)* (Available at: *www.eia.gov/outlooks/aeo/*) (Last accessed July 20, 2021).

[22] For purposes of the updated analysis, DOE estimated 2027 as the first year of compliance by assuming that the publication of a potential final rule would occur by 2022 and any amended standards would apply to DHEs manufactured 5 years after this date. (42 U.S.C. 6295(m)(4)(A)(ii))

[23] U.S. Department of Energy—Energy Information Administration, *Annual Energy Outlook 2021 with Projections to 2050* (Available at:

Continued

natural gas and propane prices projected in 2027 are lower ($10.99/MMBtu in 2019$ and $21.11/MMBtu in 2020$, respectively) compared to the 2013 natural gas and propane prices used in the April 2010 final rule ($13.47/MMBtu in 2019$ and $33.12/MMBtu in 2020$, respectively).[24] Additionally, the 30-year trends are comparable in the two *AEO* editions. Due to comparable energy use and lower energy prices, DOE has determined that the annual operating cost of vented heaters has either decreased or not changed significantly from that estimated in the April 2010 final rule.

As vented heaters have not significantly changed since the April 2010 final rule, DOE has determined that the product lifetime has remained largely the same. DOE has also determined that residential discount rates have not changed significantly from those in the April 2010 final rule.

Because the total installed costs are estimated not to have changed significantly, and operating costs are estimated to be comparable, DOE has determined that the LCC savings for each efficiency level of vented heaters are similar to the estimates in the April 2010 final rule. Further, DOE has determined that the relative comparisons between each efficiency level for each product class remain unchanged and that the conclusions from the April 2010 final rule and October 2016 final determination are still applicable.

The PBP is the amount of time it takes the consumer, in a typical case, to recover the estimated higher purchase expense of more energy-efficient products through lower operating costs. Numerically, the PBP is the ratio of the increase in purchase expense (*i.e.,* due to a more energy-efficient design) to the decrease in annual operating expenditures. This type of calculation is known as a ''simple'' payback period, because it does not take into account changes in operating expense over time or the time value of money (*i.e.,* the calculation is done at an effective discount rate of zero percent). Payback periods are expressed in years. Payback periods greater than the life of the product indicate that the increased total installed cost is not recovered by the reduced operating expenses.

As previously stated, DOE has estimated that the total installed costs have not changed significantly, and operating costs are comparable to the April 2010 final rule results. Therefore, DOE has determined that the ''simple'' payback period for each efficiency level of vented heaters is similar to the ''simple'' payback period results from the April 2010 final rule. Further, DOE has determined that the relative comparisons between each efficiency level for each product class remain unchanged and that the conclusions from the April 2010 final rule and October 2016 final determination are still applicable.

In response to the December 2020 NOPD, the Joint Gas Utilities stated their support for DOE's tentative determination in the December 2020 NOPD that amended energy conservation standards are not cost-effective on an energy price basis, based on the LCC and PBP analyses. (Joint Gas Utilities, No. 15 at p. 3) For gas wall gravity type vented heaters that do not have electricity, NEEA requested that DOE consider the costs of bringing an electrical connection to the unit and adding a circulation fan in its LCC analysis to determine whether updated standards would be cost-effective. (NEEA, No. 20 at p. 2) Flux Tailor suggested that DOE also consider projected electricity prices in its analysis as they may well increase in the future, even if natural gas prices are predicted to decrease. (Flux Tailor, No. 21 at p. 42)

In chapter 8 section 8.2.3.4 of the TSD for the April 2010 final rule, DOE stated that it included an additional installation cost for the design options that require electricity. Therefore, the cost of adding an electrical connection is already accounted for in the LCC analysis for the product classes that do not use electricity at the baseline and have higher efficiency levels which use electricity. DOE disagrees that adding an aftermarket circulation fan to a gas wall gravity type vented heater should be considered in the LCC analysis. The addition of an external fan would help circulate heated air throughout the space but does not help with the heat exchange process and therefore would not have a noticeable effect on the efficiency of the gas wall gravity type vented heater as measured by appendix O. Further, adding an internal circulation fan to a gas wall gravity type vented heater would make the unit a gas wall fan type vented heater and would therefore not be covered by the gas wall gravity type vented heater product class and the energy conservation standards. DOE agrees with Flux Tailor and uses projected electricity prices in its LCC analysis.

g. Shipments

In the February 2019 RFI, DOE stated that from the April 2010 final rule, the Department has included vented heater historical shipment data from AHRI for gas wall vented heaters from 1990 to 1998 and from 2000 to 2006, for gas floor vented heaters from 1990 to 2007, and for gas room vented heaters from 1990 to 2005. DOE also has limited disaggregated shipments for fan type and gravity type gas wall vented heaters and by input capacity. DOE requested comment on the annual sales data (*i.e.,* number of shipments) for each vented heater product class from 2008–2018. 84 FR 6095, 6104–6105 (Feb. 26, 2019). In 2016, AHRI presented data showing the percentage change in total shipments for the years 2010–2015 compared with the total shipments over the period 2001–2006, estimating that gas wall vented heater (including both fan and gravity type units) shipments were 21 percent less, that direct vent gas wall vented heater (a form of gas wall vented heater) shipments were 31 percent less, and that gas room vented heater shipments were 44 percent less.[25] AHRI did not have an active statistics program for gas floor vented heaters and was attempting to collect annual shipments information for recent years through a special data collection.

In response to the December 2020 NOPD, AHRI stated that it was conducting a special data collection to gather shipment data for each vented heater product class from 2016–2018, and that these data will be provided to DOE at a later date. (AHRI, No. 6 at p. 4) At this time, AHRI has not submitted data for the 2016–2018 time period.

In response to the December 2020 NOPD, the CA IOUs urged DOE to find new sources of data for the shipment analysis, noting that, because of the Great Recession, relying on pre-2010 shipment data for DHE market forecasting may not be prudent. (CA IOUs, No. 17 at p. 3) CA IOUs also commented that AHRI is conducting a special data collection of shipments for vented heater products from 2016–2018 and encouraged DOE to delay any final determination until additional shipments data from the DHE industry is received and analyzed. (CA IOUs, No. 17 at p. 3)

As stated in the December 2020 NOPD, AHRI provided the percent change in total shipments for the vented heater market for the years of 2010

www.eia.gov/outlooks/aeo/) (Last accessed July 20, 2021).

[24] For the April 2010 final rule, the fraction of propane installations is 12 percent for vented gas wall fan and vented gas wall gravity, 9 percent for vented gas floor furnace heaters, and 38 percent for vented gas room heaters.

[25] AHRI Comment to the NOPD for Direct Heating Equipment published in 2016 (June 10, 2016) (Comment No. 7) (Available at: *www.regulations.gov/document/EERE-2016-BT-STD-0007-0007*) (Last accessed July 20, 2021).

through 2015 as compared to 2001 through 2006 and showed a reduction in shipments for gas wall vented heaters and gas room vented heaters. 85 FR 77017, 77034 (Dec. 1, 2020). Also, as stated in the December 2020 NOPD, these shipments are lower than the projected shipments from the April 2010 final rule indicating that the decline in vented heater shipments has been faster than expected. *Id.* at 77038. DOE has not received shipments data more recent than 2015, however, the alignment of April 2010 final rule shipment projections and the actual shipment data received from AHRI for 2010 through 2015 along with the reduction in model counts since 2015 (see section III.B.3) suggest that the number of shipments have continued to decline for the vented heater market. Therefore, DOE has determined the shipments data relied on for its prior determination are appropriate for the present determination.

h. National Energy Savings

As explained in sections III.B.3.d. through III.B.3.g. of this document, the technology options, energy use, and shipments for DHE have not changed significantly since the April 2010 final rule and October 2016 final determination. Accordingly, the national energy savings are expected to be largely the same as the national energy savings projected in the April 2010 final rule. In the April 2010 final rule, DOE estimated that the max-tech TSL (TSL 6) would result in an additional 0.13 quads of site energy savings over 30 years, as compared to the adopted TSL (*i.e.,* the current standard levels).[26] The site energy savings from the max-tech TSL represent approximately a six-percent reduction compared to the total 30-year site energy consumption, as compared to the current standard levels.[27]

The April 2010 final rule did not contemplate or include a TSL with specific provisions for a condensing gas wall fan type vented heater. DOE identified one manufacturer of condensing gas fan type vented heaters which produces two models at 90-percent AFUE.

i. Manufacturer Impacts

December 2009 NOPR

As stated in section II.B.3.b. of this document, in the NOPR that preceded the April 2010 final rule, DOE proposed to amend standards for vented heaters to TSL 3. 74 FR 65852, 65973 (Dec. 11, 2009). In response to that proposal, DOE received several comments expressing concerns that:

- Shipments of vented heaters were low, and, therefore, potential energy savings were low;
- Low shipments would make it difficult for manufacturers to recoup the costs to comply with amended standards;
- Product offerings may be limited as a response to amended standards;
- Manufacturers may exit the industry as a result of amended standards;
- Employment may be negatively impacted due to reduced product lines and insufficient return on investment.

75 FR 20112, 20218 (April 16, 2010).

April 2010 Final Rule

In the April 2010 final rule, DOE additionally found that the industry had gone through considerable consolidation due to decreased shipments, that product lines were primarily maintained to provide replacement products, and that some small business manufacturers could be disproportionately affected by a more-stringent standard. 75 FR 20112, 20199, and 20218 (April 16, 2010). As mentioned in section III.B.3.g. of this document, the April 2010 final rule presented a trend of declining annual shipments throughout the 30-year analysis period. As discussed in section II.B.2.b. of this document, DOE ultimately adopted standards at TSL 2 for vented heaters, which was one TSL below the proposed level. In rejecting proposed TSL 3, DOE concluded that the benefits of higher potential standard levels would be outweighed by the economic burden on some consumers, the large capital conversion costs that could result in a large reduction in INPV for the manufacturers of vented heaters, and the potential for small business manufacturers of vented heaters to reduce their product offerings or to be forced to exit the market completely, thereby reducing competition in the vented heater market. 75 FR 20112, 20218–20219 (April 16, 2010).

October 2016 Final Determination

In the April 2016 proposed determination that preceded the October 2016 final determination, DOE tentatively determined that the conclusions presented in the April 2010 final rule were still valid. 81 FR 21276, 21281 (April 11, 2016). Further, DOE has found that the number of models offered in each of the vented heater product classes decreased in the time between the April 2010 final rule and the October 2016 final determination, which indicated that the vented heater market was shrinking and product lines were mainly maintained as replacements for current vented heater products. 81 FR 71325, 71327 (Oct. 17, 2016).

In the October 2016 final determination, DOE noted that the number of manufacturers declined from six to four, indicating consolidation in the vented heater industry. 81 FR 71325, 71328 (Oct. 17, 2016).

Current Analysis of Manufacturer Impacts

In DOE's most recent review of the market, a total of four manufacturers were identified within the vented heater industry. At least two of those four manufacturers are domestic small businesses. In the December 2020 NOPD, DOE had previously identified five manufacturers, four of which were domestic small businesses. 85 FR 77017, 77028 (Dec. 1, 2020). Between the

[26] DOE used the April 2010 final rule National Impact Analysis (NIA) spreadsheet for DHE to calculate the site energy savings difference between the max-tech level (TSL 6) and current standard level (TSL 2). The site energy savings are available in the ''National Impacts Summary'' worksheet for each product class. The site energy savings calculation was adjusted to take into account the site energy savings over 30 years of product shipments (2013–2042) and to include the full lifetime of products shipped over the 30 year period (2013–2042). The published version of the DHE NIA spreadsheet only accounted for site energy savings from 2013–2042. The resulting 30-year site energy savings per product class are: 0.02 quads for gas wall fan type vented heaters, 0.07 quads for gas wall gravity type vented heaters, 0.00 quads for gas floor vented heaters, and 0.04 quads for gas room vented heaters. The DHE NIA spreadsheet (published March 23, 2010) (Available at: *www.regulations.gov/document?D=EERE-2006-STD-0129-0148*) (Last accessed Aug. 13, 2020).

[27] DOE used the April 2010 final rule NIA spreadsheet for DHE to calculate the total 30-year site energy consumption at the current standard levels (then TSL 2). The ''Base Case Consumption'' worksheet is used to calculate the total site energy consumption at the current standard levels for each product class. This worksheet includes the total ''source energy (Quads)'' per product class. DOE converted the total source energy to site energy by removing the site-to-source factors (which come from the ''EnergyPrices SitetoSource'' worksheet) from the calculation. The site energy consumption calculation was then expanded to take into account the site energy consumption over 30 years of product shipments (2013–2042) and include the full lifetime of products shipped over the 30 year period (2013–2042), to match the site energy savings calculation. Finally, the totals per product class were adjusted to take into account the energy savings for the current standard (then TSL 2). The resulting 30-year site energy consumption totals per product class are: 0.55 quads for gas wall fan type vented heaters, 1.30 quads for gas wall gravity type vented heaters, 0.02 quads for gas floor vented heaters, and 0.24 quads for gas room vented heaters. The 0.13 quads of 30-year site energy savings from the max-tech TSL are then divided by the resulting total value of 2.11 quads for the 30-year site energy consumption at the current standard levels, which results in the 6-percent value.

publication of the December 2020 NOPD and this final determination one small business manufacturer purchased the other small business manufacturer's vented heater brand. It is unclear at this time whether the combined business remains below the SBA's headcount threshold of 500 people to be considered a small business.

In the February 2019 RFI, DOE requested comment on annual sales data for each vented heater product class from 2008–2018. 84 FR 6095, 6105 (Feb. 26, 2019). DOE did not receive any comment or information regarding the number and classification of manufacturers presented in the February 2019 RFI and December 2020 NOPD and, therefore, considers its previous analysis of industry shipments to still be valid. DOE also did not receive any comments or data suggesting that DOE's analysis of the DHE market in the April 2016 NOPD was inaccurate. AHRI supported DOE's tentative conclusion that if new or amended standards were proposed, DHE manufacturers would need to undergo significant design upgrades to existing products that would not be economically supported by current sales volumes. (AHRI, No. 18 at p. 1) Because the market conditions are substantially the same as when DOE considered manufacturer impacts for the April 2010 final rule and October 2016 final determination, DOE concludes that manufacturers would likely face similar impacts under more-stringent standards as those previously discussed.

C. Final Determination

In response to the December 2020 NOPD, AHAM, AHRI, the Joint Gas Utilities, and Ms. Spotswood supported DOE's tentative determination not to amend standards. (AHAM, No. 19 at p. 1; AHRI, No. 18 at p. 1; Joint Gas Utilities, No. 15 at p. 3; Ms. Spotswood, No. 14 at p. 1) The CA IOUs urged DOE to set aside its tentative conclusion not to amend DHE standards, gather additional and more current technical/market data, and conduct a thorough energy savings, market, and technical analysis before proceeding. (CA IOUs, No. 17 at p. 4)

After carefully considering the comments on the February 2019 RFI and the December 2020 NOPD, along with the available data and information, DOE has determined that energy conservation standards for DHE do not need to be amended, for the reasons explained in the paragraphs immediately following. As discussed in the preceding sections, DOE's review of the current DHE market indicates that the technology options, product cost, and energy use have not changed significantly since the October 2016 final determination. As such, the conclusions found in the April 2010 final rule and October 2016 final determination are still valid.

1. Unvented Heaters

As discussed in sections II.B.2.a. and II.B.3.a. of this document, the efficiency inherent with unvented electric heaters provides negligible opportunity for energy savings, because any heat loss of the product is transferred to the conditioned space and not wasted. Therefore, consistent with previous rulemakings in which it has addressed unvented electric heaters, DOE has determined that energy conservation standards for unvented electric heaters are not needed.

As discussed in section III.B.2 of this document, there may be potential for energy savings for unvented gas and oil heaters subject to potential test procedure amendments to Appendix G that would require the measurement of standing pilot light energy use in unvented heaters that are thermostatically-controlled. As stated, further analysis is required to fully understand consumer behavior regarding actual operation of unvented heaters. In particular, the extent to which consumers turn the standing pilot light off during the non-heating season requires further investigation. Given the lack of adequate information on consumer behavior and test procedure provisions that would capture the related energy savings, DOE has determined not to establish energy conservation standards for unvented gas and oil heaters at this time.

2. Vented Heaters

For vented heaters, DOE analyzed each product class—gas wall fan type, gas wall gravity type, gas floor, and gas room—separately in the market and evaluated: Technology assessment (sections III.B.3.a. and III.B.3.b. of this document), the screening analysis (section III.B.3.c. of this document), the engineering analysis (section III.B.3.d. of this document), the LCC and PBP analysis (section III.B.3.f. of this document), the shipments analysis (section III.B.3.g. of this document), all vented heaters together in the energy use analysis (section III.B.3.e. of this document), the national energy savings analysis (section III.B.3.h. of this document), and the manufacturer impact analysis (section III.B.3.i. of this document) when making a determination of whether amended standards are justified under EPCA.

a. Technological Feasibility

EPCA mandates that DOE consider whether amended energy conservation standards for vented heaters would be technologically feasible. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(B)) For gas floor vented heaters, as discussed in section III.B.3.d. of this document, the maximum available efficiency level on the market is at the baseline efficiency level (*i.e.,* the current standard). Since there are no models available on the market above baseline and DOE is unaware of any prototype designs that have demonstrated higher efficiencies for gas floor vented heaters, DOE concludes that more stringent standards for gas floor vented heaters are not technologically feasible.

DOE has determined that there are technology options that would improve the efficiency of gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters. These technology options are being used in commercially available gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters and, therefore, are technologically feasible. (*See* section III.B.3.b. of this document for further information.) Hence, DOE has determined that amended energy conservation standards for gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters are technologically feasible.

b. Cost-Effectiveness

As the next step in the agency's analysis, EPCA requires DOE to then consider whether amended energy conservation standards for gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters would be cost-effective through an evaluation of the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of, or in the initial charges for, or maintenance expenses of the covered products which are likely to result from the amended standard. (42 U.S.C. 6295(m)(1)(A), 42 U.S.C. 6295(n)(2)(C), and 42 U.S.C. 6295(o)(2)(B)(i)(II)) As discussed in sections II.B.2.b and III.B.3.f. of this document, DOE determined that the LCC and PBP analyses of TSL 3, the TSL immediately above the level adopted as a Federal standard (and which was proposed in the October 2009 NOPR and rejected in the April 2010 final rule), as evaluated in the April 2010 final rule, indicated that initial costs to some consumers

outweighed the consumer benefits. 75 FR 20112, 20218–20219 (April 16, 2010); 81 FR 71325, 71327 (Oct. 17, 2016) DOE's full determination in the April 2010 final rule was also based on the impact to manufacturers as discussed in section III.B.3.i. and section III.C.2.d. of this document. DOE has determined that the LCC and PBP analyses conducted for the April 2010 final rule remain generally applicable.

c. Energy Savings

As discussed in section III.B.3.e. of this document, DOE has determined it appropriate to base its energy savings analysis on the estimates developed during the April 2010 final rule and October 2016 final determination. Based on its analysis, DOE estimated that for gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters, potential site energy savings from more-stringent standards at the max-tech level would be 0.13 quads.

d. Further Considerations

As previously discussed, DOE is required to publish either a notification of a determination that standards for vented heaters do not need to be amended, or a NOPR including new proposed standards. (42 U.S.C. 6295(m)(1) and 42 U.S.C. 6295(m)(3)(B)) If DOE publishes a NOPR including new proposed standards, the proposed standards must be designed to achieve the maximum improvement in energy efficiency, which DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(m)(1)(B); 42 U.S.C. 6295(o)(2)(A)). In determining whether new proposed standards would be economically justified, DOE must determine whether the benefits of the standards exceed their burdens by considering, to the greatest extent practicable, the seven statutory criteria previously discussed. (42 U.S.C. 6295(o)(2)(B)(i))

For gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters, DOE considered the findings of the April 2010 final rule and the October 2016 final determination, in addition to comments received in response to the February 2019 RFI and December 2020 NOPD. As discussed in section III.B.3.g. of this document, the number of vented heater shipments were projected to decline in the April 2010 final rule, and comments received during the rulemaking that resulted in the October 2016 final determination indicated that shipments have indeed continued to decline since the previous analysis was conducted. Further, DOE stated in the April 2016 NOPD which preceded the October 2016 final determination that shipments were in fact lower than projected in the April 2010 final rule, indicating that the decline has been faster than expected. 81 FR 21276, 21281 (April 11, 2016) This supports the notion that the vented heater market is continuing to shrink, that product lines are mainly maintained as replacements for existing vented heaters units, and that new product lines generally are not being developed. In addition, the one new manufacturer of vented heaters that has entered the market since the October 2016 final determination only produces two models, neither of which have AFUE values outside of the range offered by other manufacturers, or any other characteristics that make them unique from other products already on the market and one small business manufacturer has left the market. As discussed in sections III.B.3.a. and III.B.3.d. of this document, DOE found that the available AFUE values have largely stayed the same or decreased, with more-efficient products being taken off the market or rerated to lower AFUE values.

As discussed in section III.B.3.f. of this document, an examination of how the inputs to the LCC and PBP analysis have changed since the April 2010 final rule indicates that the LCC and PBP results from the April 2010 final rule would be comparable today. As discussed in section III.B.3.i. of this document, DOE did not receive any comments or data in response to the February 2019 RFI or December 2020 NOPD that suggested a change in the historical trends within this industry.

In the April 2010 final rule, DOE rejected higher standards, finding that capital conversion costs would lead to a large reduction in INPV and that small businesses would be disproportionately impacted, which would outweigh any benefits from higher standard levels. 75 FR 20112, 20217–20218 (April 16, 2010) Upon reviewing the current market for vented heaters, DOE has determined that its prior determination regarding the impact on INPV remains valid (*i.e.,* standard levels above the current Federal energy conservation standard would require manufacturers to make significant capital investments of the magnitude initially projected in the April 2010 final rule). As shipments for vented heaters have continued to decrease, manufacturers would be required to make investments to update model lines and manufacturing facilities with fewer shipments over which to spread the cost. This would lead to even more difficulty in recovering their investment than was projected in the April 2010 final rule.

In addition, DOE has determined that its conclusions regarding small business impacts from the April 2010 final rule and the October 2016 final determination are still valid concerns (*i.e.,* small businesses would likely reduce product offerings or leave the vented heater market entirely if the standard were to be set above the level adopted in that rulemaking). Two of the four identified manufacturers of gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters are small businesses.

e. Standby Mode and Off Mode

EPCA requires DOE to incorporate standby mode and off mode energy use into a single amended or new standard (if feasible) or prescribe a separate standard for standby mode and off mode energy consumption in any final rule establishing or revising a standard for a covered product, adopted after July 1, 2010. (42 U.S.C. 6295(gg)(3)(A)–(B)) Because DOE is not amending standards for DHE in this rule, DOE is not required to adopt amended standards that include standby and off mode energy use. DOE notes that fossil fuel energy use in standby mode and off mode is already included in the AFUE metric, and DOE anticipates that electric standby and off mode energy use is small in comparison to fossil fuel energy use.

f. Summary

For gas floor vented heaters, DOE concludes that more-stringent standards for gas floor vented heaters are not technologically feasible. As such, DOE also concludes that there is no conservation of energy possible from including gas floor vented heaters. Therefore, DOE has determined that amended standards for gas floor vented heaters are not needed.

DOE has determined that, for gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters, the potential benefits from amended standards would be outweighed by burdens on manufacturers. As such, DOE has determined that new proposed standards would not be economically justified. Therefore, DOE has determined that amended standards for gas wall fan type vented heaters, gas wall gravity type heaters, and gas room vented heaters are not justified at this time.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final determination does not constitute a ''significant regulatory action'' under section 3(f) of Executive Order (E.O.) 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under E.O. 12866 by the Office of Information and Regulatory Affairs (OIRA) at OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE 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 is proposing to not amend standards for DHE. On the basis of the foregoing, DOE certifies that the 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

This final determination, which determines that amended energy conservation standards for DHE are not justified, would impose no new informational or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has analyzed this proposed action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and meets the requirements for application of a CX. 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 EA or EIS.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. E.O. 13132 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. E.O. 13132 also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735 DOE has examined this final determination and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final determination. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) As this final determination would not amend the standards for DHE, there is no impact on the policymaking discretion of the States. Therefore, no action is required by E.O. 13132.

F. Review Under Executive Order 12988

Regarding 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 proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and

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

DOE examined this final determination according to UMRA and its policy statement and determined that the 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. 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). 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 proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under E.O. 12866, or any successor Executive Order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution and use.

This final determination, which does not amend the energy conservation standards for DHE, is not a significant regulatory action under E.O. 12866. Moreover, it will not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator at OIRA. Therefore, it is not a significant energy action, and accordingly, DOE has not prepared a Statement of Energy Effects.

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.'' *Id.* at 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared a peer review report pertaining to the energy conservation standards rulemaking analyses.[28] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. DOE has determined that the peer-reviewed analytical process continues to reflect current practice, and the Department followed that process for considering amended energy conservation standards in the case of the present action.

V. Approval of the Office of the Secretary

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

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Signing Authority

This document of the Department of Energy was signed on November 17, 2021, by Kelly J. Speakes-Backman, Principal Deputy 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**.

[28] ''Energy Conservation Standards Rulemaking Peer Review Report'' (2007) (Available at: *www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0*).

Signed in Washington, DC, on November 18, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–25537 Filed 11–22–21; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 53

[Docket ID OCC–2020–0038]

RIN 1557–AF02

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R–1736]

RIN 7100–AG06

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 304

RIN 3064–AF59

Computer-Security Incident Notification Requirements for Banking Organizations and Their Bank Service Providers

AGENCY: The Office of the Comptroller of the Currency (OCC), Treasury; the Board of Governors of the Federal Reserve System (Board); and the Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The OCC, Board, and FDIC are issuing a final rule that requires a banking organization to notify its primary Federal regulator of any ''computer-security incident'' that rises to the level of a ''notification incident,'' as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred. The final rule also requires a bank service provider to notify each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has caused, or is reasonably likely to cause, a material service disruption or degradation for four or more hours.

DATES: Effective date: April 1, 2022; Compliance date: May 1, 2022.

FOR FURTHER INFORMATION CONTACT:

OCC: Patrick Kelly, Director, Critical Infrastructure Policy, (202) 649–5519, Carl Kaminski, Assistant Director, (202) 649–5490, or Priscilla Benner, Senior Attorney, Chief Counsel's Office, (202) 649–5490, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Thomas Sullivan, Senior Associate Director, (202) 475–7656, Julia Philipp, Lead Financial Institution Cybersecurity Policy Analyst, (202) 452–3940, Don Peterson, Supervisory Cybersecurity Analyst, (202) 973–5059, Systems and Operational Resiliency Policy, of the Supervision and Regulation Division; Jay Schwarz, Assistant General Counsel, (202) 452–2970, Claudia Von Pervieux, Senior Counsel (202) 452–2552, Christopher Danello, Senior Attorney, (202) 736–1960, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551, or *https://www.federalreserve.gov/apps/ContactUs/feedback.aspx,* and click on *Staff Group, Regulations.*

FDIC: Rob Drozdowski, Special Assistant to the Deputy Director (202) 898–3971, *rdrozdowski@fdic.gov,* Division of Risk Management Supervision; or John Dorsey, Counsel (202) 898–3807, *jdorsey@fdic.gov,* Graham Rehrig, Senior Attorney, (202) 898–3829, *grehrig@fdic.gov,* Legal Division.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The OCC, Board, and FDIC (together, the agencies) are issuing a final rule to require that a banking organization [1] promptly notify its primary Federal regulator of any ''computer-security incident'' that rises to the level of a ''notification incident,'' as those terms are defined in the final rule. As described in more detail below, these incidents may have many causes. Examples include a large-scale distributed denial of service attack that disrupts customer account access for an extended period of time and a computer hacking incident that disables banking operations for an extended period of time.

Under the final rule, a banking organization's primary Federal regulator must receive this notification as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred. This requirement will help promote early awareness of emerging threats to banking organizations and the broader financial system. This early awareness will help the agencies react to these threats before they become systemic. The final rule separately requires a bank service provider to notify each affected banking organization customer as soon as possible when the bank service provider determines it has experienced a computer-security incident that has caused, or is reasonably likely to cause,

[1] For the OCC, ''banking organizations'' includes national banks, Federal savings associations, and Federal branches and agencies of foreign banks. For the Board, ''banking organizations'' includes all U.S. bank holding companies and savings and loan holding companies; state member banks; the U.S. operations of foreign banking organizations; and Edge and agreement corporations. For the FDIC, ''banking organizations'' includes all insured state nonmember banks, insured state-licensed branches of foreign banks, and insured State savings associations. Each agency's definition excludes financial market utilities (FMUs) designated under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (designated FMUs).

a material service disruption or degradation for four or more hours. This separate requirement will ensure that a banking organization receives prompt notification of a computer-security incident that materially disrupts or degrades, or is reasonably likely to materially disrupt or degrade, covered services provided by a bank service provider. This notification will allow the banking organization to assess whether the incident has or is reasonably likely to have a material impact on the banking organization and thus trigger the banking organization's own notification requirement.

II. Background

Computer-security incidents can result from destructive malware or malicious software (cyberattacks), as well as non-malicious failure of hardware and software, personnel errors, and other causes. Cyberattacks targeting the financial services industry have increased in frequency and severity in recent years.[2] These cyberattacks can adversely affect banking organizations' networks, data, and systems, and ultimately their ability to resume normal operations.

Given the frequency and severity of cyberattacks on the financial services industry, the agencies believe that it is important that a banking organization's primary Federal regulator be notified as soon as possible of a significant computer-security incident[3] that disrupts or degrades, or is reasonably likely to disrupt or degrade, the viability of the banking organization's operations, result in customers being unable to access their deposit and other accounts, or impact the stability of the financial sector.[4] The final rule refers to these significant computer-security incidents as ''notification incidents.''[5] Timely notification is important as it would allow the agencies to (1) have early awareness of emerging threats to banking organizations and the broader financial system, (2) better assess the threat a notification incident poses to a banking organization and take appropriate actions to address the threat, (3) facilitate and approve requests from banking organizations for assistance through U.S. Treasury Office of Cybersecurity and Critical Infrastructure Protection (OCCIP),[6] (4) provide information and guidance to banking organizations, and (5) conduct horizontal analyses to provide targeted guidance and adjust supervisory programs.

Notification under the Bank Secrecy Act[7] and the Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice[8] provide the agencies with awareness of certain computer-security incidents.[9] Nonetheless, these standards do not include all computer-security incidents of which the agencies, as supervisors, need to be alerted and would not always result in timely notification to the agencies.

To ensure that the agencies receive timely alerts of all relevant material and adverse incidents, the agencies issued a notice of proposed rulemaking (NPR or proposal) to establish computer-security incident notification requirements for banking organizations and their bank service providers.[10]

The proposal would have required banking organizations to notify their primary Federal regulator within 36 hours of when they believed in good faith that a ''computer-security incident'' that rises to the level of a ''notification incident'' had occurred. As proposed, a ''notification incident'' was a computer-security incident that could materially disrupt, degrade, or impair the viability of the banking organization's operations, result in customers being unable to access their deposit and other accounts, or impact the stability of the financial sector.[11] When drafting these proposed definitions, the agencies sought to align the terminology as much as possible with language used in the National Institute of Standards and Technology's (NIST) Computer Security Resource Center glossary.[12] This approach was intended to promote consistency with known cybersecurity terms and definitions and thereby reduce burden.

The proposal separately would have required a bank service provider that provided services subject to the Bank Service Company Act (BSCA)[13] to notify at least two individuals at each affected banking organization customer immediately after the bank service provider experiences a computer-security incident that it believes in good faith could disrupt, degrade, or impair services provided subject to the BSCA for four or more hours. This standard reflected the agencies' conclusion that the impact of computer-security incidents at bank service providers can flow through to their banking organization customers. The agencies also recognized, however, that a bank service provider may not be able to readily assess whether an incident rises to the level of a notification incident for a particular banking organization customer.

The notification requirement for bank service providers is important because banking organizations have become increasingly reliant on third parties to provide essential services. Such third

[2] *See, e.g.,* Financial Crimes Enforcement Network, *SAR Filings by Industry* (Jan. 1, 2014–Dec. 31, 2020) (last accessed Oct. 11, 2021), *https://www.fincen.gov/reports/sar-stats/sar-filings-industry.* (Trend data may be found by downloading the Excel file ''Depository Institution'' and selecting the tab marked ''Exhibit 5.'').

[3] As defined by the final rule, a *computer-security incident* is an occurrence that results in actual harm to the confidentiality, integrity, or availability of an information system or the information that the system processes, stores, or transmits. To promote uniformity of terms, the agencies have sought to align this term generally with an existing definition from the National Institute of Standards and Technology (NIST). *See* NIST, Computer Security Resource Center, *Glossary* (last accessed Sept. 20, 2021), *available at https://csrc.nist.gov/glossary/term/Dictionary.*

[4] These computer-security incidents may include major computer-system failures; cyber-related interruptions, such as distributed denial of service and ransomware attacks; or other types of significant operational interruptions.

[5] As defined in the final rule, a *notification incident* is a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, a banking organization's: (i) Ability to carry out banking operations, activities, or processes, or deliver banking products and services to a material portion of its customer base, in the ordinary course of business; (ii) business line(s), including associated operations, services, functions, and support, that upon failure would result in a material loss of revenue, profit, or franchise value; or (iii) operations, including associated services, functions and support, as applicable, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

[6] OCCIP coordinates with U.S. Government agencies to provide agreed-upon assistance to banking and other financial services sector organizations on computer-incident response and recovery efforts. These activities may include providing remote or in-person technical support to an organization experiencing a significant cyber event to protect assets, mitigate vulnerabilities, recover and restore services, identify other entities at risk, and assess potential risk to the broader community. The Federal Financial Institutions Examination Council's *Cybersecurity Resource Guide for Financial Institutions* (Oct. 2018) identifies additional information available to banking organizations. *Available at: https://www.ffiec.gov/press/pdf/FFIEC%20Cybersecurity%20Resource%20Guide%20for%20Financial%20Institutions.pdf* (last accessed Oct. 15, 2021).

[7] *See* 31 U.S.C. 5311 *et seq.;* 31 CFR subtitle B, chapter X.

[8] *See* 15 U.S.C. 6801; 12 CFR part 30, appendix B, supplement A (OCC); 12 CFR part 208, appendix D–2, supplement A, 12 CFR 211.5(l), 12 CFR part 225, appendix F, supplement A (Board); 12 CFR part 364, appendix B, supplement A (FDIC).

[9] Banking organizations that experience a computer-security incident that may be criminal in nature are expected to contact relevant law enforcement or security agencies, as appropriate, after the incident occurs. This rule does not change that expectation.

[10] 86 FR 2299 (Jan. 12, 2021).

[11] These computer-security incidents may include major computer-system failures, cyber-related interruptions, such as distributed denial of service and ransomware attacks, or other types of significant operational interruptions.

[12] NIST is an agency of the U.S. Department of Commerce that works to develop and apply technology, measurements, and standards.

[13] 12 U.S.C. 1861–67.

parties may also experience computer-security incidents that could disrupt or degrade the provision of services to their banking organization customers or have other significant impacts on a banking organization. Therefore, a banking organization needs to receive prompt notification of computer-security incidents that materially disrupt or degrade, or are reasonably likely to materially disrupt or degrade, these services because prompt notification will allow the banking organization to assess whether the incident has or is reasonably likely to have a material impact and trigger its own notification requirement.

A. Overview of Comments

The agencies collectively received 35 comments from banking and financial sector entities, third-party service providers, industry groups, and other individuals.[14] This section provides an overview of the general themes raised by commenters. The comments received on the proposal are further discussed below in the sections describing the final rule, including any changes that the agencies have made to the proposal in response to comments.

General Reaction and Need for a Rule

A majority of commenters supported the proposal, agreeing that providing prompt notice of significant incidents is an important aspect of safety and soundness, and they supported transparent and consistent notification from bank service providers to their banking organization customers. A number of these commenters offered suggestions to clarify certain aspects of the requirements or lessen the perceived burden. Commenters also generally supported the agencies' efforts to harmonize with existing definitions and notification standards. Four commenters opposed the proposal, contending that compliance would be burdensome or duplicative of existing requirements, and may impede banking organizations' and bank service providers' abilities to respond effectively to incidents.

''Computer-Security Incidents'' That Can Trigger Potential Reporting

As described above, the proposal would have required reporting of certain ''computer-security incidents,'' defined to be consistent with the NIST definition. While several commenters supported aligning the definition with NIST's definition, most commenters asserted that the proposed definition was overly broad, could be tailored, and suggested different revisions to the proposed definition of computer-security incident. Specifically, a number of these commenters asserted that the definition should be based on actual, rather than ''potential,'' harm and exclude violations of a banking organization's or a bank service provider's policies and procedures.

''Notification Incidents'' Required To Be Reported

As described above, notification incidents are computer-security incidents that require notification to the agencies. Most commenters argued that the proposed definition of ''notification incident'' was overly broad and should be narrowed and only require reporting of incidents involving actual harm.[15] Commenters asserted that any definition should incorporate time, risk, and scale elements, which commenters viewed as critical. In addition, commenters urged the agencies to replace the ''good faith'' standard with a banking organization's or a bank service provider's ''determination'' or a reasonable basis to conclude that an incident had occurred, to provide a more objective and concrete standard.[16]

Timeframes for Notification

The agencies received comments on the timeframes described in the proposal for banking organizations to provide notification to their regulator and for bank service providers to provide notification to their banking organization customers. These comments focused both on the amount of time provided to make the notification and the trigger that caused the time period to begin being measured. Commenters made a wide variety of suggestions, including recommendations to lengthen and shorten the periods and to provide further clarity regarding when they commenced.

Means of Bank Service Provider Notification

Commenters raised questions regarding the requirement in the proposal that a bank service provider must notify two individuals at each affected banking organization. Notably, some commenters raised concerns that such a requirement would override contractual notification provisions with which both the bank service providers and banking organizations are comfortable.

Applicability to Financial Market Utilities

Commenters suggested that the proposal would cause unintended regulatory overlap for those financial market utilities that are designated as systemically important under Title VIII of the Dodd-Frank Act (designated FMUs) and regulated by the Securities and Exchange Commission (SEC) or Commodity Futures Trading Commission (CFTC). In addition, designated FMUs regulated by the Board are subject to Regulation HH, which includes risk-management standards.

III. Discussion of Final Rule

A. Overview of the Final Rule

In response to comments received on the NPR, the final rule reflects changes to key definitions and notification provisions applicable to both banking organizations and bank service providers. These changes include (1) narrowing the definition of computer-security incident by focusing on actual, rather than potential, harm and by removing the second prong of the proposed definition relating to violations of internal policies or procedures; (2) substituting the phrase ''reasonably likely to'' in place of ''could'' in the definition of notification incident; and (3) replacing the ''good faith belief'' notification standard with a determination standard. Changes to the bank service provider notification provision include (1) adding a definition of ''covered services'' and (2) requiring that notice be provided to a bank-designated point of contact, rather than to at least two individuals at each banking organization customer. The final rule also excludes designated FMUs from the definitions of ''banking organization'' and ''bank service provider.'' [17] Such changes are intended to address comments and reduce over- and unnecessary notification by both

[14] Comments can be accessed at: *https://www.regulations.gov/document/OCC-2020-0038-0001* (OCC); *https://www.federalreserve.gov/apps/foia/ViewComments.aspx?doc_id=R-1736&doc_ver=1* (Board); and *https://www.fdic.gov/resources/regulations/federal-register-publications/2021/2021-computer-security-incident-notification-3064-af59.html* (FDIC).

[15] A commenter suggested that if a banking organization had mitigation strategies in place to offset the impact to a banking organization or its customers, the incident should not be considered a significant or critical incident and therefore should not be considered a notification incident. The commenter also stated that the agencies should indicate that an outage that lasts less than 48-hours in duration does not represent a ''notification incident.''

[16] Commenters contended that the ''good faith'' standard may be unclear, and the agencies should provide guidance on how to make the good faith determination. However, some commenters preferred the good faith standard over a ''reasonably likely'' standard.

[17] The rule defines ''designated financial market utility'' as having the same meaning as set forth at 12 U.S.C. 5462(4).

banking organizations and bank service providers.

The final rule establishes two primary requirements, which promote the safety and soundness of banking organizations and are consistent with the agencies' authorities to supervise these entities, and with their authorities pursuant to the BSCA.[18] First, the final rule requires a banking organization to notify its primary Federal regulator of a notification incident. In particular, a banking organization must notify its primary Federal regulator of any computer-security incident that rises to the level of a notification incident as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred.[19] Second, the final rule requires a bank service provider [20] to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization customer for four or more hours. Each of these requirements is discussed in more detail below.

B. Definitions

i. Definition of Banking Organization

The final rule applies to the following banking organizations:

- For the OCC, ''banking organizations'' includes national banks, Federal savings associations, and Federal branches and agencies of foreign banks.
- For the Board, ''banking organizations'' includes all U.S. bank holding companies and savings and loan holding companies; state member banks; the U.S. operations of foreign banking organizations; and Edge and agreement corporations.
- For the FDIC, ''banking organizations'' includes all insured state nonmember banks, insured state-licensed branches of foreign banks, and insured State savings associations.
- For all three agencies, ''banking organizations'' does not include designated FMUs, for the reasons discussed below.[21]

With respect to the proposed definition of ''banking organization,'' commenters suggested that this term should include additional entities, such as financial technology firms and non-bank OCC-chartered financial services entities, to the extent the agencies have jurisdiction over those firms. Further, commenters contended that the agencies should consider other regulatory frameworks to which banking organizations and bank service providers may already be subject and exclude entities subject to other, similar, regulatory reporting requirements.[22] The agencies have defined the term banking organization in a manner that is consistent with the agencies' supervisory authorities.

The NPR solicited comment on the scope of entities that should be included as ''banking organizations'' for purposes of the rule, and specifically noted that the proposed rule's definition of ''banking organizations'' and ''bank service providers'' would include FMUs that are chartered as a State member bank or Edge corporation, or perform services subject to regulation and examination under the Bank Service Company Act.[23] [24] In that regard, the agencies asked whether there were unique factors that the agencies should consider in determining how notification requirements should apply to these FMUs. In addition, the agencies asked whether notification requirements would be best conveyed through the proposed rule or through amendments to the Board's Regulation HH for designated FMUs for which the Board is the Supervisory Agency under Title VIII of the Dodd-Frank Act.

In response to these requests for comment, two commenters opposed the application of the proposed rule to SEC-supervised FMUs that are designated as systemically important under Title VIII of the Dodd-Frank Act, arguing that the proposed rule would subject these designated FMUs to unintended regulatory overlap and duplicative compliance burdens. One of these commenters argued that SEC-supervised designated FMUs should be deemed to comply with the rule to the extent they comply with incident notification requirements under existing SEC regulations. Another commenter argued that applying the proposed rule to Board-supervised designated FMUs would be preferable to amending Regulation HH to include a designated FMU-specific incident notification requirement, but this commenter did not provide a detailed rationale for that position. Finally, several commenters suggested that the final rule should exempt all FMUs that qualify as a banking organization or a bank service provider, including FMUs that have not been designated as systemically important under Title VIII of the Dodd-Frank Act, from these incident notification requirements, arguing that the existing practice among FMUs is to alert supervisors directly in the case of computer-security incidents.

As noted above, the final rule excludes designated FMUs from the definitions of ''banking organization'' and ''bank service provider.'' [25] In the case of SEC- and CFTC-supervised designated FMUs, the agencies determined that excluding these designated FMUs from the final rule is appropriate because these designated FMUs are already subject to incident notification requirements in other Federal regulations.[26]

Board-supervised designated FMUs are subject to the Board's Regulation

[18] *See* 12 U.S.C. 1, 93a, 161, 481, 1463, 1464, 1861–1867, and 3102 (OCC); 12 U.S.C. 321–338a, 1467a(g), 1818(b), 1844(b), 1861–1867, and 3101 *et seq.* (Board); 12 U.S.C. 1463, 1811, 1813, 1817, 1819, and 1861–1867 (FDIC).

[19] As also noted below, however, the agencies would encourage those banking organizations providing sector-critical services that currently notify their primary Federal regulator of these types of incidents on a same-day basis to continue to do so.

[20] As a general matter, ''bank service provider'' refers to a company or person that performs services for a banking organization that are subject to the Bank Service Company Act (12 U.S.C. 1861–1867). However, for the purpose of this final rule, the term ''bank service provider'' does not include any person or company that is a designated FMU, as that term is defined at 12 U.S.C. 5462(4).

[21] Under the final rule, ''designated financial market utility'' has the same meaning as set forth at 12 U.S.C. 5462(4).

[22] For example, FMUs for which the SEC is the Primary Agency under Title VIII of the Dodd-Frank Act are subject to the SEC's Regulation SCI (Systems Compliance and Integrity) for certain financial intermediaries.

[23] An FMU is ''any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person.'' 12 U.S.C. 5462(6).

[24] Title VIII of the Dodd-Frank Act authorizes the Financial Stability Oversight Council to designate certain FMUs as systemically important. Depending on the functions that it serves in the financial markets, a designated FMU is subject to risk-management regulations promulgated by the Board (*i.e.,* Regulation HH), the SEC, or the CFTC.

[25] The rule defines ''designated financial market utility'' as having the same meaning as set forth at 12 U.S.C. 5462(4).

[26] Specifically, SEC-supervised designated FMUs are subject to the SEC's Regulation SCI, which generally requires covered entities to notify the SEC and their members or participants in the event of an SCI event. *See* 17 CFR 242.1000 (defining ''SCI Event'') and 242.1002 (imposing notification requirements related to SCI Events). Similarly, a CFTC-supervised designated FMU must notify the CFTC in the event of an ''exceptional event'' or the activation of the designated FMU's business continuity and disaster recovery plan. *See* 17 CFR 39.18(g). An ''exceptional event'' includes ''[a]ny hardware or software malfunction, security incident, or targeted threat that materially impairs, or creates a significant likelihood of material impairment, of automated system operation, reliability, security, or capacity.'' *Id.*

HH, which includes a set of risk-management standards for addressing areas such as legal risk, governance, credit and liquidity risks, and operational risk. Regulation HH requires generally that a Board-supervised designated FMU effectively identify and manage operational risks.[27] Although Regulation HH does not currently impose specific incident-notification requirements, the Board believes that it is important for designated FMUs to inform Federal Reserve supervisors of operational disruptions on a timely basis and has generally observed such practice by the designated FMUs. The Board will continue to review Regulation HH in light of designated FMUs' existing practices and may propose amendments to Regulation HH in the future to formalize its incident-notification expectations and promote consistency between requirements applicable to Board-, SEC-, and CFTC-supervised designated FMUs.

Although some commenters suggested that the final rule should exempt all FMUs that qualify as a banking organization or a bank service provider, the agencies have adopted a narrower exclusion for designated FMUs.[28] FMUs that are not designated and that otherwise meet the definition of banking organization or bank service provider are within the rule's scope. The agencies determined that excluding all FMUs from the rule would be overly broad and would result in the inconsistent regulatory treatment of FMUs that are not designated relative to other bank service providers. In addition, a broad FMU exclusion could create uncertainty because there is no defined list of FMUs, other than designated FMUs.

One commenter suggested that the Board should hold Federal Reserve Bank Services to an equivalent standard as a matter of fairness and competitive equality. Given that designated FMUs are scoped out of this rule, the Federal Reserve Banks' retail payment and settlement services are the only relevant Federal Reserve Bank Services that compete with those private-sector FMUs that are subject to the final rule.[29] These retail services currently include check collection services for depository institutions and an automated clearinghouse service that enables depository institutions to send batches of debit and credit transfers. For these services, the Federal Reserve Banks follow protocols to ensure timely communication of incidents to both depository institution customers and the Board. The Board believes these protocols are comparable to those required by this final rule. With respect to future Federal Reserve Bank Services that compete with private-sector FMUs subject to the final rule (such as the FedNow Service), the Board intends to similarly hold the Federal Reserve Banks to protocols comparable to those required by this final rule.

ii. Definition of Bank Service Provider

The agencies sought feedback on the scope of third-party services covered under the proposed rule and whether the proposed rule's definition of ''bank service provider'' appropriately captured the services about which banking organizations should be informed in the event of disruptions. The agencies further sought comment on whether all services covered under the BSCA should be included for purposes of the notification requirement or whether only a subset of the BSCA services should be included. The agencies also sought comment on whether only examined bank service providers should be subject to the notification requirement.

With respect to the definition of ''bank service provider,'' commenters expressed varied opinions on the scope of entities included in the definition of ''bank service provider.'' Some commenters argued that the definition should be revised to clarify that only service providers providing services that are subject to the BSCA would be subject to the rule, and one commenter suggested that the agencies provide a non-exclusive list of categories of bank service providers subject to the regulation. Other commenters urged that bank service providers should include entities with access to bank customer information or systems, whether or not formally within the scope of the BSCA, while one commenter recommended excluding banking organization subsidiaries and affiliates. Some suggested that the agencies narrow the scope to apply only to significant service providers, bank service providers that present a higher risk, or those that provide technology services. Other commenters suggested excluding bank service providers from the rule entirely, observing that incident notification is, and should be, addressed in contracts.

The agencies agree that bank service providers providing services that are subject to the BSCA should be subject to the rule. The agencies disagree with the rest of these suggestions to modify the scope of entities included in the definition of bank service provider. As previously explained, bank service providers play an increasingly important role in banking organization operations. Significant incidents affecting the services they provide have the potential to cause notification incidents for their banking organization customers. This risk is not limited to specific bank service providers, and therefore, the agencies decline to modify the scope of entities included in the definition in the manners suggested by the comments above.

Furthermore, while the agencies agree that incident notification is generally addressed by contract, we believe that this issue is important enough to warrant an independent regulatory requirement that ensures consistency and enforceability, without the necessity of revising contractual provisions.

In response to comments that the agencies should clarify the scope of bank service providers that would be subject to the rule, the agencies made changes to the final rule that do so. First, the agencies added a new definition in the final rule, ''covered services,'' which definition is intended to clarify that services performed subject to the BSCA would be covered by the rule. Second, as noted above, the agencies excluded designated FMUs from the definition of ''bank service provider'' and from the definition of ''banking organization.''[30] The final rule defines ''bank service provider'' as a bank service company or other person who performs covered services; provided, however, that no designated FMU shall be considered a bank service provider. ''Covered services'' are services performed by a ''person''[31] that are subject to the Bank Service Company Act (12 U.S.C. 1861–1867).

[27] 12 CFR 234.3(a)(17).

[28] This narrow exclusion would not apply to a Board-supervised designated FMU with respect to its operation of non-systemically important services that are not subject to Regulation HH.

[29] The Federal Reserve Banks also operate the Fedwire Funds Service and Fedwire Securities Service, which play a critical role in the financial system. The Board generally requires these services to meet or exceed the risk-management standards applicable to designated FMUs under Regulation HH. *See Federal Reserve Policy on Payment System Risk* (as amended effective Mar. 19, 2021), *https://www.federalreserve.gov/paymentsystems/files/psr_policy.pdf.* See also Press Release, *Federal Reserve Board Reaffirms Long-Standing Policy of Applying Relevant International Risk-Management Standards to Fedwire Funds and Fedwire Securities Services* (July 19, 2012), *https://www.federalreserve.gov/newsevents/pressreleases/bcreg20120719a.htm.*

[30] The rule defines ''designated financial market utility'' as having the same meaning as set forth at 12 U.S.C. 5462(4).

[31] The final rule states that ''person'' has the same meaning as set forth at 12 U.S.C. 1817(j)(8)(A).

iii. Definition of Computer-Security Incident

In the NPR, the agencies generally incorporated the principal definition employed by NIST to define ''computer-security incident'' as an occurrence that:

- Results in actual or potential harm to the confidentiality, integrity, or availability of an information system or the information that the system processes, stores, or transmits; or
- Constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

Although commenters generally supported the agencies' use of a standard industry term rather than a new, and potentially inconsistent, term and definition, they suggested revisions to more closely tailor the definition to the purposes of the rule. For example, many commenters recommended that the definition focus on incidents that result in actual, rather than potential, harm to an information system. Commenters were concerned that the tracking and notification of incidents that could potentially harm a banking organization would create an undue regulatory burden, possibly result in over-notification, and overlook the fact that many potential incidents can be effectively remediated. In addition, various commenters recommended deleting the second prong of the proposed definition, reasoning that violations of internal policies and procedures would be unlikely ever to result in incidents significant enough to warrant prompt notification; however, some commenters supported keeping actual violations of applicable security policies. Commenters also suggested introducing materiality thresholds or excluding non-security related outages or incidents. One commenter objected to narrowing the definition to ''actual'' harm and supported broadening the definition to include incidents causing ''serious,'' but not necessarily ''imminent,'' harm. Another commenter stated that the standard for determining whether an incident rises to the level to trigger mandated notices should be based on its impact to banking organizations or the financial system and be agnostic as to cause. One commenter stated that the definition should expressly exclude scheduled outages. The same commenter suggested that the term computer-security incident be changed to encompass two types of outages and align more with the NIST definition of cybersecurity incident to provide greater uniformity and clarity about what constitutes an incident and a reportable incident. Another commenter also suggested substituting the term cybersecurity incident from NIST in lieu of computer-security incident. A commenter also suggested narrowing the term ''incident'' to exclude non-malicious data communications incidents or those occurring outside of the regulated entity's own network.

While the agencies continue to recognize that there is value in adopting an existing, standard definition, the agencies agree that the NIST definition does not wholly align with the purposes of the rule. The agencies have therefore narrowed the final rule's definition of ''computer-security incident,'' as suggested by the foregoing comments. Specifically, the final rule defines ''computer-security incident'' as an occurrence that results in actual harm to an information system or the information contained within it.[32] Furthermore, the agencies have removed the second prong of the proposed computer-security incident definition relating to violations of internal policies or procedures. These changes narrow the focus of the final rule to those incidents most likely to materially and adversely affect banking organizations, while still retaining general consistency with the NIST definition.[33]

iv. Definition of Notification Incident

The NPR defined a ''notification incident'' as a computer-security incident that a banking organization believes in good faith could materially disrupt, degrade, or impair—

- The ability of the banking organization to carry out banking operations, activities, or processes, or deliver banking products and services to a material portion of its customer base, in the ordinary course of business;
- Any business line of a banking organization, including associated operations, services, functions and support, and would result in a material loss of revenue, profit, or franchise value; or
- Those operations of a banking organization, including associated services, functions and support, as applicable, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

Commenters addressed several aspects of the proposed definition. First, multiple commenters observed that the term ''could'' in the phrase ''could . . . disrupt, degrade, or impair'' was imprecise and overbroad. Multiple commenters suggested substituting the phrase ''could'' with ''reasonably likely to or will'' materially disrupt certain business lines or operations or ''has resulted in or will result in'' material disruptions to certain business lines or operations in its place. Some commenters also suggested that ''notification incident'' should be narrowed even further to incidents that actually materially disrupt or degrade.[34]

The agencies also received a number of comments on the NPR's ''believes in good faith'' language. Various commenters expressed support for the phrase, with at least one noting that the more subjective ''good faith'' standard gave some flexibility to an organization that might honestly, albeit mistakenly, conclude that an occurrence did not rise to the level of a notification incident and thereby fail to provide notice.[35] Other commenters suggested that ''believe in good faith'' was too subjective and stated that the final rule should substitute a clearer term, such as ''determined.''[36] And one commenter

[32] One commenter requested clarification as to whether a ''near-miss'' incident would constitute a computer-security incident under the rule. A ''near-miss'' incident would constitute a computer-security incident only to the extent that such a ''near-miss'' results in actual harm to an information system or the information contained within it. Another commenter stated that the definition of ''computer-security incident'' should be limited to information systems that can cause a ''notification incident.'' For clarification, the definition of ''computer-security incident'' includes all occurrences that result in actual harm to an information system or the information contained within it. However, only those computer-security incidents that fall within the definition of ''notification incident'' are required to be reported. Two commenters advocated for excluding computer-security incidents due to non-security and non-malicious causes. For clarity, the definition includes incidents from whatever cause.

[33] In response to comments, the agencies also considered whether to incorporate the NIST definition of ''cybersecurity incident'' instead and determined that this definition would inappropriately narrow the scope of incidents covered by the rule.

[34] A commenter suggested that if a banking organization had mitigation strategies in place to offset the impact to a bank or its customers, the incident should not be considered a significant or critical incident and therefore should not be considered a notification incident. The commenter also stated that the agencies should indicate that an outage that lasts less than 48-hours in duration does not represent a ''notification incident.''

[35] Two commenters supported maintaining the ''good faith'' standard, with one commenter noting that a reasonable belief standard could introduce too much uncertainty and invite questioning of decisions that are made quickly out of necessity and potentially without key facts known. One of those commenters stated that the final rule should reflect that information may not be available to make an assessment ''immediately'' after an occurrence.

[36] Commenters contended that the ''good faith'' standard may be unclear, and the agencies should provide guidance on how to make the good faith determination. An alternative would be for the rule text to state ''an incident that a banking organization determines is reasonably likely to disrupt'' instead of ''believes in good faith could disrupt.'' However, some commenters preferred the

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suggested that the agencies change the ''in good faith'' belief notification standard to apply to critical, not significant, incidents.

In addition, commenters suggested that the final rule should specifically exclude from the notification requirement incidents where the impact is limited to certain types of computer systems (*e.g.,* compromises to a bank's marketing or personnel systems) or otherwise provide specific exclusions (*e.g.,* any incident lasting less than 48 hours), because they would be very unlikely to cause the kinds of harm that the agencies would regard as warranting notification. Another commenter suggested that the agencies include a requirement that a notification incident involve an information system operated by, or on behalf of, a banking organization, because it would be unduly burdensome and potentially unrealistic for covered entities to be responsible for systems operated by third parties, whereas another commenter believed the term ''notification incident'' should be revised to include incidents occurring at third-party service provider information systems and the sub-contractors (fourth-party providers) of those third-party service providers that collect banking-related information. One commenter recommended that the agencies use the same definition of notification incident for bank service providers and banking organizations, whereas another commenter stated that only ''notification incidents'' should be reported under the rule to ensure that high volumes of less significant or easily remediated occurrences and incidents that do not result in actual harm are not reported. In addition, one commenter stated that banking organizations should not be required to publicly disclose core business lines and critical operations to avoid inviting attacks. Another commenter supported the definition and suggested that the definition of notification incident be expanded to include events that involve infiltration of third-party systems that collect banking related information, such as password managers or browsers. Another commenter requested that the agencies clarify that voluntary reporting of incidents falling outside of the scope of the definition is permitted, and that the rule also distinguish between mandatory reporting of notification incidents and nondisruptive events that could be reported through an alternative, voluntary mechanism and timeline.

Following analysis and careful consideration of the various comments, the agencies are finalizing the definition largely as proposed, with modifications to address a number of commenters' concerns to clarify the rule and make it easier to administer.

The definition of ''notification incident'' includes language that is consistent with the ''core business line'' and ''critical operation'' definitions included in the Resolution Planning Rule issued by the Board and FDIC under section 165(d) of the Dodd-Frank Act.[37] In particular, the second prong of the notification incident definition identifies incidents that impact core business lines, and the third prong identifies incidents that impact critical operations. Banking organizations subject to the Resolution Planning Rule may use the ''core business lines'' and ''critical operations'' identified in their resolution plans [38] to identify notification incidents under the second and third prongs of the final rule.

The final rule does not require banking organizations that are not subject to the Resolution Planning Rule to identify ''core business lines'' or ''critical operations,'' or to develop procedures to determine whether they engage in any operations, the failure or discontinuance of which would pose a threat to the financial stability of the United States. However, all banking organizations must have a sufficient understanding of their lines of business to be able to determine which business lines would, upon failure, result in a material loss of revenue, profit, or franchise value to the banking organization, so that they can meet their notification obligations.

Commenters also requested that the agencies clarify that the material loss of revenue, profit, or franchise value addressed by the second prong of the definition should be evaluated on an enterprise-wide basis. The agencies agree; a banking organization should evaluate whether the loss is material to the organization as a whole.

The agencies have concluded that there is substantial benefit to receiving notification of both computer-security incidents that have materially disrupted or degraded, and incidents that are reasonably likely to materially disrupt or degrade, a banking organization. Accordingly, the agencies are not narrowing the definition of ''notification incident'' to only include computer-security incidents that have resulted in a material disruption or degradation in the final rule.

However, the agencies are narrowing the scope of covered computer-security incidents by substituting the phrase ''reasonably likely to'' in place of ''could.'' The agencies agree that the term ''could'' encompasses more, and more speculative, incidents than the agencies intended in promulgating the rule. Accordingly, and in keeping with commenters' suggestions, the agencies have substituted the term ''reasonably likely to'' in place of ''could.'' Under the ''reasonably likely'' standard, a banking organization will be required to notify its primary Federal regulator when it has suffered a computer-security incident that has a reasonable likelihood of materially disrupting or degrading the banking organization or its operations, but at the same time would not be required to make such a notification for adverse outcomes that are merely possible, or within imagination. The ''reasonably likely'' standard for notification is clearer and more in line with the agencies' intentions for the rule. Finally, the agencies believe that banking organizations are well-positioned to assess the likelihood that a computer-security incident will result in the significant adverse effects described in the definition.

Some commenters also observed that the term ''impair'' was redundant of ''disrupt'' and ''degrade;'' that it was not a term defined by NIST; and that it should be removed. The agencies agree the term would be redundant with ''disrupt or degrade,'' and have removed the term ''impair'' from the definition.

After considering the comments carefully, the agencies are replacing the ''good faith belief'' standard with a banking organization's determination. The agencies agree with commenters who criticized the proposed ''believes in good faith'' standard as too subjective and imprecise. Accordingly, the agencies have removed the good faith language from the definition of

good faith standard over a ''reasonably likely'' standard.

[37] Section 165(d) of the Dodd-Frank Act and 12 CFR parts 363 and 381 (the Resolution Planning Rule) require certain financial companies to report periodically to the FDIC and the Board their plans for rapid and orderly resolution in the event of material financial distress or failure. On November 1, 2019, the FDIC and the Board published in the **Federal Register** amendments to the Resolution Planning Rule. *See* 84 FR 59194.

[38] Elements of both the ''core business lines'' and ''critical operations'' definitions from the Resolution Planning Rule are incorporated in the ''notification incident'' definition. Under the Resolution Planning Rule, ''core business lines'' means those business lines of the covered company, including associated operations, services, functions and support, that, in the view of the covered company, upon failure would result in a material loss of revenue, profit, or franchise value, and ''critical operations'' means those operations of the covered company, including associated services, functions, and support, the failure or discontinuance of which would pose a threat to the financial stability of the United States. *See* 12 CFR 363.2, 381.2.

''notification incident'' and have substituted a determination standard in the final notification requirement.

Finally, the agencies decline to exclude particular incidents or incidents that impact certain types of computer systems from the notification requirements. The agencies believe that the focus on the material adverse effects of a computer-security incident is a simpler and clearer way to ensure that they receive notification of the most significant computer-security incidents.

v. Examples of Notification Incidents

The NPR included a non-exhaustive list of incidents that would be considered notification incidents under the proposed rule and the agencies invited comment on specific examples of computer-security incidents that should or should not constitute notification incidents. The agencies received a few general comments about the list of incidents.

One commenter suggested that the agencies include additional details in the illustrative examples that would identify the type of information systems that would not require incident notification and another suggested more broadly that the final rule include illustrative examples of both incidents that would and would not be subject to the final rule. The agencies believe that the criteria set forth in the notification incident definition make clear that the focus of the rule is on incidents that materially and adversely impact a banking organization rather than on specific types of information systems. The agencies recognize that many banking organizations manage computer-security incidents every day that would not require notification under the final rule and have focused on illustrative examples of the type of incidents that would require notification.

One commenter suggested that the example discussing a ransom malware attack that encrypts a banking organization's core system is ''duplicative of various federal and state breach notification laws.'' The agencies continue to conclude that any incident of ransom malware that disrupts a banking organization's ability to carry out banking operations meets the definition of a notification incident, and as such, have retained this example, notwithstanding any potential overlap between the final rule and other Federal and state requirements for incident reporting.[39]

Another commenter suggested that some of the examples provided were ''inconsistent with'' the term computer-security incident, as incidents such as failed system upgrades or unrecoverable system failures are not technically computer-security incidents. The agencies disagree with this comment and believe that the commenter is reading the definition of computer-security incident too narrowly to focus on malicious incidents.

The agencies believe the examples in the proposed rule provide an appropriate perspective on the critical nature of the type of incidents that banking organizations should consider notification incidents. Having received only general comments and no specific new examples of notification incidents that should be included in the list, the agencies are retaining the illustrative examples provided in the NPR with some minor edits.[40]

The following is a non-exhaustive list of incidents that generally are considered ''notification incidents'' under the final rule:

1. Large-scale distributed denial of service attacks that disrupt customer account access for an extended period of time (*e.g.,* more than 4 hours);

2. A bank service provider that is used by a banking organization for its core banking platform to operate business applications is experiencing widespread system outages and recovery time is undeterminable;

3. A failed system upgrade or change that results in widespread user outages for customers and banking organization employees;

4. An unrecoverable system failure that results in activation of a banking organization's business continuity or disaster recovery plan;

5. A computer hacking incident that disables banking operations for an extended period of time;

6. Malware on a banking organization's network that poses an imminent threat to the banking organization's core business lines or critical operations or that requires the banking organization to disengage any compromised products or information systems that support the banking organization's core business lines or critical operations from internet-based network connections; and

7. A ransom malware attack that encrypts a core banking system or backup data.

While the agencies have included these illustrative examples to help clarify the scope of notification incidents, the final rule requires banking organizations to consider, on a case-by-case basis, whether any significant computer-security incidents they experience constitute notification incidents for purposes of notifying the appropriate agency. If a banking organization is in doubt as to whether it is experiencing a notification incident for purposes of notifying its primary Federal regulator, the agencies encourage it to contact its regulator. The agencies recognize that a banking organization may file a notification, from time to time, upon a mistaken determination that a notification incident has occurred, and the agencies generally do not expect to take supervisory action in such situations.

C. Banking Organization Notification to Agencies

i. Timing of Notification to Agencies

The proposed rule would have required banking organizations to provide the mandated notification to the agencies as soon as possible and no later than 36 hours. The agencies asked whether this timeframe should be modified, and if so, how.

One commenter suggested that the agencies eliminate the ''as soon as possible'' requirement and simply require notification within 36 hours, which would eliminate an apparent tension between the permission for an organization to take a reasonable amount of time to determine that it has experienced a notification incident and the requirement for immediate reporting. Some commenters supported the 36-hour timeframe as an appropriate balance between the potential burden on institutions and the agencies' need for prompt information.[41] However, other commenters expressed concerns, viewing the 36-hour timeframe as too short to allow a banking organization to fully understand a computer-security incident and to provide a complete assessment of the situation. Commenters

[39] As previously explained, the agencies have considered whether existing reporting standards meet the purposes of this rule and concluded that they do not. For example, ransom malware incidents that do not involve unauthorized access to or use of sensitive customer information would not be subject to the Gramm-Leach-Bliley Act (GLBA) notification standard.

[40] This is to clarify that example 6 addresses malware on a banking organization's system that poses *an imminent threat to the banking organization's core business lines or critical operations* or that requires the banking organization to disengage *any compromised products or information systems that support the banking organization's core business lines or critical operations from* internet-based network connections.

[41] One commenter suggested that notification obligations should begin ''36 hours after the banking organization confirms a notification incident has occurred, and has completed urgent measures to end the threat and protect its assets,'' to include time for a banking organization to take necessary measures.

noted that the 36-hour timeframe is only workable when it commences after a banking organization determines that a notification incident has occurred. In this regard, two commenters requested that the agencies expressly articulate in the final rule the explanation included in the NPR that the 36-hour timeframe commences at the point when a banking organization has determined that a notification incident has occurred.Several commenters suggested that the agencies consider a 72-hour window to provide banking organizations with additional time to assess potential incidents and to align the proposed rule with other regulatory requirements such as the New York State Department of Financial Services' (NYDFS) cybersecurity event notification requirement,[42] or the European Union's General Data Protection Regulation (GDPR),[43] both of which require covered entities to report relevant cyber-related incidents within 72 hours.[44] A few commenters suggested that the notification timeframe should be increased to 48 hours, with one suggesting that any timeline align with business day processing, and another observing that community banks ''need the additional 12 hours to evaluate the situation and implement an appropriate incident response plan.'' One commenter suggested that the notification timeframe be extended to a minimum of five business days for banks under $20 billion in assets in order to ''provide banks adequate time to work with vendors and their core processors to provide accurate notifications.'' Another commenter observed that, ''for a 36-hour notification timeframe to be potentially workable and achievable, it is imperative that the scope of the notification requirement be tailored.''

The agencies continue to believe that 36 hours is the appropriate timeframe, given the simplicity of the notification requirement and the severity of incidents captured by the definition of ''notification incident.'' [45] In developing the NPR and final rule, the agencies reviewed a number of existing security incident reporting requirements cited by the commenters and found that many of them involved detailed, prescriptive reporting requirements, often mandating that specific information be reported and including filing instructions. For example, the NYDFS rule requires that covered entities submit an annual statement certifying their compliance with the rule and keep all documents supporting their certification for five years, among other things. In contrast, the final rule sets forth no specific content or format for the simple notification it requires. The final rule is designed to ensure that the appropriate agency receives timely notice of significant emergent incidents, while providing flexibility to the banking organization to determine the content of the notification. Such a limited notification requirement will alert the agencies to such incidents without unduly burdening banking organizations with detailed reporting requirements, especially when certain information may not yet be known to the banking organizations.

In addition, changes to the definitions of ''computer-security incident'' and ''notification incident'' described above narrow the range, and reduce the speculative or uncertain nature of, incidents subject to the notification requirement.

The narrowed scope of notification incidents, however, makes it even more important for the agencies to receive notice as soon as possible. Additionally, the agencies recognize that a banking organization may be working expeditiously to resolve the notification incident—either directly or through a bank service provider—at the time it would be expected to notify its primary Federal regulator. The agencies believe, however, that 36 hours is a reasonable amount of time after a banking organization has determined that a notification incident has occurred to notify its primary Federal regulator, as it does not require an assessment or analysis.

The agencies do not expect that a banking organization would typically be able to determine that a notification incident has occurred immediately upon becoming aware of a computer-security incident. Rather, the agencies anticipate that a banking organization would take a reasonable amount of time to determine that it has experienced a notification incident. For example, some notification incidents may occur outside of normal business hours. Only once the banking organization has made such a determination would the 36-hour timeframe begin.

Accordingly, the agencies have determined that the final rule will retain the requirement that banking organizations provide notice as soon as possible and no later than 36 hours. The agencies note, however, that even within the 36-hour notification window, banking organizations' notification practices should take into account their criticality to the sector in which they operate and provide services. An effective practice of banking organizations that provide sector-critical services is to provide same-day notification to their primary Federal regulator of a notification incident. The agencies encourage this practice to continue among these banking organizations.

ii. Method of Notification to Agencies

The proposed rule would have required a banking organization to notify the appropriate agency of a notification incident through any form of written or oral communication, including through any technological means, to a designated point of contact identified by the agency.

The agencies requested comments on how banking organizations should provide notifications to the agencies and sought comment on whether they should ''adopt a process of joint notification'' where multiple banking organization affiliates have differing notification obligations. Further, the agencies requested feedback on how such a joint notification should be done and why.

A substantial number of commenters responded to various aspects of these questions. While specific suggestions varied, a consistent theme was a desire for efficient and flexible options for providing notice, with some commenters observing that a notification incident could also affect normal communication channels. Other commenters made recommendations to enhance notification efficiency, such as suggesting the use of automated

[42] Effective March 1, 2017, the NYDFS Superintendent promulgated 23 NYCRR Part 500, a regulation establishing cybersecurity requirements for financial services companies. Section 500.17 *Notices to superintendent* requires each ''covered entity'' to notify the NYDFS Superintendent ''as promptly as possible but in no event later than 72 hours from a determinantion that a cybersecurity event has occurred.'' The NYDFS regulation is available at:*https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I5be30d2007f811e79d43a037eefd0011&origination&ContextdocumenttocA&transitionTypeDefault&contextData=(sc.Default).*

[43] In particular, Article 33, Section 1 of the GDPR provides that, in the case of a personal data breach, the data controller ''shall without undue delay and, where feasible, not later than 72 hours after having become aware of it,'' notify the competent supervisory authority of the personal data breach. Moreover, Article 33, Section 2 requires data processors to ''notify the [data] controller without undue delay after becoming aware of a personal data breach.'' The full version of Regulation (EU) 2016/679 (GDPR) is available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679.*

[44] *See id.*

[45] As noted above, the agencies recognize that a banking organization may file a notification, from time to time, upon a mistaken determination that a notification incident has occurred, and the agencies generally do not expect to take supervisory action in such situations.

electronic notifications. Two commenters suggested that, consistent with the agencies' statement in the NPR, the rule should explicitly state that no specific information is required and that the rule does not prescribe any particular reporting form.

The agencies have concluded that email and telephone are the best methods currently available for effective notification. Recognizing, however, that agency processes may evolve and technology will likely change (and improve) available communication options over time, the agencies have also built flexibility into the final rule by stating that the agencies may prescribe other similar methods pursuant to which notice may be provided. The agencies believe that this approach balances the need for banking organizations to have some flexibility, including if a communication channel is impacted by the incident, with the agencies' need to ensure that they actually receive the notifications.

The agencies also sought comments on whether centralized points of contact, regional offices, or banking organization-specific supervisory teams would be better suited to receive these notifications. The comments from banking organizations and bank service providers differed on this issue.

Some banking organizations suggested that the process should remain ''flexible'' and that the rule provide that the notification requirement could be ''satisfied by any of several methods,'' including providing the notification to the banking organization's on-site or supervisory teams, appropriate regional offices, or an agency-designated point of contact. Other commenters, including bank service providers, suggested creating a joint notification process, or centralized portal or point of contact for all agencies to receive all such notifications directly. The agencies believe that the provision of notice can often be efficiently and effectively achieved by communicating with the appropriate agency supervisory office or other designated agency contacts, which may include designated supervisory staff, call centers, incident response teams, and other contacts to be designated by the respective agency.

The agencies also received several comments requesting further instruction and guidance on the method and manner of the required notifications. Several other commenters requested additional guidance on what a notice must contain and the scope of information that should be provided, and even requested certain specific exclusions.

The notification requirement is intended to serve as an early alert to a banking organization's primary Federal regulator about a notification incident. The agencies anticipate that banking organizations will share general information about what is known at the time of the incident. No specific information is required in the notification other than that a notification incident has occurred. The final rule does not prescribe any form or template. A simple notice can be provided to the appropriate agency supervisory office, or other designated point of contact, through email, telephone, or other similar method that the agency may prescribe. The notifications, and any information related to the incident, would be subject to the agencies' confidentiality rules.[46]

Accordingly, the agencies revised the NPR language. The final rule provides that a banking organization would notify the appropriate agency-designated point of contact through email, telephone, or other similar methods that the agency may prescribe.

D. Bank Service Provider Notification to Banking Organization Customers

i. Scope of Bank Service Provider Notification

Commenters generally supported the idea of only notifying affected customers although some commenters suggested that all banking organization customers should be notified.[47] One commenter specifically suggested that bank service provider notifications should only go to banking organizations that are ''directly impacted by the incident when a bank service provider has made a determination that the incident will or is reasonably likely to materially impact the services provided to the banking organization.'' The agencies agree with the ''materiality'' aspect of this comment and the focus on ''reasonably likely'' impacts. Accordingly, the agencies are revising the final rule to include the phrase ''materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade.'' This change is also responsive to comments that requested the agencies further harmonize the bank service provider notification requirement with the banking organization notification requirement.

The final rule does not require a bank service provider to assess whether the incident rises to the level of a notification incident for a banking organization customer, which remains the responsibility of the banking organization. The agencies anticipate that bank service providers would make a best effort to share general information about what is known at the time. If, after receiving notice from a bank service provider, the banking organization determines that a notification incident has occurred, the banking organization is required to notify its primary Federal regulator in accordance with this final rule. The agencies generally will not cite a banking organization because a bank service provider fails to comply with its notification requirement.

Another commenter described the potential for confusion that could ensue if a bank service provider were to notify all customers, when only some of them were affected by the computer-security incident. They advised that such an overly broad notification to all customers could ''cause the banking organization customers and the bank service provider to respond to questions and concerns from banking organization customers [who were] not affected by the computer-security incident.'' The agencies agree with these commenters and are retaining in the final rule the requirement that notice be provided only to ''each affected banking organization customer.''

Another commenter noted that the final rule needs to account for the distinction between cloud-based services versus on-premises services and a shared-responsibility service delivery model. Under the final rule, the agencies would require bank service providers to continue to provide a banking organization customer with prompt notification of material incidents regardless of current contract language and irrespective of the chosen service delivery model. Even under a shared service model, a bank service provider will still need to provide notice to banking organization customers if the bank service provider has determined it has experienced a computer-security incident that has materially disrupted or degraded, or is likely to materially disrupt or degrade, covered services provided to such banking organization customer for four or more hours. Given the purposes of the rule, the agencies believe this is a reasonable requirement and are adopting it in the final rule.

Whether the covered services are being provided through a software-as-a-

[46] *See, e.g.,* 12 CFR part 4 (OCC); 12 CFR part 261 (Rules Regarding Availability of Information) (Board); 12 CFR 309.6 (Disclosure of exempt records) (FDIC).

[47] While most commenters believe that notifying all banking organizations subscribing to the disrupted service may lead to potentially harmful over-reporting, one commenter stated that notifying all banking organizations using the service may be appropriate since the service disruption may be broader than originally expected.

service (SaaS) arrangement, or through some other service delivery method, a bank service provider must provide notification to banking organizations in accordance with the standard in the final rule. The banking organization must then independently determine if a notification incident has occurred.

Finally, in response to concerns expressed by commenters, the agencies are revising the final rule to specifically exclude scheduled maintenance, testing, or software updates previously communicated to a banking organization customer. This new exception should reduce over- and unnecessary notification. If, however, the scheduled maintenance, testing, or software update exceeds the parameters communicated to the banking organization customer and meets the notification standard set forth in the rule, this exception does not apply.

ii. Timing of Bank Service Provider Notification

Several commenters favored immediate notifications. Others were concerned that immediate notifications may result in over- and inaccurate notification. For example, some commenters objected to the requirement that a bank service provider must ''immediately'' notify affected banking organizations [48] and recommended that the notification occur ''as soon as practicable,'' within the first four hours of the occurrence of a computer-security incident, or in a ''timely'' manner (or a similar standard) after a service disruption to prevent over-reporting and provide time for bank service providers to assess the severity of an incident.[49] One commenter noted that an immediate notification standard may be appropriate but only after the bank service provider determines that a notification incident has occurred, while other commenters stated that immediate notification was appropriate. Another commenter expressed concern that immediate notice may leave no time lapse ''between when a computer-security incident occurred and when notification has to happen.'' While expressing similar sentiments, some commenters suggested substituting the term ''timely,'' or ''promptly'' and ''without undue delay,'' in place of the ''immediate'' requirement. Another commenter suggested that different reporting obligations should be permitted contingent upon the location of the incident (on-premise services vs. cloud services). The same commenter suggested modifying the ''good faith'' standard to instead require ''prompt'' notification where a bank service provider obtains actual knowledge of an incident that impacts services for more than four hours.

Other commenters drew distinctions between security incidents and service disruptions. One commenter observed that ''[u]nlike a 'computer-security incident' which requires time to identify and evaluate, a disruption in service is instantaneously apparent and bank service providers can immediately notify banking organizations of the disruption in service.'' For similar reasons, another commenter suggested bifurcation of service provider notifications: ''one immediate notice timeline if the incident affects the security of the banking organization's systems and a second, longer time period for disruption.''

In response to these comments, the agencies are revising the rule to provide that a bank service provider must notify affected banking organization customers ''as soon as possible'' when it ''determines'' it has experienced an incident that meets the standard in the rule. Use of the term ''determined'' allows the bank service provider time to examine the nature of the incident and assess the materiality of the disruption or degradation of covered services. Additionally, the ''four or more hours'' threshold should reduce notifications concerning less material incidents. Once the bank service provider has made this determination, it must provide notice ''as soon as possible.''

Some commenters recommended revising the proposed rule to ''allow for service providers to satisfy their notification requirement by providing notification to their banking customer consistent with any requirements and by any methods set forth in their contract with that customer, so long as the method reasonably ensures that the banking organization receives the notification.'' While the agencies believe it is reasonable to assume that providing notification to customers following a determination that a material incident has occurred should be consistent with many existing contractual provisions, the agencies conclude that an independent regulatory requirement is appropriate to ensure that banking organizations receive consistent and timely notification of the most significant computer-security incidents affecting covered services.

Other comments suggested that a 36- or 72-hour notification timeframe would be reasonable. For the reasons expressed above, the agencies disagree that bank service providers could (or should) wait this long to alert banking organization customers about a material disruption or degradation in covered services. Accordingly, the final rule requires bank service providers to provide notice as soon as possible when the bank service provider has determined it has experienced a notification incident.

iii. Bank Service Provider Notification to Customers

Some commenters stated that the requirement in the proposal to notify two individuals at each affected banking organization of an incident was appropriate. One commenter suggested that a third notification be sent to a banking organization's general email or telephone number. Several commenters recommended the agencies allow the notification through general channels accessible by multiple employees at affected banking organizations, and one commenter suggested that ''significant'' bank service providers should directly notify the agencies. Other commenters asserted that requiring bank service providers to notify two contacts at each banking organization customer would be overly prescriptive and burdensome.[50] Instead, these commenters recommended that bank service providers should work with their banking organizations to designate a central point of contact, but bank service providers should not be required to ensure that a contact at the banking organization receive the notification.[51]

Regarding existing provisions in contracts, a commenter contended that ''contractual provisions with bank service providers commonly provide specific notice methods and generally provide notice to two or more banking organization employees.'' This is consistent with the agencies' understandings of existing agreements based on their broad-based review of bank service provider agreements, which was reflected in the language of the proposed rule.

As an alternative to the approach in the proposed rule, a few commenters suggested that the rule should ''instead focus on outcomes—ensuring that the

[48] Obstacles to immediate notification mentioned by commenters included that bank service providers need time to assess whether an incident is a computer-security incident.

[49] A commenter suggested that any timing for notification should allow an opportunity for reasonable investigation to help ensure that material incidents are flagged to the regulators and are not obfuscated by an influx of false positives or non-material matter.

[50] Commenters suggested that one contact should be adequate, as smaller banking organizations may not have two contacts available.

[51] A commenter also recommended different notification obligations for on-premises services compared to cloud-based services. Commenters also suggested a carve-out to the notification obligation when a bank service provider is delayed or prevented by law enforcement.

appropriate individuals or entities at banking organizations receive timely notice.'' Another commenter suggested that ''banking organizations should have a central point of contact that would be accessible by more than one person to ensure that notifications to the banking organization are timely received and acted upon.'' This approach was echoed by another banking industry commenter, who suggested that ''notification through a medium or channel that is accessed by and available to multiple banking organization employees'' should be allowed to meet the NPR's notification requirement. Some commenters suggested using automated notifications or centralized notification portals to streamline the notification process.

After consideration of the comments, the agencies are revising the final rule to keep the notification process simple and flexible. Rather than requiring bank service providers to notify two individuals at each affected banking organization customer, which may not be effective for every banking organization or bank service provider, the final rule requires bank service providers to notify ''at least one bank-designated point of contact at each affected banking organization customer.'' The final rule states that a banking organization-designated point of contact is an email, phone number, or any other contact(s), previously provided to the bank service provider by the banking organization customer.

The agencies determined effective notice will be best achieved if banking organizations and bank service providers work collaboratively to designate a method of communication that is feasible for both parties and reasonably designed to ensure that banking organizations actually receive the notice in a timely manner. The final rule also provides flexibility for banking organizations and bank service providers to determine the appropriate designated point of contact, and if a banking organization customer has not previously provided a bank-designated point of contact, such notification shall be made to the Chief Executive Officer (CEO) and Chief Information Officer (CIO) of the banking organization customer, or two individuals of comparable responsibilities, through any reasonable means.

iv. Bank Service Provider Agreements—Contract Notice Provisions

Several commenters observed that contracts between banking organizations and bank service providers routinely include incident notification provisions.[52] But other commenters noted that current contractual provisions may not align with the proposed rule's notification requirements and, as such, would need to be amended or revised, which may take time to complete.

Commenters generally stated that while contracts between banking organizations and bank service providers already have negotiated notice provisions, such contracts would need to be amended to ensure compliance with the rule. In that regard, commenters expressed the view that the proposed rule should be revised to allow for bank service providers to satisfy their notification requirement by providing notification to their banking organization customer consistent with any requirements and by any methods set forth in their contract with that customer, so long as the method reasonably ensures that the banking organization customer receives the notification. Facilitating compliance with the rule in this manner would prevent banking organizations from having to incur the costs to amend existing contracts. Other commenters expressed perceived challenges with renegotiating contracts to comply with the rule and commenters stated that they should not be faulted for a bank service provider's failure to notify. One commenter expressed concern that community banks may hold little power in these negotiations and recommended extending the compliance date of the rule for community banks. Relatedly, a commenter argued that if FMUs are required to provide mandated notices to their banking organization customers, the rule should require banking organization customers to identify and update their contacts for mandated notices to their bank service providers, rather than placing the burden on bank service providers to request and seek updates to these contacts. Commenters also urged the agencies to accept the notification methods specified in these contracts and clarify contract expectations. A few commenters requested that the agencies provide specific contract expectations and to consider conducting a review of contracts to confirm the notice provisions were adequate.

[52] A commenter stated that bank service providers already subject to contractual breach reporting obligations should be excluded from the rule while a different commenter believed that as a matter of fairness and competitive equality, if private sector FMUs are required to provide mandated notices to either their primary Federal regulator or their banking organization customers, the Board should publicly commit to hold Federal Reserve Bank services to an equivalent standard.

The agencies believe many contracts already address such notices to banking organizations. Typically, existing bank service provider agreements that support operations that are critical to a banking organization customer require notification to the customer as soon as possible in the event of a material incident during the normal course of business. If such notification provisions satisfy the requirements of the final rule, then notification under the contractual provisions will satisfy a bank service provider's obligation under the rule as well. The agencies note that existing notification procedures may include some redundancy with the final rule. However, the agencies are requiring notice in the final rule to ensure that a notification occurs in the event of a material computer-security incident. As a result, the agencies are not incorporating these recommendations. The agencies also note that the notification requirement created by this rule is independent of any contractual provisions, and therefore, bank service providers must comply even where their contractual obligations differ from the notification requirement in this rule. The agencies anticipate that banking organizations and bank service providers will work collaboratively to designate a method of communication that is feasible for both parties and reasonably designed to ensure that banking organizations actually receive the notice in a timely manner, for purposes of complying with the rule.

This final rule is not expected to add significant burden on bank service providers. The agencies' experiences with conducting bank service provider contract reviews during examinations indicate that many of these contracts include incident-reporting provisions. The agencies also observe that there are effective automated systems for notification currently.

In addition, for banking organizations that have not already designated individuals to be notified under contractual obligations, the agencies do not believe that requiring bank service providers to notify banking organization CEOs and CIOs would create significant burden. In these circumstances, the agencies believe that bank service providers can easily obtain contact information for banking organization CEOs and CIOs.

IV. Other Rulemaking Considerations

In the NPR, the agencies sought feedback on a number of related topics, which are addressed separately in the sections that follow.

A. Bank Service Provider Material Incidents Consideration

The agencies requested comments about the potential burden the rule would impose on small bank service providers and about circumstances when a banking organization customer would not be aware of a material disruption in services unless they were notified. There were limited comments on this question.

A few commenters noted that banking organizations are often contacted by their customers shortly after an incident and service outage occurs. Despite indirect knowledge or suspicions about potential service outages or limitations, banking organizations should still be notified of material incidents by their bank service providers.

Merely identifying the fact of an outage or service interruption would not help banking organization customers understand the extent of such an outage or service interruption. Receiving notification from a bank service provider would enable a banking organization customer to evaluate the impact of the computer-security incident on its operations to determine whether it is experiencing a notification incident. If a banking organization is experiencing a notification incident and notifies its primary Federal regulator, the regulator then may evaluate and assist, as appropriate.

B. Methodology for Determining Number of Incidents Subject to the Rule

The agencies invited comment on the methodology used to estimate the number of notification incidents that may be subject to the proposed rule each year. Several commenters provided general comments suggesting the agencies may have underestimated the burden associated with the proposed rule; however, only one trade association commenter provided specific observations on the methodology used to estimate the number of incidents subject to the rule. This commenter suggested that the agencies should ''seek additional comments on the estimated costs and benefits of the proposed rule.''

The agencies also received comments related to the costs associated with complying with the rule. A commenter asserted, without further detail, that the proposed costs of compliance were underestimated. This commenter suggested that the agencies gather more information and data to adequately assess the regulatory impact of the proposal. Regarding estimating the number of notification incidents per year that would be reported under the proposed rule, one commenter suggested the agencies already have this information. Another commenter asserted that the rule would result in significant costs in standing up internal processes and procedures to comply with a new Federal regulatory mandate, resulting in ongoing cost and burden.

The agencies have addressed the costs of this rule in the Impact Analysis section below. Moreover, the methodology used to determine the number of incidents subject to the rule reflects the agencies' experience that computer-security incidents that rise to the level of notification incidents are rare. The agencies also believe that the final rule largely formalizes a process that already exists, reflecting the collaborative and open communication that exists between banking organizations and the agencies.

As discussed in more detail in the Impact Analysis section, the agencies reviewed available supervisory data and a subset of Suspicious Activity Report (SAR) data involving cyber incidents targeting banking organizations to develop an estimate of the number of notification incidents that may occur annually. The agencies specifically recognized that an analysis of SAR filings would not capture the full scope of incidents addressed by this rule. However, the agencies also considered supervisory data, which includes the voluntary notification banking organizations already provide, to inform their estimate of the frequency of notification incidents. Based on this assessment, the agencies continue to believe that the estimated 150 notification incidents annually set forth in the Impact Analysis is reasonable. The agencies are not seeking additional comments on the estimated costs and benefits of the rule.

C. Voluntary Information Sharing

One commenter suggested the agencies should acknowledge the importance of voluntary information sharing within an ''expanding notice schema,'' and rely upon voluntary disclosures for non-disruptive events. Another suggested the rule should ''distinguish between existing, voluntary information-sharing between banking organizations'' and the final rule's required incident notification disclosures.

The focus and purpose of this final rule is to ensure that the agencies receive prompt notice of notification incidents, which we have defined to include only the most significant incidents affecting banking organizations. The final rule does not solicit notifications on non-disruptive events and differs from and does not prevent traditional supervisory information sharing. However, the agencies agree that voluntary information sharing is critically important and encourage banking organizations and bank service providers to continue sharing information about incidents not covered by this rule.

D. Utilizing Prompt Corrective Action Capital Classifications

One commenter suggested incorporating ''existing terms and definitions of discrete, rare, disruptive events'' such as ''Prompt Corrective Action (PCA) capital category definitions, or the invocation of Sheltered Harbor protocols.'' [53] The agencies decline to follow this recommendation. The agencies have used definitions in the final rule that are broadly consistent with NIST terminology, which is widely used across various industry segments.

E. Ability To Rescind Notification and Obtain Record of Notice

The agencies received several comments regarding the agencies' collection and use of notification incident information from banking organizations. One commenter urged the agencies to develop procedures, subject to notice and comment, that would be taken upon receipt of a banking organization's incident notification information and any subsequently gathered information related to the incident. Commenters also urged the agencies to clarify information sharing practices and protocols relating to notification incident reports, expressing concerns with confidentiality and data security. One commenter suggested that notification incident reports should be shared with banking organization-specific supervisory teams. Commenters stated that any information submitted should be subject to the agencies' confidentiality rules and that the agencies should explain how the information would be protected.

One commenter suggested the agencies establish a ''mechanism to rescind'' notifications in situations where ''initial determinations overestimate[d] the severity or significance of an event.'' No formal

[53] To learn more about PCA capital category definitions, see OCC Bulletin 2018–33, *Prompt Corrective Action: Guidelines and Rescissions* (Sept. 28, 2018), which can be found at: *https://www.occ.gov/news-issuances/bulletins/2018/bulletin-2018-33.html.* To learn more about Sheltered Harbor protocols, see the Sheltered Harbor landing page at: *https://www.aba.com/banking-topics/technology/cybersecurity/sheltered-harbor#.*

rescission mechanism is required. The agencies recognize that a banking organization or bank service provider may provide notice, from time to time, upon a mistaken determination that such notice is necessary. A banking organization or bank service provider may update its original notification if it later determines that its initial assessments were incorrect or overcautious.

Other commenters discussed the need to obtain or retain copies of the notifications for recordkeeping purposes. The rule does not impose any recordkeeping requirements.

Another commenter suggested the agencies should indicate how information that the agencies obtain under this rule would remain protected and confidential. Additionally, they requested confirmation that the information provided would be considered exempt from Freedom of Information Act (FOIA) requests. As the agencies noted in the proposal, the notification, and any information provided by a banking organization related to the incident, would be subject to the agencies' confidentiality rules, which provide protections for confidential, proprietary, examination/supervisory, and sensitive personally identifiable information.[54] However, the agencies must respond to individual FOIA requests on a case-by-case basis.

F. Single Notification Definition

One commenter suggested the agencies implement only a ''single definition for a notification incident that applies to both bank service providers and banking organizations.'' The agencies believe that this would be unworkable; the two notification requirements serve different purposes. Accordingly, the agencies declined to implement a single definition. However, the agencies have sought to harmonize the two notification standards where feasible.

G. Affiliated Banking Organizations Considerations

The final rule provides that affiliated banking organizations each have separate and independent notification obligations. Each banking organization needs to make an assessment of whether it has suffered a notification incident about which it must notify its primary Federal regulator. Subsidiaries of banking organizations that are not themselves banking organizations do not have notification requirements under this final rule. If a computer-security incident were to occur at a non-banking organization subsidiary of a banking organization, the parent banking organization would need to assess whether the incident was a notification incident for it, and if so, it would be required to notify its primary Federal regulator.

H. Consideration of the Number of Bank Service Providers

Some commenters suggested the agencies underestimated the impact of the NPR to bank service providers. As noted in the NPR, the agencies do not know the precise number of bank service providers that will be affected by the final rule's notification requirement. However, the agencies conservatively assumed the entire population of bank service providers who have self-selected the North American Industry Classification System (NAICS) industry ''Computer System Design and Related Services'' (NAICS industry code 5415) as their primary business activity to be the estimated number of bank service providers. It seems unlikely that all such code 5415-designated firms are bank service providers. Even though there may be some bank service providers that do not self-identify under NAICS code 5415, the agencies believe the number of incidents involving bank service providers will be generally consistent with original NPR findings. The agencies acknowledge that these bank service providers will be impacted by the final rule.

V. Impact Analysis

Covered banking organizations under the final rule include all depository institutions, holding companies, and certain other financial entities that are supervised by one or more of the agencies. According to recent Call Report and other data, the agencies supervise approximately 5,000 depository institutions along with a number of holding companies and other financial services entities that are covered under the final rule.[55]

In addition, the final rule requires bank service providers to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours. This requirement would enable a banking organization to promptly respond to an incident, determine whether it must notify its primary Federal regulator that a notification incident has occurred, and take other appropriate measures related to the incident.

Benefits

The agencies believe that prompt notification of reportable incidents is likely to provide the following benefits to banking organizations and the financial industry as a whole. Notification may help the relevant agencies determine whether the incident is isolated or is one of many similar incidents at multiple banking organizations. If the notification incident is isolated to a single banking organization, the primary Federal regulator may be able to facilitate requests for assistance on behalf of the affected organization to minimize the impact of the incident. This benefit may be greater for small banking organizations with more limited resources. If the notification incident is one of many similar incidents occurring at multiple banking organizations, the agencies could also alert other banking organizations of the threat, recommend measures to better manage or prevent the recurrence of similar incidents, or otherwise help coordinate incident response.

The prompt notification about incidents could also enable Federal regulators to respond faster to potential liquidity events that may result from such incidents. If a notification incident prevents banking organizations from fulfilling financial obligations in a timely manner, it might reduce confidence in the banking organization and precipitate the rapid withdrawal of demand deposits or short-term financing from such organizations.[56] [57] The agencies believe that a faster regulatory response could mitigate, or entirely prevent, these adverse liquidity events, thereby enhancing the resilience of the banking system against notification incidents.

Receiving information on notification incidents at multiple banking organizations would also enable regulators to conduct empirical analyses

[54] *See, e.g.,* 12 CFR part 4 (OCC); 12 CFR part 261 (Rules Regarding Availability of Information) (Board); 12 CFR 309.6 (Disclosure of exempt records) (FDIC).

[55] March 31, 2021, Call Report Data.

[56] See the conceptual discussion of ''cyber runs'' in Duffie and Younger, *https://www.brookings.edu/wp-content/uploads/2019/06/WP51-Duffie-Younger-2.pdf,* Hutchins Center Working Paper No. 51, June 18, 2019.

[57] See the empirical analysis of the potential adverse impact of cyber events on the U.S. payment and settlement system in Eisenbach et al., *https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr909.pdf,* Federal Reserve Bank of New York Staff Reports, No. 909, Last Revised May 2021.

to improve related guidance, adjust supervisory programs to enhance resilience against such incidents, and provide information to the industry to help banking organizations reduce the risk of future computer-security incidents.

The agencies do not have sufficient information available to quantify the potential benefits of the final rule because the benefits depend on the probability, breadth, and severity of future notification incidents, and the specifics of those incidents, among other things. These data limitations notwithstanding, and considering that banking organizations face a heightened risk of disruptive and destructive attacks, which have been increasing in frequency and severity in recent years, the agencies expect that the final rule would have clear prudential benefits.

Costs

The final rule requires banking organizations to notify their primary Federal regulator as soon as possible, and no later than 36 hours, after a banking organization has determined that a notification incident has occurred. The agencies reviewed available supervisory data and SARs involving cyber events against banking organizations in 2019 and 2020 to estimate the number of notification incidents expected to be reported annually. This calculation relied on descriptive criteria (*e.g.,* ransomware, trojan, zero day, etc.) that may be indicative of the type of material computer-security incident that would meet the notification incident reporting criteria. Based on this review, the agencies estimate that approximately 150 notification incidents occurred annually,[58] but acknowledge that the number of such incidents could increase in the future. Comments received by the agencies on the NPR did not provide more accurate estimates or suggest a different estimation methodology. Therefore, the agencies continue to use the same methodology.

The agencies believe that the regulatory burden associated with the notification requirement would be small because the majority of communications associated with the determination of the notification incident would occur regardless of the final rule.[59] In particular, the agencies estimate that, in the event of a notification incident, an affected banking organization may incur up to three hours of labor cost to coordinate internal communications, consult with its bank service provider, if appropriate, and notify the banking organization's primary Federal regulator. This process may include discussion of the incident among staff of the banking organization, such as the Chief Information Officer, Chief Information Security Officer, a senior legal or compliance officer; and staff of a bank service provider, as appropriate; and liaison with senior management of the banking organization.

The final rule also requires a bank service provider to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours. The agencies do not have data on the exact number of affected bank service providers nor the frequency of incidents that would require bank service providers to notify their banking organization customers. However, as described in the NPR, the agencies believe that, in the event of an incident, the affected bank service provider may incur up to three hours of labor cost to coordinate internal communications and notify its affected banking organization customers. Commenters did not provide other estimates, and the agencies believe that the additional compliance costs would be small for individual affected bank service providers.[60] Post-notification activities, such as providing technical support to affected bank organization customers when managing and resolving the impact of a computer-security incident, are beyond the scope of the notification requirement.

Overall, the agencies expect the benefits of the final rule to outweigh its small costs.

Response to Comments on Impact of Proposal

The agencies received comments asserting that some banking organizations and bank service providers may need to revise their contracts in order to implement the final rule. Furthermore, some bank service providers may incur costs to adjust internal processes and procedures to comply with the final rule. The agencies believe that these costs are likely to be small, transitory, and affect only a small number of covered entities.

Other comments received in response to the proposed rule suggested that the proposed rule's definitions might result in more notifications than estimated in the proposed rule. The final rule narrows the notification requirements, as discussed above.

VI. Alternatives Considered

The agencies are adopting these computer-security incident notification requirements after considering comments received on the NPR and evaluating alternative options for notification requirements. The agencies considered a number of alternative approaches, including leaving the current regulations unchanged and establishing a voluntary notification framework as suggested by one commenter. The agencies concluded that these approaches would not have achieved the objectives of the rule. However, the agencies refined the criteria for notification to focus attention on the most significant incidents and appropriately minimize regulatory burden.

Additionally, the agencies considered defining the notification requirement for bank service providers even more narrowly, as suggested by some commenters. However, the agencies ultimately determined that the notification requirement in this rule is appropriate due to the increasingly significant role that bank service providers play in the banking industry.

VII. Effective Date

The agencies have provided an effective date of April 1, 2022, and a compliance date of May 1, 2022, in response to commenters that recommended that the agencies provide additional time to implement the rule.

VIII. Administrative Law Matters

A. Paperwork Reduction Act

Certain provisions of the final rule contain ''collections of information'' within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control

[58] The agencies used conservative judgment when assessing whether a cyber-event might have risen to the level of a notification incident, so the approach may overestimate the number. However, the approach may also underestimate the number of notification incidents since supervisory and SAR data may not capture all such incidents.

[59] Even at an elevated labor compensation rate of $200 per hour, the final rule would only impose additional compliance costs of $600 per notification.

[60] Even at an elevated labor compensation rate of $200 per hour, the final rule would only impose additional compliance costs of $600 per notification.

number. The agencies have requested and OMB has assigned to the agencies the respective control numbers shown. The information collections contained in the final rule have been submitted to OMB for review and approval by the OCC and FDIC under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of OMB's implementing regulations (5 CFR part 1320). The Board reviewed the final rule under the authority delegated to the Board by OMB, and has approved these collections of information.

The final rule contains a reporting requirement that is subject to the PRA. The reporting requirement is found in §§ 53.3 (OCC), 225.302 (Board), and 304.23 (FDIC) of the final rule. A banking organization is required to notify its primary Federal bank regulatory agency of the occurrence of a ''notification incident'' at the banking organization (§§ 53.3 (OCC), 225.302 (Board), and 304.23 (FDIC)).

The final rule also contains a disclosure requirement that is subject to the PRA. The disclosure requirement is found in §§ 53.4 (OCC), 225.303 (Board), and 304.24 (FDIC), which requires a bank service provider to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours.

The agencies received one PRA-related comment, which agreed that collections of information have practical utility.

The agencies have a continuing interest in the public's opinions of information collections. At any time, commenters may submit comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to the addresses listed in the **ADDRESSES** caption in the NPR. All comments will become a matter of public record. A copy of the comments may also be submitted to the OMB desk officer for the agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503; by facsimile to (202) 395–5806; or by email to: *oira_submission@omb.eop.gov,* Attention, Federal Banking Agency Desk Officer.

Information Collection

Title of Information Collection: Computer-Security Incident Notification.

OMB Control Number: OCC 1557–0350; Board 7100–NEW; FDIC 3064–0214.

Frequency of Response: On occasion; event-generated.[61]

Affected Public: Businesses or other for-profit.

Respondents:

OCC: National banks, Federal savings associations, Federal branches and agencies, and bank service providers.

Board: All state member banks (as defined in 12 CFR 208.2(g)), bank holding companies (as defined in 12 U.S.C. 1841), savings and loan holding companies (as defined in 12 U.S.C. 1467a), foreign banking organizations (as defined in 12 CFR 211.21(o)), foreign banks that do not operate an insured branch, state branch or state agency of a foreign bank (as defined in 12 U.S.C. 3101(b)(11) and (12)), Edge or agreement corporations (as defined in 12 CFR 211.1(c)(2) and (3)), and bank service providers.

FDIC: All insured state nonmember banks, insured state-licensed branches of foreign banks, insured State savings associations, and bank service providers.

Number of Respondents:[62]

OCC: Reporting—22; Disclosure—802.

FDIC: Reporting—96; Disclosure—802.

Board: Reporting—32; Disclosure—802.

Estimated Hours per Response:

Reporting—Sections 53.3 (OCC), 225.302 (Board), and 304.23 (FDIC): 3 hours.

Disclosure—Sections 53.4 (OCC), 225.303 (Board), and 304.24 (FDIC): 3 hours.

Estimated Total Annual Burden:

OCC: Reporting—66 hours; Disclosure—2,406 hours.

FDIC: Reporting—288 hours; Disclosure—2,406 hours.

Board: Reporting—96 hours; Disclosure—2,406 hours.

Abstract: The final rule establishes notification requirements for banking organizations upon the occurrence of a ''computer-security incident'' that rises to the level of a ''notification incident.''

A ''notification incident'' is defined as a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, a banking organization's—

- Ability to carry out banking operations, activities, or processes, or deliver banking products and services to a material portion of its customer base, in the ordinary course of business;
- Business line(s), including associated operations, services, functions, and support, that upon failure would result in a material loss of revenue, profit, or franchise value; or
- Operations, including associated services, functions and support, as applicable, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

A ''computer-security incident'' is defined as is an occurrence that results in actual harm to the confidentiality, integrity, or availability of an information system or the information that the system processes, stores, or transmits.

The final rule requires a banking organization to notify its primary Federal banking regulator upon the occurrence of a ''notification incident'' at the banking organization. The agencies recognize that the final rule imposes a limited amount of burden, beyond what is usual and customary, on banking organizations in the event of a computer-security incident even if it does not rise to the level of a notification incident, as banking organizations will need to determine whether the relevant thresholds for notification are met. Therefore, the agencies' estimated burden per notification incident takes into account the burden associated with such incidents.

The final rule also requires a bank service provider to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours.

B. Regulatory Flexibility Act

OCC: The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires an

[61] For purposes of these calculations, the agencies assume that the frequency is 1 response per respondent per year.

[62] The number of respondents for the reporting requirement is based on allocating the estimated 150 notification incidents among the agencies based on the percentage of entities supervised by each agency. The FDIC represents the majority of the banking organizations (64 percent), while the Board supervises approximately 21 percent of the banking organizations, with the OCC supervising the remaining 15 percent of banking organizations. The number of respondents for the disclosure requirement is based on an assumption of an approximately 2 percent per year frequency of incidents from 120,392 firms, which is divided equally among the OCC, FDIC, and Board. The number of 120,392 firms is the number of firms in the United States under NAICS code 5415 in 2018, the latest year for which such data is available. *See* U.S. Census Bureau, 2018 SUSB Annual Data Tables by Establishment Industry, *https://www.census.gov/data/tables/2018/econ/susb/2018-susb-annual.html* (last revised Aug. 27, 2021).

agency, in connection with a final rule, to prepare a Final Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the Small Business Administration (SBA)) for purposes of the RFA to include commercial banks and savings institutions with total assets of $600 million or less and trust companies with total assets of $41.5 million or less) or to certify that the final rule will not have a significant economic impact on a substantial number of small entities. The OCC currently supervises approximately 669 small entities.

Because the final rule impacts all OCC-supervised institutions, as well as all bank service providers, it will impact a substantial number of small entities. However, the expected costs of the final rule will be *de minimis.* Many banks already have internal policies for responding to security incidents, which include processes for notifying their primary regulator and other stakeholders of incidents within the scope of the final rule. Additionally, while the OCC believes bank service provider contracts may already include these provisions, if current contracts do not include these provisions, then the OCC does not expect the implementation of these provisions to impose a material burden on bank service providers. Therefore, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Board: The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of the rule on small entities.[63] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. For the reasons described below, the Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

As discussed in the **SUPPLEMENTARY INFORMATION** section, the agencies are requiring a banking organization to notify its primary Federal regulator as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred. The final rule will establish a notification requirement, which would support the safety and soundness of entities supervised by the agencies. The final rule requires a bank service provider, as defined in the rule, to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours.

The Board's rule applies to state-chartered banks that are members of the Federal Reserve System, bank holding companies, savings and loan holding companies, U.S. operations of foreign banking organizations, and Edge and agreement corporations (collectively, ''Board-regulated entities''). As described in the Impact Analysis section, requirements under the final rule will apply to all Board-regulated entities. Under regulations issued by the SBA, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $600 million or less and trust companies with total receipts of $41.5 million or less.[64] According to Call Reports and other Board reports, there were approximately 451 state member banks, 2,380 bank holding companies, 92 savings and loan holding companies, and 16 Edge and agreement corporations that are small entities.[65] In addition, the final rule affects all bank service providers that provide services subject to the BSCA.[66] The Board is unable to estimate the number of bank service providers that are small due to the varying types of banking organizations that may enter into outsourcing arrangements with bank service providers.

The final rule will require all banking organizations to notify the appropriate Board-designated point of contact about a notification incident through email, telephone, or other similar methods that the Board may prescribe. The Board must receive this notification from the banking organization as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred. The agencies estimate that, upon occurrence of a notification incident, an affected banking organization may incur compliance costs of up to three hours of staff time to coordinate internal communications, consult with its bank service provider, if appropriate, and notify the banking organization's primary Federal regulator. As described in the Impact Analysis section above, this requirement is estimated to affect a relatively small number of Board-regulated entities. The agencies believe that any compliance costs associated with the notice requirement would be *de minimis,* because the communications that led to the determination of the notification incident would have occurred regardless of the final rule.

The final rule will also require a bank service provider to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours. As described in the Impact Analysis section above, the agencies believe that any compliance costs associated with the implementation of this requirement would be *de minimis* for each affected bank service provider. There are no other recordkeeping, reporting, or compliance requirements associated with the final rule.

For the reasons stated above, the Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

FDIC: The RFA generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of the rule on small entities.[67] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBA has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.[68]

[63] 5 U.S.C. 601 *et seq.*

[64] As an example, the SBA defines a bank as small if it has $600 million or less in assets. *See* 13 CFR 121.201 (as amended by 84 FR 34261, effective August 19, 2019). In its determination, the SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates. *See* 13 CFR 121.103.

[65] State member bank data is derived from June 30, 2021 Call Reports. Data for bank holding companies and savings and loan holding companies are derived from the June 30, 2021, FR Y–9C and FR Y–9SP. Data for Edge and agreement corporations are derived from the December 31, 2020, FR–2886b.

[66] Discussed in detail in the Impact Analysis section.

[67] 5 U.S.C. 601 *et seq.*

[68] The SBA defines a small banking organization as having $600 million or less in assets, where an organization's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. *See* 13 CFR 121.201 (as amended by 84 FR 34261, effective August 19, 2019). In its determination, the SBA

Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. For the reasons described below, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

As described in the Impact Analysis section, the final rule is expected to affect all institutions supervised by the FDIC. According to recent Call Reports, the FDIC supervises 3,215 insured depository institutions (FDIC-supervised IDIs).[69] Of these, 2,333 FDIC-supervised IDIs would be considered small entities for the purposes of RFA.[70] These small entities hold approximately $510 billion in assets, accounting for 13 percent of total assets held by FDIC-supervised institutions. In addition, the final rule affects all bank service providers that provide services subject to the BSCA.[71] The FDIC is unable to estimate the number of affected bank service providers that are small. For purposes of this certification, the FDIC assumes, as an upper limit, that all affected bank service providers are small.

The final rule requires a banking organization to notify the appropriate FDIC supervisory office, or an FDIC-designated point of contact, about a notification incident through email, telephone, or other similar methods that the FDIC may prescribe. The FDIC must receive this notification from the banking organization as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred. As described in the Impact Analysis section above, this requirement is estimated to affect a relatively small number of FDIC-supervised institutions and impose a compliance cost of up to three hours per incident. The agencies believe that the regulatory burden of such a requirement would be *de minimis* in nature, since the internal communications that led to the determination of the notification incident would have occurred regardless of the final rule.[72]

In addition, the final rule will require a bank service provider to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours. As described in the Impact Analysis section above, the agencies believe that any additional compliance costs would be *de minimis* for each affected bank service provider.

Therefore, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. Riegle Community Development and Regulatory Improvement Act of 1994

Under section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[73] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[74] The agencies have determined that the final rule would impose additional reporting, disclosure, or other new requirements on IDIs, and are making this final rule effective in accordance with the requirements of the RCDRIA.

D. Congressional Review Act

For purposes of the Congressional Review Act (CRA), the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a ''major rule.''[75] If a rule is deemed a ''major rule'' by the OMB, the CRA generally provides that the rule may not take effect until at least 60 days following its publication.[76] The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or Local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[77]

The agencies will submit the final rule to the OMB for this major rule determination. As required by the Congressional Review Act, the agencies will also submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

E. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[78] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The agencies invited comment regarding the use of plain language, but did not receive any comments on this topic.

F. Unfunded Mandates Reform Act

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the final rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, adjusted for inflation (currently $158 million). As noted in the OCC's RFA discussion, the OCC expects that the costs associated with the final rule, if any, will be *de minimis* and, thus, has determined that this final rule will not result in expenditures by State, local, and Tribal governments, or the private sector, of $158 million or more

counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates. *See* 13 CFR 121.103. Following these regulations, the FDIC uses a banking organization's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the banking organization is ''small'' for the purposes of RFA.

[69] FDIC Call Reports, March 31, 2021.

[70] *Id.*

[71] Discussed in detail in the Impact Analysis section.

[72] Even at an elevated labor compensation rate of $200 per hour, the final rule would impose a cost burden of less than $600 per incident.

[73] 12 U.S.C. 4802(a).

[74] *Id.* at 4802(b).

[75] 5 U.S.C. 801 *et seq.*

[76] 5 U.S.C. 801(a)(3).

[77] 5 U.S.C. 804(2).

[78] 12 U.S.C. 4809.

in any one year. Accordingly, the OCC has not prepared a written statement to accompany this final rule.

Agency Regulation

List of Subjects

12 CFR Part 53

Administrative practice and procedure, Federal savings associations, National banks, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 225

Administrative practice and procedure, Bank holding companies, Banking, Edge and agreement corporations, Foreign banking organizations, Nonbank financial companies, Reporting and recordkeeping requirements, Safety and soundness, Savings and loan holding companies, State member banks.

12 CFR Part 304

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Freedom of information, Reporting and recordkeeping requirements, Safety and soundness.

Authority and Issuance—OCC

For the reasons stated in the Common Preamble and under the authority of 12 U.S.C. 1, 93a, 161, 481, 1463, 1464, 1861–1867, and 3102, the Office of the Comptroller of the Currency amends chapter I of title 12, Code of Federal Regulations, as follows:

■ 1. Part 53 is added to read as follows:

PART 53—COMPUTER-SECURITY INCIDENT NOTIFICATION

Sec.

Authority: 12 U.S.C. 1, 93a, 161, 481, 1463, 1464, 1861–1867, and 3102.

§ 53.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the authority of 12 U.S.C. 1, 93a, 161, 481, 1463, 1464, 1861–1867, and 3102.

(b) *Purpose.* This part promotes the timely notification of computer-security incidents that may materially and adversely affect Office of the Comptroller of the Currency (OCC)-supervised institutions.

(c) *Scope.* This part applies to all national banks, Federal savings associations, and Federal branches and agencies of foreign banks. This part also applies to their bank service providers as defined in § 53.2(b)(2).

§ 53.2 Definitions.

(a) Except as modified in this part, or unless the context otherwise requires, the terms used in this part have the same meanings as set forth in 12 U.S.C. 1813.

(b) For purposes of this part, the following definitions apply.

(1) *Banking organization* means a national bank, Federal savings association, or Federal branch or agency of a foreign bank; provided, however, that no designated financial market utility shall be considered a banking organization.

(2) *Bank service provider* means a bank service company or other person that performs covered services; provided, however, that no designated financial market utility shall be considered a bank service provider.

(3) *Business line* means a product or service offered by a banking organization to serve its customers or support other business needs.

(4) *Computer-security incident* is an occurrence that results in actual harm to the confidentiality, integrity, or availability of an information system or the information that the system processes, stores, or transmits.

(5) *Covered services* are services performed, by a person, that are subject to the Bank Service Company Act (12 U.S.C. 1861–1867).

(6) *Designated financial market utility* has the same meaning as set forth at 12 U.S.C. 5462(4).

(7) *Notification incident* is a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, a banking organization's—

(i) Ability to carry out banking operations, activities, or processes, or deliver banking products and services to a material portion of its customer base, in the ordinary course of business;

(ii) Business line(s), including associated operations, services, functions, and support, that upon failure would result in a material loss of revenue, profit, or franchise value; or

(iii) Operations, including associated services, functions and support, as applicable, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

(8) *Person* has the same meaning as set forth at 12 U.S.C. 1817(j)(8)(A).

§ 53.3 Notification.

A banking organization must notify the appropriate OCC supervisory office, or OCC-designated point of contact, about a notification incident through email, telephone, or other similar methods that the OCC may prescribe. The OCC must receive this notification from the banking organization as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred.

§ 53.4 Bank service provider notification.

(a) A bank service provider is required to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours.

(1) A bank-designated point of contact is an email address, phone number, or any other contact(s), previously provided to the bank service provider by the banking organization customer.

(2) If the banking organization customer has not previously provided a bank-designated point of contact, such notification shall be made to the Chief Executive Officer and Chief Information Officer of the banking organization customer, or two individuals of comparable responsibilities, through any reasonable means.

(b) The notification requirement in paragraph (a) of this section does not apply to any scheduled maintenance, testing, or software update previously communicated to a banking organization customer.

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Authority and Issuance

For the reasons stated in the Common Preamble and under the authority of 12 U.S.C. 321–338a, 1467a(g), 1818(b), 1844(b), 1861–1867, and 3101 *et seq.,* the Board amends chapter II of title 12, Code of Federal Regulations, as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 2. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

■ 3. Subpart N is added to read as follows:

Subpart N—Computer-Security Incident Notification

Sec.

Subpart N—Computer-Security Incident Notification

§ 225.300 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued under the authority of 12 U.S.C. 1, 321–338a, 1467a(g), 1818(b), 1844(b), 1861–1867, and 3101 *et seq.*

(b) *Purpose.* This subpart promotes the timely notification of computer-security incidents that may materially and adversely affect Board-supervised entities.

(c) *Scope.* This subpart applies to all U.S. bank holding companies and savings and loan holding companies; state member banks; the U.S. operations of foreign banking organizations; and Edge and agreement corporations. This subpart also applies to their bank service providers, as defined in § 225.301(b)(2).

§ 225.301 Definitions.

(a) Except as modified in this subpart, or unless the context otherwise requires, the terms used in this subpart have the same meanings as set forth in 12 U.S.C. 1813.

(b) For purposes of this subpart, the following definitions apply.

(1) *Banking organization* means a U.S. bank holding company; U.S. savings and loan holding company; state member bank; the U.S. operations of foreign banking organizations; and an Edge or agreement corporation; provided, however, that no designated financial market utility shall be considered a banking organization.

(2) *Bank service provider* means a bank service company or other person that performs covered services; provided, however, that no designated financial market utility shall be considered a bank service provider.

(3) *Business line* means a product or service offered by a banking organization to serve its customers or support other business needs.

(4) *Computer-security incident* is an occurrence that results in actual harm to the confidentiality, integrity, or availability of an information system or the information that the system processes, stores, or transmits.

(5) *Covered services* are services performed, by a person, that are subject to the Bank Service Company Act (12 U.S.C. 1861–1867).

(6) *Designated financial market utility* has the same meaning as set forth at 12 U.S.C. 5462(4).

(7) *Notification incident* is a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, a banking organization's—

(i) Ability to carry out banking operations, activities, or processes, or deliver banking products and services to a material portion of its customer base, in the ordinary course of business;

(ii) Business line(s), including associated operations, services, functions, and support, that upon failure would result in a material loss of revenue, profit, or franchise value; or

(iii) Operations, including associated services, functions and support, as applicable, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

(8) *Person* has the same meaning as set forth at 12 U.S.C. 1817(j)(8)(A).

§ 225.302 Notification.

A banking organization must notify the appropriate Board-designated point of contact about a notification incident through email, telephone, or other similar methods that the Board may prescribe. The Board must receive this notification from the banking organization as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred.

§ 225.303 Bank service provider notification.

(a) A bank service provider is required to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours.

(1) A bank-designated point of contact is an email address, phone number, or any other contact(s), previously provided to the bank service provider by the banking organization customer.

(2) If the banking organization customer has not previously provided a bank-designated point of contact, such notification shall be made to the Chief Executive Officer and Chief Information Officer of the banking organization customer, or two individuals of comparable responsibilities, through any reasonable means.

(b) The notification requirement in paragraph (a) of this section does not apply to any scheduled maintenance, testing, or software update previously communicated to a banking organization customer.

FEDERAL DEPOSIT INSURANCE CORPORATION

Authority and Issuance

For the reasons stated in the Common Preamble, and under the authority of 12 U.S.C. 1463, 1811, 1813, 1817, 1819, and 1861–1867, the FDIC amends 12 CFR part 304 as follows:

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

■ 4. Revise the authority citation for part 304 to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 1463, 1464, 1811, 1813, 1817, 1819, 1831, and 1861–1867.

■ 5. Revise § 304.1 to read as follows:

§ 304.1 Purpose.

This subpart informs the public where it may obtain forms and instructions for reports, applications, and other submittals used by the Federal Deposit Insurance Corporation (FDIC), and describes certain forms that are not described elsewhere in FDIC regulations in this chapter.

§§ 304.15 through 304.20 [Added and Reserved]

■ 6. Add reserve §§ 304.15 through 304.20.

■ 7. Add subpart C to read as follows:

Subpart C—Computer-Security Incident Notification

Subpart C—Computer-Security Incident Notification

§ 304.21 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued under the authority of 12 U.S.C. 1463, 1811, 1813, 1817, 1819, and 1861–1867.

(b) *Purpose.* This subpart promotes the timely notification of computer-security incidents that may materially and adversely affect FDIC-supervised institutions.

(c) *Scope.* This subpart applies to all insured state nonmember banks, insured state licensed branches of foreign banks, and insured State savings associations. This subpart also applies to bank service providers, as defined in § 304.22(b)(2).

§ 304.22 Definitions.

(a) Except as modified in this subpart, or unless the context otherwise requires, the terms used in this subpart have the same meanings as set forth in 12 U.S.C. 1813.

(b) For purposes of this subpart, the following definitions apply.

(1) *Banking organization* means an FDIC-supervised insured depository institution, including all insured state nonmember banks, insured state-licensed branches of foreign banks, and insured State savings associations; provided, however, that no designated financial market utility shall be considered a banking organization.

(2) *Bank service provider* means a bank service company or other person that performs covered services; provided, however, that no designated financial market utility shall be considered a bank service provider.

(3) *Business line* means a product or service offered by a banking organization to serve its customers or support other business needs.

(4) *Computer-security incident* is an occurrence that results in actual harm to the confidentiality, integrity, or availability of an information system or the information that the system processes, stores, or transmits.

(5) *Covered services* are services performed, by a person, that are subject to the Bank Service Company Act (12 U.S.C. 1861–1867).

(6) *Designated financial market utility* has the same meaning as set forth at 12 U.S.C. 5462(4).

(7) *Notification incident* is a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, a banking organization's—

(i) Ability to carry out banking operations, activities, or processes, or deliver banking products and services to a material portion of its customer base, in the ordinary course of business;

(ii) Business line(s), including associated operations, services, functions, and support, that upon failure would result in a material loss of revenue, profit, or franchise value; or

(iii) Operations, including associated services, functions and support, as applicable, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

(8) *Person* has the same meaning as set forth at 12 U.S.C. 1817(j)(8)(A).

§ 304.23 Notification.

A banking organization must notify the appropriate FDIC supervisory office, or an FDIC-designated point of contact, about a notification incident through email, telephone, or other similar methods that the FDIC may prescribe. The FDIC must receive this notification from the banking organization as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred.

§ 304.24 Bank service provider notification.

(a) A bank service provider is required to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours.

(1) A bank-designated point of contact is an email address, phone number, or any other contact(s), previously provided to the bank service provider by the banking organization customer.

(2) If the banking organization customer has not previously provided a bank-designated point of contact, such notification shall be made to the Chief Executive Officer and Chief Information Officer of the banking organization customer, or two individuals of comparable responsibilities, through any reasonable means.

(b) The notification requirement in paragraph (a) of this section does not apply to any scheduled maintenance, testing, or software update previously communicated to a banking organization customer.

§§ 304.25–304.30 [Reserved]

Michael J. Hsu,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on November 17, 2021.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–25510 Filed 11–22–21; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0661; Project Identifier AD–2020–01349–E; Amendment 39–21792; AD 2021–22–19]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2011–07–02 for all Pratt & Whitney (P&W) JT8D–209, JT8D–217, JT8D–217A, JT8D–217C, and JT8D–219 model turbofan engines. AD 2011–07–02 required initial and repetitive torque inspections of the 3rd-stage and 4th-stage low-pressure turbine (LPT) blades. AD 2011–07–02 also required replacement of the LPT blade if wear limits are exceeded, replacement of the LPT-to-exhaust case bolts and nuts, and installation of crushable sleeve spacers on the bolts. This AD was prompted by a report of an MD–82 airplane, equipped with a JT8D–217C model turbofan engine, experiencing an engine surge that resulted in the fracture of the LPT blade and uncontained release of the LPT blade. This AD retains certain requirements of AD 2011–07–02, while revising the inspection thresholds and replacement intervals for the 3rd-stage and 4th-stage LPT blades. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 28, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 28, 2021.

ADDRESSES: For service information identified in this final rule, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *https://fleetcare.prattwhitney.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0661.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0661; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nicholas Paine, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7116; fax: (781) 238–7199; email: *nicholas.j.paine@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–07–02, Amendment 39–16639 (76 FR 16526, March 24, 2011), (AD 2011–07–02). AD 2011–07–02 applied to all P&W JT8D–209, JT8D–217, JT8D–217A, JT8D–217C, and JT8D–219 model turbofan engines. The NPRM published in the **Federal Register** on August 27, 2021 (86 FR 48080). The NPRM was prompted by a report of an MD–82 airplane, equipped with JT8D–217C model turbofan engines that, on approach to Taipei Songshan Airport, experienced an engine surge on the number one engine resulting in LPT blade fracture and uncontained LPT blade failure. An inspection by the manufacturer determined that this event was caused by shroud notch wear of the LPT blades, which led to changes in the vibration mode and subsequent high-cycle fatigue of the airfoil. In addition to this event, the FAA received reports of five events that involved uncontained failure of the LPT blades on the affected engines. Based on its investigation of these events, P&W determined that revised or more restrictive inspection thresholds and replacement intervals of the 3rd-stage and 4th-stage LPT blades are necessary and revised its service information accordingly. In the NPRM, the FAA proposed to require an initial torque inspection of certain 3rd-stage LPT blades and repetitive torque inspections of 4th-stage LPT blades for shroud notch wear at revised inspection thresholds and intervals. In the NPRM, the FAA also proposed to require replacement of the 3rd-stage and 4th-stage LPT blades before accumulating 5,000 hours time-in-service.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from one commenter. The Boeing Company supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pratt & Whitney Alert Service Bulletin (ASB) No. JT8D A6224, Revision No. 7, dated August 26, 2019. This service information specifies procedures for the initial and repetitive torque inspections of the 3rd-stage and 4th-stage LPT blades for shroud notch wear at revised inspection thresholds and intervals. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Other Related Service Information

The FAA reviewed Pratt & Whitney ASB No. JT8D A6494, Revision No. 1, dated January 26, 2010, Pratt & Whitney ASB JT8D A6507, dated November 2, 2020, and Sections 72–53–12 through 72–53–13 of Pratt & Whitney Engine Maintenance Manual (EMM), Part No. 773128, Revision 107, dated October 15, 2020. Pratt & Whitney ASB No. JT8D A6494, Revision No. 1, dated January 26, 2010, describes procedures for replacing the LPT-to-exhaust case bolts and nuts and installing the crushable sleeve spacers. Pratt & Whitney ASB JT8D A6507, dated November 2, 2020, describes procedures for replacing the 3rd-stage and 4th-stage LPT blades. Sections 72–53–12 through 72–53–13 of Pratt & Whitney EMM, Part No. 773128, Revision 107, dated October 15, 2020, describe procedures for inspecting and repairing the 3rd-stage and 4th-stage LPT blades.

Costs of Compliance

The FAA estimates that this AD affects 42 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect 3rd-stage and 4th-stage LPT blades	1 work-hour × $85 per hour = $85	$0	$85	$3,570
Replace 3rd-stage and 4th-stage LPT blades	150 work-hours × $85 per hour = $12,750	350,000	362,750	15,235,500
Replace the LPT-to-exhaust case bolts and nuts and install the crushable sleeve spacers.	1.5 work-hours × $85 per hour = 127.50	4,576	4,703.50	197,547

Authority for This Rulemaking

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

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

Regulatory Findings

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

power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive AD 2011–07–02, Amendment 39–16639 (76 FR 16526, March 24, 2011); and

■ b. Adding the following new airworthiness directive:

2021–22–19 Pratt & Whitney: Amendment 39–21792; Docket No. FAA–2021–0661; Project Identifier AD–2020–01349–E.

(a) Effective Date

This airworthiness directive (AD) is effective December 28, 2021.

(b) Affected ADs

This AD replaces AD 2011–07–02, Amendment 39–16639 (76 FR 16526, March 24, 2011).

(c) Applicability

This AD applies to Pratt & Whitney (P&W) JT8D–209, JT8D–217, JT8D–217A, JT8D–217C, and JT8D–219 model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by a report of an MD–82 airplane, equipped with a JT8D–217C model turbofan engine, experiencing an engine surge that resulted in the fracture of the low-pressure turbine (LPT) blade and uncontained release of the LPT blade. Five prior uncontained LPT blade failures were also reported on affected model turbofan engines. The FAA is issuing this AD to prevent LPT blade fracture and uncontained release of the LPT blade. The unsafe condition, if not addressed, could result in uncontained engine debris, damage to the engine, and damage to the aircraft.

(f) Compliance

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

(g) Required Actions

(1) For JT8D–209, JT8D–217, and JT8D–217A model turbofan engines, within the compliance times specified in the Accomplishment Instructions, Part 1: JT8D–209, –217, –217A Engines (Part 1), paragraph 1.A., of P&W Alert Service Bulletin No. JT8D A6224, Revision No. 7, dated August 26, 2019 (the ASB), perform an initial torque inspection for shroud notch wear of the 3rd-stage LPT blades using the procedures in Part 1, paragraph 1, of the ASB.

(i) Thereafter, within the applicable reinspection interval specified in Table 1—Reinspection Interval for all 3rd Stage Blades, of the ASB, repeat the torque inspection for shroud notch wear required by paragraph (g)(1) of this AD.

(ii) If the results of the torque inspection required by paragraphs (g)(1) or (g)(1)(i) of this AD meet the criteria for engine removal specified in Table 1—Reinspection Interval for all 3rd Stage Blades, of the ASB, perform piece-part inspections in accordance with the Instructions for Continued Airworthiness (ICA) on all 3rd-stage LPT blades before exceeding 20 hours time-in-service (TIS) since the last torque inspection.

(2) For JT8D–209, JT8D–217, and JT8D–217A model turbofan engines, within the compliance times specified in Table A or Table B, of the ASB, as applicable, perform an initial torque inspection for shroud notch wear of the 4th-stage LPT blades using the procedures in Part 1, paragraph 1, of the ASB. Wherever the ASB refers to ''Revision 7 Release Date'' and ''At SB Release Date,'' use the effective date of this AD.

(i) For engines in which the last inspection prior to the effective date of this AD had a torque inspection result of less than 15 LB–IN on any 4th-stage LPT blade, perform piece-part inspections in accordance with the ICA on all 3rd-stage and 4th-stage LPT blades within 20 hours TIS after the effective date of this AD.

(ii) Thereafter, within the applicable reinspection interval specified in Table 2—Reinspection Interval for all 4th Stage Blades, of the ASB, repeat the torque inspection for shroud notch wear required by paragraph (g)(2) of this AD.

(iii) If the results of the torque inspection required by paragraphs (g)(2) or (g)(2)(ii) of this AD meet the criteria for engine removal specified in Table 2—Reinspection Interval for all 4th Stage Blades, of the ASB, perform piece-part inspections in accordance with the ICA on all 3rd-stage and 4th-stage LPT blades before exceeding 20 hours TIS since the last torque inspection.

(3) For JT8D–217C and JT8D–219 model turbofan engines, within the compliance times specified in Table A or Table B, of the ASB, as applicable, perform an initial torque inspection for shroud notch wear of the 4th-stage LPT blades using the procedures in the Accomplishment Instructions, Part 2: JT8D–217C, –219 Engines (Part 2), paragraph 1, of the ASB. Wherever the ASB refers to ''Revision 7 Release Date'' and ''At SB Release Date,'' use the effective date of this AD.

(i) For engines in which the last inspection prior to the effective date of this AD had a torque inspection result of less than 15 LB–IN on any 4th-stage LPT blade, perform piece-part inspections in accordance with the ICA on all 3rd-stage and 4th-stage LPT blades within 20 hours TIS after the effective date of this AD.

(ii) Thereafter, within the reinspection interval specified in Table 3—Reinspection Interval for all 4th Stage Blades, of the ASB, repeat the torque inspection for shroud notch wear required by paragraph (g)(3) of this AD.

(iii) If the results of the torque inspection required by paragraph (g)(3) and (g)(3)(ii) of this AD meet the criteria for engine removal specified in Table 3—Reinspection Interval for all 4th Stage Blades, of the ASB, perform piece-part inspections in accordance with the ICA on all 3rd-stage and 4th-stage LPT blades before exceeding 20 hours TIS since the last torque inspection.

(4) At the first engine shop visit after January 1, 2023, or prior to accumulating 5,000 TIS on the 3rd-stage and 4th-stage LPT blades, whichever occurs later, but not to exceed 6 years after the effective date of the AD, replace the 3rd-stage and 4th-stage LPT blades with parts eligible for installation.

(5) Thereafter, prior to accumulating 5,000 hours TIS on the 3rd-stage and 4th-stage LPT blades since their last replacement, replace the 3rd-stage and 4th-stage LPT blades with parts eligible for installation.

(6) After every replacement of the 3rd-stage or 4th-stage LPT blades, perform initial and repetitive torque inspections of the 3rd-stage or 4th-stage LPT blades using, as applicable, the accomplishment instructions and compliance times in Part 1, paragraph 1, or Part 2, paragraph 1, of the ASB.

(i) If the results of the torque inspection required by paragraph (g)(6) of this AD meet the criteria for engine removal specified in Table 1, 2 or 3, of the ASB, as applicable, perform piece-part inspections in accordance with the ICA on all 3rd-stage and 4th-stage LPT blades before exceeding 20 hours TIS since the last torque inspection.

(ii) [Reserved]

(7) The initial inspection or the reinspection interval should not be reset unless the blades are refurbished. Whenever a used blade is reinstalled in a rotor, the previous used time should be subtracted from the initial inspection threshold.

(8) Whenever a refurbished or used blade is intermixed with zero hours time-since-new (TSN) blades in a rotor, use the lowest initial inspection threshold that is applicable.

(9) At the next accessibility to the LPT-to-exhaust case bolts and nuts after the effective date of this AD, do the following:

(i) Replace the bolts with part number (P/N) MS9557–26 bolts;

(ii) Replace the nuts with P/N 375095 nuts or P/N 490270 nuts; and

(iii) Install crushable sleeve spacers, P/N 822903, under the head of the bolts.

Note 1 to paragraph (g): Guidance on replacing the 3rd-stage and 4th-stage LPT blades can be found in P&W ASB JT8D A6507, dated November 2, 2020.

Note 2 to paragraph (g): Guidance on replacing the LPT-to-exhaust case bolts and nuts and installing the crushable sleeve spacers can be found in P&W ASB No. JT8D A6494, Revision No. 1, dated January 26, 2010.

(h) Definitions

For the purpose of this AD:

(1) An ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(2) Accessibility to the LPT-to-exhaust case bolts refers to maintenance involving the inner turbine fan ducts being removed from the engine.

(3) Parts eligible for installation are 3rd-stage or 4th-stage LPT blades with less than 5,000 hours TIS.

(4) A ''piece-part inspection'' is when the blades are removed from the rotor.

(5) A ''used blade'' refers to a 3rd-stage or 4th-stage LPT blade that has more than zero hours TSN.

(i) Credit for Previous Actions

You may take credit for any initial torque inspection for shroud notch wear required by paragraphs (g)(1) through (3) of this AD if you performed the initial inspection before the effective date of this AD using P&W ASB No. JT8D A6224, Revision No. 5, dated June 11, 2004, or Revision No. 6, dated May 3, 2007.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Nicholas Paine, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7116; fax: (781) 238–7199; email: *nicholas.j.paine@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Pratt & Whitney Alert Service Bulletin No. JT8D A6224, Revision No. 7, dated August 26, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *https://fleetcare.prattwhitney.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

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

Issued on October 21, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–25500 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0273; Project Identifier AD–2021–00050–E; Amendment 39–21765; AD 2021–21–05]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all General Electric Company (GE) GEnx–1B64, GEnx–1B64/P1, GEnx–1B64/P2, GEnx–1B67, GEnx–1B67/P1, GEnx–1B67/P2, GEnx–1B70, GEnx–1B70/75/P1, GEnx–1B70/75/P2, GEnx–1B70/P1, GEnx–1B70/P2, GEnx–1B70C/P1, GEnx–1B70C/P2, GEnx–1B74/75/P1, GEnx–1B74/75/P2, GEnx–1B76/P2, GEnx–1B76A/P2, GEnx–2B67, GEnx–2B67/P, and GEnx–2B67B model turbofan engines. This AD was prompted by an in-service occurrence of loss of engine thrust control resulting in uncommanded high thrust. This AD requires revising the operator's existing FAA-approved minimum equipment list (MEL) by incorporating into the MEL the dispatch restrictions listed in this AD. This AD also requires initial and repetitive replacement of the electronic engine control (EEC) MN4 microprocessor. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 28, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 28, 2021.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ae.ge.com;* website: *www.ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0273.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0273; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; fax: (781) 238–7199; email: *Mehdi.Lamnyi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all GE GEnx–1B64, GEnx–1B64/P1, GEnx–1B64/P2, GEnx–1B67, GEnx–1B67/P1, GEnx–1B67/P2, GEnx–1B70, GEnx–1B70/75/P1, GEnx–1B70/75/P2, GEnx–1B70/P1, GEnx–1B70/P2, GEnx–1B70C/P1, GEnx–1B70C/P2, GEnx–1B74/75/P1, GEnx–1B74/75/P2, GEnx–1B76/P2, GEnx–1B76A/P2, GEnx–2B67, GEnx–2B67/P, and GEnx–2B67B model turbofan engines. The NPRM published in the **Federal**

Register on April 16, 2021 (86 FR 20094). The NPRM was prompted by a report from the manufacturer of an in-service loss of engine thrust control on a GE90–115B model turbofan engine on October 27, 2019, that resulted in uncommanded high thrust. Analysis by the manufacturer found accumulated thermal cycles of the MN4 integrated circuit in the EEC, through normal operation, causes the solder ball joints to wear out and eventually fail over time. Since the GE90 and the GEnx model turbofan engines share the same EEC hardware and experience similar thermal and vibratory environments, the manufacturer determined that GEnx model turbofan engines are susceptible to the same type of failure. In the NPRM, the FAA proposed to require revising the existing operator's FAA-approved MEL by incorporating into the MEL the dispatch restrictions listed in paragraph (g) of this AD. In the NPRM, the FAA also proposed to require initial and repetitive replacement of the EEC MN4 microprocessor using an approved overhaul procedure. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from nine commenters. The commenters were Air Line Pilots Association, International (ALPA), Japan Airlines, American Airlines (American), Cathay Pacific Airways (Cathay Pacific), Jetstar Airways (Jetstar), GE, The Boeing Company (Boeing), United Airlines Engineering (UAL Engineering), and United Parcel Service (UPS). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Require a Revision to the Master Minimum Equipment List

ALPA and Japan Airlines suggested that the FAA modify paragraph (g) of the NPRM to require a revision to the master minimum equipment list (MMEL), similar to that required for the operator's FAA-approved MEL. ALPA stated that while revising each operator's FAA-approved MEL would be required, the NPRM does not mention revision of the MMEL through either the Flight Operations Evaluation Board or the Aircraft Evaluation Group process. Japan Airlines reasoned that when the dispatch restriction is necessary, it should be specified in the MMEL, not only in the operator's FAA-approved MEL.

The FAA disagrees. The FAA does not plan to require the requested change to the MMEL because the required change to the MEL is an interim action. The design approval holder is working on a terminating action to correct the unsafe condition. The FAA did not change this AD as a result of this comment.

Request To Clarify the Compliance for Central Maintenance Computing Function

Japan Airlines requested that the FAA clarify which function within the Central Maintenance Computing Function (CMCF) operators should use to check for the engine indicating and crew alerting system (EICAS) and maintenance message. Japan Airlines stated that Figure 1 to paragraph (g)(1) of the NPRM does not clearly specify whether the CMCF Existing Fault function is the only function that needs to be checked or if other CMCF functions also need to be checked.

The FAA disagrees with the need to clarify Figure 1 to paragraph (g)(1) of this AD to indicate which function within the CMCF operators should use to check for EICAS and maintenance messages. The FAA notes that operators should follow the procedures in their approved fault isolation manuals when checking for faults. The FAA did not change this AD as a result of this comment.

Request To Change Compliance To Include Main Channel Board

American suggested that the FAA change paragraph (g)(3) of the NPRM from ''replace the EEC MN4 microprocessor'' to ''replace the EEC MN4 microprocessor or main channel board (MCB).'' American reasoned that they have had to replace the MCB during EEC MN4 microprocessor repairs due to unrelated findings. American also stated that this change would allow such instances to take credit for satisfying the AD, which seems to align with the intention of the NPRM based on the proposed requirements specified in paragraph (i) of the NPRM.

The FAA acknowledges that the EEC MN4 microprocessor can be replaced with a new one as a piece part, part of the MCB, or part of the EEC for compliance with paragraph (g)(3) of this AD. The FAA does not find it necessary to change this AD to reference replacement of the MCB.

Request To Clarify Soft Time Cycles of Revised Service Information

American commented that R02 of GE GEnx–1B Service Bulletin (SB) 73–0097, dated May 17, 2021 (GEnx–1B SB 73–0097), and GE GEnx–2B SB 73–0090, dated May 20, 2021 (GEnx–2B SB 73–0090) include a new ''soft time'' requirement of 9,500 cycles that should be attained before the EEC MN4 microprocessor be replaced. American requested that if the FAA incorporated R02 of these SBs in its AD, the FAA should explicitly state that replacement of EEC MN4 microprocessor after the soft time of 9,500 cycles is not part of the AD requirements. American commented that this would allow for instances where the EEC MN4 microprocessor or MCB was replaced prior to the soft time.

This AD requires replacing the EEC MN4 microprocessor at intervals not to exceed 11,000 cycles since new (CSN) or cycles since last replacement. The recommended soft time of 9,500 CSN prior to replacing the EEC MN4 microprocessor specified in R02 of GE GEnx–1B SB 73–0097 and GEnx–2B SB 73–0090, is not mandated by this AD. The FAA did not change this AD as a result of this comment.

Request To Change Compliance To Allow Dispatch per MMEL

Cathay Pacific commented that Figure 2 to paragraph (g)(2) of the NPRM should specify that dispatch is allowed per the MMEL or dispatch deviation guide (DDG).

The FAA disagrees. After this AD is effective, if any of the fault combinations defined in Figure 2 to paragraph (g)(2) of this AD are present, then dispatch is prohibited, notwithstanding the provisions of the MEL and the DDG. The FAA did not change this AD as a result of this comment.

Request To Revise or Remove Installation Prohibition

Cathay Pacific, GE, and Jetstar suggested revision or removal of paragraph (i), Installation Prohibition, of the NPRM that prohibits installation onto any engine an EEC with an MCB that was subject to more than three replacements of the EEC MN4 microprocessor. GE suggested removing the Installation Prohibition altogether. Jetstar questioned the need to include the Installation Prohibition in paragraph (h), Definition, which defines an approved overhaul procedure. Cathay Pacific suggested revising this paragraph to ''do not install an EEC without compliance of the GE SB 73–0097/SB 73–0090.'' Jetstar stated that the EEC MN4 microprocessor replacement is managed by the original equipment manufacturer's (OEM) internal maintenance procedures, and operators do not have visibility into the number

of replacements that have been performed.

As stated by the commenters, the EEC MN4 microprocessor replacement is managed by the OEM's internal maintenance procedures and, therefore, not necessary in this AD. The FAA has removed the Installation Prohibition from this AD.

Request To Revise Compliance Time

GE recommended that the FAA revise the compliance time in paragraph (g) of the NPRM to account for situations in which cycles accumulated on the EEC MN4 microprocessor cannot be determined through operator maintenance logs or FADEC International shop visit reports. GE proposed that, for these situations, the compliance time allow for replacing the EEC MN4 microprocessor after 12 years since EEC entry into service (EIS) for GEnx–1B model turbofan engines and 14 years since EEC EIS for GEnx–2B model turbofan engines.

The FAA agrees. The commenter's recommended replacement time of 12 years and 14 years since EEC EIS for GEnx–1B and GEnx–2B model turbofan engines, respectively, is based on the average yearly utilization of those engines with an added margin to account for higher utilization engines. The FAA revised paragraph (g)(3) of this AD to require replacement of the EEC MN4 microprocessor at the compliance times noted by GE when cycles accumulated on the EEC MN4 microprocessor cannot be determined. This change to this AD imposes no additional burden on operators.

Request To Update Service Information Revision

GE recommended that the FAA contact GE before publication of this final rule to update the service bulletin references. GE commented that, at the time of its comment, the latest issued service bulletins are GEnx–1B SB 73–0097 R02, dated May 17, 2021, and GEnx–2B SB 73–0090 R02, dated May 20, 2021.

The FAA has updated this AD to reference GEnx–1B SB 73–0097 R02, dated May 17, 2021, and GEnx–2B SB 73–0090 R03, dated August 18, 2021. This change does not affect the instructions for replacing the EEC MN4 microprocessor and places no additional burden on operators.

Request To Clarify Dispatch Restrictions

Boeing requested that the FAA update Figure 1 to paragraph (g)(1) of the NPRM to indicate ''Prior to each flight with EICAS Message ENG EEC C1 X, check for the fault combinations in the table.'' Boeing also requested that the FAA update Figure 2 to paragraph (g)(2) of the NPRM to indicate ''Prior to each flight with EICAS Message ENG X EEC C1, check for the fault combinations in the table.'' Boeing noted that dispatch is allowed with the ENG EEC C1 L(R) status message for the time specified in the MMEL, which may encompass several flights. Boeing noted that new faults could arise during MMEL dispatch. Boeing concluded that the NPRM should clarify that the inspection for the underlying fault messages should be accomplished prior to each flight.

The FAA agrees to clarify the AD requirement for operators to check for fault combinations prior to each flight. The FAA updated Figure 1 to paragraph (g)(1) of this AD by adding ''Prior to each flight with engine indicating and crew alerting system (EICAS) Message ''ENG EEC C1 X'' (where ''X'' is engine position: ''L'' or ''R''), check for faults.'' The FAA updated Figure 2 to paragraph (g)(2) of this AD by adding ''Prior to each flight with engine indicating and crew alerting system (EICAS) Message ''ENG X EEC C1'' (where ''X'' is engine position: ''1,'' ''2,'' ''3,'' or ''4''), check for faults.''

Request To Add Additional Fault Codes

Boeing requested that the FAA revise Figure 2 to paragraph (g)(2) of the NPRM to add maintenance messages 7X963 (CH A) and 7X964 (CH B). Boeing reasoned that the TLA out of range fault is identified by different fault codes in a new version of the maintenance computer software. Boeing noted that adding the new fault codes would cover the eventual release of the new fault codes.

The FAA agrees. The FAA revised Figure 2 to paragraph (g)(2) of this AD by adding ''OR 7X963 (CH-A)'' and ''OR 7X964 (CH-B).''

Request To Revise Effectivity of EEC Replacement

UAL Engineering requested that the FAA update paragraph (c), Applicability, of the NPRM to reference GE GEnx–1B SB 73–0097 for EEC part number (P/N) applicability.

The FAA disagrees. All EEC P/Ns currently installed on affected GEnx–1B and GEnx–2B model turbofan engines are susceptible to the unsafe condition addressed by this AD. The FAA did not change this AD as a result of this comment.

Request Allowance To Accomplish a Manual Review for Maintenance Messages

UPS requested the FAA revise the NPRM to allow for the accomplishment of a manual review to inspect for any correlated maintenance messages on the flight leg in which the C1 fault was present in the event that an EEC C1 EICAS message is displayed without a correlated fault in the central maintenance computer (CMC). UPS reasoned that both Boeing and GE have confirmed that six maintenance messages (7x310, 7x311, 7x312, 7x069, 7x071, and 7x073) correlate to C1 faults for which the cockpit CMC screen will not show a correlation.

The FAA agrees that six maintenance messages correlate to EICAS Message ''ENG EEC C1,'' but do not show a correlation to ''ENG EEC C1'' in the cockpit CMC screen. The CMC maintenance software lacks the capability to correlate those six maintenance messages, and currently the only available method for correlating those six maintenance messages is by performing a manual review. The FAA disagrees, however, with changing this AD, as the method for establishing correlation is not prescribed in this AD.

Support for the AD

ALPA, Jetstar, UAL Engineering, and American expressed support for the proposed rule with the comments previously discussed.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE GEnx–1B Service Bulletin (SB) 73–0097 R02, dated May 17, 2021, R01, dated January 29, 2021, and R00, dated December 17, 2020; and GE GEnx–2B SB 73–0090 R03, dated August 18, 2021, R02, dated May 20, 2021, R01, dated January 28, 2021, and R00, dated December 17, 2020. This service information specifies procedures for replacing the EEC MN4 microprocessor on GEnx–1B and GEnx–2B model turbofan engines, as applicable. This service information is

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

Interim Action

The FAA considers this AD to be an interim action. If final action is later identified, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD affects 308 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise operator's FAA-approved MEL	1 work-hour × $85 per hour = $85	$0	$85	$26,180
Replace EEC MN4 microprocessor	1 work-hour × $85 per hour = $85	25,200	25,285	7,787,780

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–21–05 General Electric Company: Amendment 39–21765; Docket No. FAA–2021–0273; Project Identifier AD–2021–00050–E.

(a) Effective Date

This airworthiness directive (AD) is effective December 28, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) GEnx–1B64, GEnx–1B64/P1, GEnx–1B64/P2, GEnx–1B67, GEnx–1B67/P1, GEnx–1B67/P2, GEnx–1B70, GEnx–1B70/75/P1, GEnx–1B70/75/P2, GEnx–1B70/P1, GEnx–1B70/P2, GEnx–1B70C/P1, GEnx–1B70C/P2, GEnx–1B74/75/P1, GEnx–1B74/75/P2, GEnx–1B76/P2, GEnx–1B76A/P2, GEnx–2B67, GEnx–2B67/P, and GEnx–2B67B model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7600, Engine Controls.

(e) Unsafe Condition

This AD was prompted by an in-service occurrence of loss of engine thrust control resulting in uncommanded high thrust. The FAA is issuing this AD to prevent dispatch of the airplane when certain conditions caused by degradation of the MN4 microprocessor in the electronic engine control (EEC) are present. The unsafe condition, if not addressed, could result in loss of engine thrust control and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For all affected GEnx–1B model turbofan engines, within 120 days of the effective date of this AD, revise the operator's existing FAA-approved minimum equipment list (MEL) by incorporating into the MEL the dispatch restriction specified in Figure 1 to paragraph (g)(1) of this AD, as a required operation or maintenance procedure.

Note 1 to paragraph (g)(1): Specific alternative MEL wording to accomplish the actions specified in Figure 1 can be approved by the operator's principal operations or maintenance inspector.

Figure 1 to Paragraph (g)(1) – Dispatch Restriction for Engine Indicating and Crew Alerting System (EICAS) MESSAGE ENG EEC C1 for GEnx-1B

Prior to each flight with engine indicating and crew alerting system (EICAS) Message "ENG EEC C1 X" (where "X" is engine position: "L" or "R"), check for faults. Dispatch of an airplane is prohibited if the EICAS displays the status message "ENG EEC C1 X" and any of the following conditions exist:

i. None of the maintenance messages in the Central Maintenance Computing Function (CMCF) correlate with "ENG EEC C1 X" status message; or

ii. The following maintenance message fault codes combination exists in the CMCF for either channel A or B (where "X" is engine position: "1" or "2").

Fault Combination Description	Corresponding Fault Codes Combination
{TLA out of range fault} **AND** {FMV/FSV disagree fault **OR** FMV/FSV out of range fault (on the same channel as TLA out of range fault)}	{76-1953X (CH-A)} **AND** {73-3204X **OR** 73-3121X **OR** 73-1205X **OR** 73-1122X}
	{76-2953X (CH-B)} **AND** {73-3204X **OR** 73-3121X **OR** 73-2205X **OR** 73-2122X}

(2) For all affected GEnx–2B model turbofan engines, within 120 days of the effective date of this AD, revise the operator's existing FAA-approved MEL by incorporating into the MEL the dispatch restriction specified in Figure 2 to paragraph (g)(2) of this AD, as a required operation or maintenance procedure.

Note 2 to paragraph (g)(2): Specific alternative MEL wording to accomplish the actions specified in Figure 2 can be approved by the operator's principal operations or maintenance inspector.

Figure 2 to Paragraph (g)(2) – Dispatch Restriction for EICAS MESSAGE ENG EEC C1 for GEnx-2B

Prior to each flight with engine indicating and crew alerting system (EICAS) Message "ENG X EEC C1" (where "X" is engine position: "1," "2," "3," or "4"), check for faults. Dispatch of an airplane is prohibited if the EICAS displays the status message "ENG X EEC C1" and any of the following conditions exist:

i. None of the maintenance messages in the Central Maintenance Computer (CMC) correlate with "ENG X EEC C1" status message; or

ii. The following maintenance message fault codes combination exists in the CMC for either channel A or B (where "X" is engine position: "1," "2," "3," or "4").

Fault Combination Description	Corresponding Fault Codes Combination
{TLA out of range fault} **AND** {FMV/FSV disagree fault **OR** FMV/FSV out of range fault (on the same channel as TLA out of range fault)}	{78X13 (CH-A) **OR** 7X963 (CH-A)} **AND** {7X132 **OR** 7X144 **OR** 7X130 **OR** 7X145}
	{78X14 (CH-B) **OR** 7X964 (CH-B)} **AND** {7X132 **OR** 7X144 **OR** 7X133 **OR** 7X146}

(3) For all affected engines, before the EEC reaches 11,000 cycles since new, replace the EEC MN4 microprocessor using an approved overhaul procedure.

(i) If the number of accumulated cycles on the EEC MN4 microprocessor cannot be determined through operator maintenance logs or FADEC International shop visit reports, before the EEC exceeds 12 years since entry into service (EIS) for affected GEnx–1B model turbofan engines or 14 years since EIS for affected GEnx–2B model turbofan engines, replace the EEC MN4 microprocessor using an approved overhaul procedure.

(ii) [Reserved]

(4) Thereafter, replace the EEC MN4 microprocessor before accumulating 11,000 cycles since the last replacement.

(h) Definition

For the purposes of this AD, an ''approved overhaul procedure'' is one of the following:

(1) Replacement of the EEC MN4 microprocessor using FADEC International-approved maintenance procedures; or

(2) Replacement of the EEC MN4 microprocessor using the Accomplishment Instructions, paragraph 3., as applicable, of:

(i) GE GEnx–1B Service Bulletin (SB) 73–0097 R00, dated December 17, 2020; R01, dated January 29, 2021; or R02, dated May 17, 2021; or

(ii) GE GEnx–2B SB 73–0090 R00, dated December 17, 2020; R01, dated January 28, 2021; R02, dated May 20, 2021; or R03, dated August 18, 2021.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; fax: (781) 238–7199; email: *Mehdi.Lamnyi@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) GE GEnx–1B Service Bulletin (SB) 73–0097 R02, dated May 17, 2021.

(ii) GE GEnx–1B SB 73–0097 R01, dated January 29, 2021.

(iii) GE GEnx–1B SB 73–0097 R00, dated December 17, 2020.

(iv) GE GEnx–2B SB 73–0090 R03, dated August 18, 2021.

(v) GE GEnx–2B SB 73–0090 R02, dated May 20, 2021.

(vi) GE GEnx–2B SB 73–0090 R01, dated January 28, 2021.

(vii) GE GEnx–2B SB 73–0090 R00, dated December 17, 2020.

(3) For GE service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ae.ge.com;* website: *www.ge.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For

information on the availability of this material at the FAA, call (781) 238–7759.

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

Issued on October 5, 2021.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–25491 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0279; Airspace Docket No. 21–AGL–13]

RIN 2120–AA66

Amendment of V–36 and V–316, and Revocation of V–180 Due to Planned Decommissioning of the Elliot Lake and Dryden Non-Directional Beacons (NDBs) Ontario, Canada

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–36 and V–316; and revokes VOR Federal airway V–180, in the northeastern United States. This action is necessary due to the planned decommissioning of the Elliot Lake, Ontario, Canada, NDB and the Dryden, Ontario, Canada, NDB. Both NDBs are being decommissioned as part of NAV CANADA's navigational aid (NAVAID) Modernization Program.

DATES: Effective date 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 JO Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA JO Order 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 JO Order 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA JO Order 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: Jesse Acevedo, 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 modifies the Federal airway structure in the northeastern United States to maintain the efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2021–0279, in the **Federal Register** (86 FR 24803; May 10, 2021) amending V–36 and V–316; and revoking V–180. The proposed action mirrors the changes planned in Canada's airspace in support of NAV CANADA's Navigational Aid Modernization program. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Subsequent to the NPRM, the FAA published a rule for Docket No. FAA–2020–0496, in the **Federal Register** (86 FR 62721, November 12, 2021) amending V–36 by removing the airway segment between the Buffalo, NY, VOR/DME and the Elmira, NY, VOR/DME. That airway amendment, also effective January 27, 2022, is included in this rule.

VOR Federal airways are published in paragraph 6010(a) of FAA JO Order 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document will be published subsequently in FAA JO Order 7400.11.

Differences From the NPRM

In the NPRM published for Docket No. FAA–2021–0279, the FAA has identified an editorial error in describing the proposed amendments to V–36. In the proposal section of the NPRM, two separate airway segments were proposed to be removed from V–36. The first V–36 airway segment proposed for removal was identified correctly, but the second airway segment proposed for removal extended beyond what was actually under consideration. The proposed airway segment that was identified incorrectly was listed as ''between the Sault Ste. Marie, MI, VOR/DME and the intersection of the La Guardia, NY, VOR/DME 310° and Stillwater, NJ, VOR/DME 043° radials (NEION fix).'' The correct proposed airway segment is ''between the Sault Ste. Marie, MI, VOR/DME and the intersection of the Wiarton, ON, Canada, VOR/DME 150° radial and Toronto, ON, Canada, VOR/DME 304° radial (BIGBE fix).'' Although the second V–36 airway segment proposed for removal was described in error, the resulting V–36 airway information provided in the proposal section, as well as the V–36 description contained in the regulatory text section were both described correctly. Therefore, this rule identifies the second airway segment being removed from V–36 as ''between the Sault Ste. Marie, MI, VOR/DME and the intersection of the Wiarton, ON, Canada, VOR/DME 150° radial and Toronto, ON, Canada, VOR/DME 304° radial (BIGBE fix)'' and retains the V–36 description in the regulatory text section as was proposed.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends 14 CFR part 71 by amending VOR Federal airways V–36 and V–316, and revoking VOR Federal airway V–180. The planned decommissioning of both the Elliot Lake, ON, Canada, NDB and the Dryden, ON, Canada, NDB by NAV CANADA has made this action necessary.

The VOR Federal airway amendments and revocation are described below.

V–36: V–36 extends between the Thunder Bay, ON, Canada, VOR/DME and the intersection of the Wiarton, ON, Canada, VOR/DME 150° radial and Toronto, ON, Canada, VOR/DME 304° radial (BIGBE fix); and between the Elmira, NY, VOR/DME and the intersection of the La Guardia, NY, VOR/DME 310° and Stillwater, NJ, VOR/DME 043° radials (NEION fix). The airspace within Canada is excluded. This action removes the airway segment between the Thunder Bay, ON, Canada, VOR/DME and Wawa, ON, Canada, VOR/DME; and the airway segment between the Sault Ste. Marie, MI, VOR/DME and the intersection of the Wiarton, ON, Canada, VOR/DME 150° radial and Toronto, ON, Canada, VOR/DME 304° radial (BIGBE fix). The resulting airway extends between the Wawa, ON, Canada, VOR/DME and the Sault Ste. Marie, MI, VOR/DME; and between the Elmira, NY, VOR/DME and the intersection of the La Guardia, NY, VOR/DME 310° and Stillwater, NJ, VOR/DME 043° radials (NEION fix). The airspace within Canada remains excluded.

V–316: V–316 currently extends between the Ironwood, MI, VOR/DME and the Sawyer, MI, VOR/DME; and between the Sault Ste. Marie, MI, VOR/DME and the Sudbury, ON, Canada, VOR/DME. The airspace in Canada is excluded. This action removes the airway segment between the Sault Ste. Marie, MI, VOR/DME and the Sudbury, ON, Canada, VOR/DME, and the exclusionary language. The resulting airway extends between the Ironwood, MI, VOR/DME and the Sawyer, MI, VOR/DME.

V–180: V–180 currently extends between the International Falls, MN, VOR/DME and the Dryden, ON, Canada, NDB. The airspace within Canada is excluded. The airway is revoked in its entirety.

All radials in the VOR Federal airway descriptions below are unchanged and stated in True degrees.

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 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 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

The FAA has determined that this action of amending VOR Federal airways V–36 and V–316; and revoking VOR Federal airway V–180, to mirror changes being made by NAV CANADA in Canadian airspace in support of their Navigational Aid Modernization program, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6010(a), Domestic VOR Federal airways.

* * * * *

V–36 [Amended]

From Wawa, ON, Canada; to Sault Ste. Marie, MI. From Elmira, NY; INT Elmira 110° and LaGuardia, NY, 310° radials; to INT LaGuardia 310° and Stillwater, NJ, 043° radials.

The airspace within Canada is excluded.

* * * * *

V–180 [Removed]

* * * * *

V–316 [Amended]

From Ironwood, MI; to Sawyer, MI.

* * * * *

Issued in Washington, DC, on November 16, 2021.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–25484 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0288; Airspace Docket No. 21–AGL–6]

RIN 2120–AA66

Amendment of Area Navigation (RNAV) T–348 and Establishment of T–409; Northcentral United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends RNAV route T–348 and establishes RNAV route T–409 in the northcentral United States. This action expands the availability of RNAV routing in support of transitioning the National Airspace

System (NAS) from ground-based to satellite-based navigation.

DATES: Effective date 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 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: Jesse Acevedo, 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 modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–0288, in the **Federal Register** (86 FR 24798; May 10, 2021), amending T–348 and establishing T–409. The proposed action expands the availability of RNAV routing in support of transitioning the NAS from ground-based to satellite-based navigation. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

United States Area Navigation T-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 routes listed in this document will be published subsequently in FAA JO Order 7400.11.

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 service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by amending RNAV route T–348 and establishing RNAV route T–409. This action is necessary to support the FAA's Next Generation Air Transportation System efforts to transition of the NAS from ground-based to satellite-based navigation.

The RNAV route actions are described below.

T–348: T–348 extends between the BRAIN, MN, waypoint (WP) and the LUNGS, WI, WP. This action extends the route between the LESNR, SD, WP and the BRAIN, MN, WP. As a result of this route segment addition, the BRAIN WP will remain in place, but will no longer be referenced in the legal description. The new route flows from the LESNR WP, through the TECUD, SD, fix and Sioux Falls, SD, VOR/Tactical Air Navigation (VORTAC), to the GRSIS, MN, WP, onward. The resulting RNAV route extends between the LESNR WP and the LUNGS WP.

T–409: T–409 is a new RNAV route that extends between the LLUKY, NE, WP and the Pierre, SD, VORTAC. For RNAV equipped aircraft, this route mitigates the loss of the V–71 airway segments removed on September 10, 2020, due to the decommissioning of the Winner, SD, VOR. Non-equipped aircraft can request ATC radar vectors to fly around or through the area or take advantage of any adjacent VOR Federal airways.

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 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 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

The FAA has determined that this action of amending RNAV T–348 and establishing RNAV T–409, in support of efforts transitioning the NAS from ground-based to satellite-based navigation, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, 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–348 LESNR, SD to LUNGS, WI [Amended]

LESNR, SD	WP	(Lat. 43°29′16.49″ N, long. 099°45′41.00″ W)
TECUD, SD	FIX	(Lat. 43°32′54.48″ N, long. 097°51′42.23″ W)
Sioux Falls, SD (FSD)	VORTAC	(Lat. 43°38′58.14″ N, long. 096°46′52.02″ W)
GRSIS, MN	WP	(Lat. 43°38′45.54″ N, long. 094°25′21.17″ W)
FOOLS, MN	WP	(Lat. 43°46′58.20″ N, long. 092°35′44.93″ W)
GABDE, MN	WP	(Lat. 43°38′50.04″ N, long. 092°18′26.46″ W)
KRRTR, IA	WP	(Lat. 43°16′18.12″ N, long. 091°22′30.62″ W)
Madison, WI (MSN)	VORTAC	(Lat. 43°08′41.41″ N, long. 089°20′22.91″ W)
LUNGS, WI	WP	(Lat. 43°02′43.66″ N, long. 088°56′54.86″ W)

* * * * * * *

T–409 LLUKY, NE to Pierre, SD (PIR) [New]

LLUKY, NE	WP	(Lat. 42°29′20.26″ N, long. 098°38′11.44″ W)
ADEDY, SD	FIX	(Lat.43°03′05.06″ N, long. 099°17′41.35″ W)
LESNR, SD	WP	(Lat. 43°29′16.49″ N, long. 099°45′41.00″ W)
Pierre, SD (PIR)	VORTAC	(Lat. 44°23′40.40″ N, long. 100°09′46.11″ W)

* * * * *

Issued in Washington, DC, on November 17, 2021.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–25469 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 878

[Docket No. FDA–2018–N–1913]

Medical Devices; General and Plastic Surgery Devices; Classification of the General Laparoscopic Power Morcellation Containment System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the general laparoscopic power morcellation containment system into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the general laparoscopic power morcellation containment system's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective November 23, 2021. The classification was applicable on December 19, 2017.

FOR FURTHER INFORMATION CONTACT: Cal Rabang, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4633, Silver Spring, MD, 20993–0002, 301–796–6412, *Cal.Rabang@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the general laparoscopic power morcellation containment system as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person

then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see section 513(f)(2)(B)(i)of the FD&C Act). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application to market a substantially equivalent device (see section 513(i) of the FD&C Act, defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On September 29, 2017, FDA received Advanced Surgical Concepts Ltd.'s request for De Novo classification of the ContainOR. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see section 513(a)(1)(B) of the FD&C Act). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on December 19, 2017, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 878.4825.[1] We have named the generic type of device general laparoscopic power morcellation containment system, and it is identified as a prescription device consisting of an instrument port and tissue containment method that creates a working space allowing for direct visualization during a power morcellation procedure following a laparoscopic procedure for the excision of benign tissue that is not suspected to contain malignancy.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—GENERAL LAPAROSCOPIC POWER MORCELLATION CONTAINMENT SYSTEM RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility evaluation.
Infection	Sterilization validation, Shelf life testing, and Labeling.
Intraperitoneal tissue dissemination • Material permeability. • Improper function of containment device. • Inadequate material strength. • Physical trauma to liner caused by contact with morcellator or grasper/tenaculum. • Damage to liner (intentional or accidental) from instrument inserted through secondary port. • Tearing during removal with loss of contents into abdominal cavity. • Tearing of the bag due to stones contained in tissue. • Use error.	Non-clinical performance testing, Animal performance testing, Shelf life testing, Labeling, and Training.
Traumatic injury to non-target tissue/organ • Active end of morcellator or grasper/tenaculum breaches liner. • Loss of insufflation. • Inadequate space to perform morcellation. • Inadequate visualization of the laparoscopic instruments and tissue specimen relative to the external viscera. • Use error.	Non-clinical performance testing, Animal performance testing, Labeling, and Training.
Hernia through abdominal wall incision	Labeling and Training.
Prolongation of procedure and exposure to anesthesia	Labeling and Training.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. We encourage sponsors to consult with us if they wish to use a non-animal testing method they believe is suitable, adequate, validated, and feasible. We will consider if such an alternative method could be assessed for equivalency to an animal test method. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

[1] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

At the time of classification, general laparoscopic power morcellation containment systems are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulations, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 878

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 878 is amended as follows:

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

■ 1. The authority citation for part 878 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 878.4825 to subpart E to read as follows:

§ 878.4825 General laparoscopic power morcellation containment system.

(a) *Identification.* A general laparoscopic power morcellation containment system is a prescription device consisting of an instrument port and tissue containment method that creates a working space allowing for direct visualization during a power morcellation procedure following a laparoscopic procedure for the excision of benign tissue that is not suspected to contain malignancy.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The patient-contacting components of the device must be demonstrated to be biocompatible.

(2) Performance testing must demonstrate the sterility of patient-contacting components of the device.

(3) Performance data must support the shelf life of the device by demonstrating continued sterility, package integrity, and device functionality over the intended shelf life.

(4) Non-clinical performance data must demonstrate that the device performs as intended under anticipated conditions of use. The following performance characteristics must be tested:

(i) Demonstration of the device impermeability to tissue, cells, and fluids;

(ii) Demonstration that the device allows for the insertion/withdrawal of laparoscopic instruments while maintaining pneumoperitoneum;

(iii) Demonstration that the containment system provides adequate space to perform morcellation and adequate visualization of the laparoscopic instruments and tissue specimen relative to the external viscera;

(iv) Demonstration that compatible laparoscopic instruments and morcellators do not compromise the integrity of the containment system; and

(v) Demonstration that users can adequately deploy the device, morcellate a specimen without compromising the integrity of the device, and remove the device without spillage of contents.

(5) Training must be developed and validated to ensure users can follow the instructions for use.

(6) Labeling must include:

(i) A contraindication for use in gynecological procedures;

(ii) A contraindication against use of tissue that is known or suspected to contain malignancy;

(iii) The following boxed warning: ''Warning: Information regarding the potential risks of a procedure with this device should be shared with patients. The use of laparoscopic power morcellators may spread cancer. The use of this containment system has not been clinically demonstrated to reduce this risk;''

(iv) A statement limiting use of device to physicians who have completed the training program; and

(v) A shelf life.

Dated: November 17, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–25585 Filed 11–22–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Directive No. 2021–001]

Designation of Authority

AGENCY: Office of the Assistant Attorney General, Criminal Division, Department of Justice.

ACTION: Final rule.

SUMMARY: The Attorney General has authorized the Assistant Attorney General for the Criminal Division to perform the functions of the ''Designated Authority'' under executive agreements between the United States and other countries on access to data by foreign governments and to delegate that authority to certain officials in the Office of International Affairs (''OIA''). Consistent with that authorization, the Assistant Attorney General for the Criminal Division delegates authority to perform the functions of the Designated Authority pursuant to such agreements to the Deputy Assistant Attorneys General, Criminal Division, and the Director, Deputy Directors and the Associate Director supervising the implementation of such agreements in OIA.

DATES: Effective November 23, 2021.

FOR FURTHER INFORMATION CONTACT: Vaughn Ary, Director, Office of International Affairs, Criminal Division, U.S. Department of Justice, Washington, DC 20005; Telephone (202) 514–0000.

SUPPLEMENTARY INFORMATION: Congress authorized the United States to enter into executive agreements with foreign governments under which the parties afford each other reciprocal rights of

access to data covered by such agreements in response to qualifying, lawful orders. *See* Clarifying Lawful Overseas Use of Data Act, Public Law 115–141, Div. V, Section 105(a) (March 23, 2018), 18 U.S.C. 2523 (''CLOUD Act''). The first such executive agreement was concluded between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland. *See* Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Access to Electronic Data for the Purpose of Countering Serious Crime (October 3, 2019), available at *https://www.justice.gov/dag/cloudact* (the ''U.S.—U.K. Agreement''). The U.S.—U.K. Agreement provides that a ''Designated Authority'' for each country shall perform certain, specified functions necessary to implement the agreement. As applied to the United States, ''Designated Authority'' is defined under the agreement as ''the governmental entity designated . . . by the Attorney General.'' *Id.* at Article 1.8. To address the requirements of this executive agreement, the Attorney General has designated the Criminal Division as the ''Designated Authority'' in a **Federal Register** notice published on October 23, 2020. The Attorney General has authorized the Assistant Attorney General in charge of the Criminal Division to perform the functions of the Designated Authority and also to delegate this authority. 28 CFR 0.64–6. This final rule delegates that authority to officials in the Criminal Division and OIA.

To address future agreements of this nature, this final rule applies to any executive agreement under 18 U.S.C. 2523 that either designates the Attorney General or the Department of Justice as the Designated Authority or authorizes the Attorney General to designate a Designated Authority (or like designation), and for which the Attorney General has designated the Criminal Division as such authority.

Administrative Procedure Act—5 U.S.C. 553

This rule is a rule of agency organization and relates to a matter relating to agency management and is therefore exempt from the requirements of prior notice and comment and a 30-day delay in the effective date. *See* 5 U.S.C. 553(a)(2), 553(b)(3)(A), 553(d).

Regulatory Flexibility Act

Further, a Regulatory Flexibility Analysis is not required to be prepared for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter. 5 U.S.C. 604(a).

Executive Orders 12866 and 13563—Regulatory Review

This action has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866, ''Regulatory Planning and Review,'' and section 1(b) of Executive Order 13563, ''Improving Regulation and Regulatory Review.'' This rule is limited to agency organization, management, and personnel as described in section 3(d)(3) of Executive Order 12866 and, therefore, is not a ''regulation'' or ''rule'' as defined by the order. Accordingly, this action has not been reviewed by the Office of Management and Budget.

Executive Order 13132—Federalism

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988—Civil Justice Reform

This rule was drafted in accordance with the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1955

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector of $100,000,000 or more in any one year (adjusted annually for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(B), (C).

Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0

International agreements, Treaties.

For the reasons stated in the preamble, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

■ 2. Add Directive No. 2021–001 at the end of Appendix to Subpart K to read as follows:

Appendix to Subpart K of Part 0

Criminal Division

* * * * *

Directive No. 2021–001

Designated Authority under executive agreements on access to data by foreign governments.

By virtue of the authority vested in me by § 0.64–6 of Title 28 of the Code of Federal Regulations, I hereby delegate the authority to perform the functions of the Designated Authority under executive agreements between the United States of America and other countries regarding access to data by foreign governments, negotiated pursuant to the authority in 18 U.S.C. 2523, to the Deputy Assistant Attorneys General, Criminal Division, and the Director, the Deputy Directors and the Associate Director supervising implementation of such agreements in the Office of International Affairs. This delegation applies to executive agreements that either designate the Attorney General or the Department of Justice as the Designated Authority (or like designation) or authorize the Attorney General to designate a Designated Authority (or like designation), and for which the Attorney General has designated the Criminal Division as such authority.

Dated: October 7, 2021.

Kenneth A. Polite, Jr.,

Assistant Attorney General.

[FR Doc. 2021–25455 Filed 11–22–21; 8:45 am]

BILLING CODE 4410–14–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 381

[Docket No. 21–CRB–0011–PBR (2018–2022) COLA (2022)]

Cost of Living Adjustment to Public Broadcasters Compulsory License Royalty Rate

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule; cost of living adjustment.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) to the royalty rate that noncommercial radio stations at certain colleges, universities, and other educational institutions that are not affiliated with National Public Radio must pay for the use in 2022 of published nondramatic musical compositions in the SESAC repertory pursuant to the statutory license under the Copyright Act for noncommercial broadcasting.

DATES:

Effective date: December 23, 2021.

Applicability dates: These rates are applicable to the period beginning January 1, 2022, and ending December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, (202) 707–7658, *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, title 17 of the United States Code, creates a statutory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting.

On January 19, 2018, the Copyright Royalty Judges (Judges) adopted final regulations governing the rates and terms of copyright royalty payments under section 118 of the Copyright Act for the license period 2018–2022. *See* 83 FR 2743. Pursuant to these regulations, on or before December 1 of each year, the Judges shall publish in the **Federal Register** notice of the change in the cost of living and a revised schedule of the rates codified at § 381.5(c)(3) relating to compositions in the repertory of SESAC. The adjustment, fixed to the nearest dollar, shall be the greater of (1) the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) (''CPI–U'') ''during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1, of that year'' or (2) 1.5%. 37 CFR 381.10.

The change in the cost of living as determined by the CPI–U during the period from the most recent index published prior to the previous notice, *i.e.,* before December 1, 2020, to the most recent index published before December 1, 2021, is 6.2%.[1] In accordance with 37 CFR 381.10(b), the Judges announce that the COLA for calendar year 2022 shall be 6.2%. Application of the 6.2% COLA to the 2021 rate for the performance of published nondramatic musical compositions in the repertory of SESAC—$164.00 per station—results in an adjusted rate of $174.00 per station.

[1] On November 10, 2021, the Bureau of Labor Statistics announced that the CPI–U increased 6.2% over the last 12 months.

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

Final Regulations

In consideration of the foregoing, the Judges amend part 381 of title 37 of the Code of Federal Regulations as follows:

PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1), and 803.

■ 2. Section 381.5 is amended by revising paragraph (c)(3)(v) and removing paragraph (c)(3)(vi) to read as follows:

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) * * *

(3) * * *

(v) 2022: $174.00 per station.

* * * * *

Dated: November 17, 2021.

Steve Ruwe,

Copyright Royalty Judge.

[FR Doc. 2021–25443 Filed 11–22–21; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2021–0073; FRL–8800–02–R6]

Arkansas: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: On June 11, 2021, the Environmental Protection Agency (EPA) published a proposed rule to approve a revision to the State of Arkansas hazardous waste program under the Resource Conservation and Recovery Act (RCRA) and provided for a thirty-day public comment period. The public comment period closed on July 12, 2021, and EPA did not receive any comments. EPA confirms that the program revisions to the State of Arkansas hazardous waste program satisfy all requirements needed to qualify for final authorization. No further opportunity for comment will be provided.

DATES: This final authorization is effective November 23, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R06–RCRA–2021–0073. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some of the information is not publicly available. *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Alima Patterson, EPA Region 6 Regional Authorization/Codification Coordinator, RCRA Permit Section (LCR–RP), Land, Chemicals and Redevelopment Division, EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270, phone number: (214) 665–8533, email address: *patterson.alima@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

A. What changes to Arkansas' hazardous waste program is EPA authorizing with this action?

On March 2, 2021, the State of Arkansas submitted a final complete program revision application seeking authorization of its program revision in accordance with 40 CFR 271.21. EPA now makes a final decision that Arkansas' hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. EPA will continue to implement and enforce Hazardous and Solid Waste Amendments of 1984 (HSWA) provisions for which the State is not authorized. For a list of rules that become effective with this final action, please see the proposed rule published

in the June 11, 2021, **Federal Register** at 86 FR 31233.

B. What is codification and is the EPA codifying Arkansas' hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations (CFR). We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart E, for this authorization of Arkansas' program changes until a later date. In this authorization application, the EPA is not codifying the rules documented in the proposed rule published in the June 11, 2021, **Federal Register** at 86 FR 31233.

C. Administrative Requirements

This final authorization revises Arkansas' authorized hazardous waste management program pursuant to RCRA section 3006 and imposes no requirements other than those currently imposed by State law. For further information on how this authorization complies with applicable Executive orders and statutory provisions, please see the proposed rule published in the June 11, 2021, **Federal Register** at 86 FR 31233. 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 document 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 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). This final action will be effective November 23, 2021.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 5, 2021.

David Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2021–25291 Filed 11–22–21; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 86, No. 223
Tuesday, November 23, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Doc. No. AMS–SC–21–0066; SC21–922–1 PR]

Suspension of Reporting and Collection Requirements for Washington Apricots

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a recommendation from the State of Washington Apricot Marketing Committee (Committee) to suspend the reporting and assessment requirements prescribed under the marketing order regulating apricots grown in designated counties in Washington (Marketing Order No. 922). In a separate meeting, the Committee also unanimously recommended terminating Marketing Order No. 922. This rule proposes to indefinitely suspend the assessment and associated reporting requirements of the marketing order during the period that the USDA is processing the termination request.

DATES: Comments must be received by January 24, 2022.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be submitted to the Docket Clerk electronically by *Email: MarketingOrderComment@usda.gov* or internet: *https://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and can be viewed at: *https://www.regulations.gov.* All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Joshua R. Wilde, Marketing Specialist, or Gary Olson, Regional Director, Western Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724 or *Email: Joshua.R.Wilde@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491 or *Email: Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 922, as amended (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington. Part 922 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of producers and handlers operating within the production area.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

In addition, this proposed rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have tribal implications. AMS has determined this proposed rule is unlikely to have substantial direct effects 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.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to a marketing order may file with USDA a petition stating that the marketing order, any provision of the marketing order, or any obligation imposed in connection with the marketing order is not in accordance with law and request a modification of the marketing order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The Committee meets regularly to consider recommendations for modification, suspension, or termination of the Order's regulatory requirements. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA reviews Committee recommendations, including information provided by the Committee and from other available sources, and determines whether modification, suspension, or termination would tend to effectuate the declared policy of the Act.

On May 11, 2021, the Committee met and deliberated over the continuance of the Order. Following this meeting, the Committee unanimously recommended that USDA terminate the Order and suspend the collection of assessments. This proposed rule would indefinitely suspend handler assessments as well as any remaining reporting requirements of the Order while USDA is processing the

termination. The termination would be conducted in a separate rulemaking action.

Section 922.41 provides authority for the Committee to assess handlers for their pro rata share of the Committee expenses authorized each fiscal period. Section 922.60 authorizes the Committee to collect reports and other information necessary for the Committee to perform its duties under the Order. This rule proposes to suspend § 922.235, which established a continuing assessment rate of $2.86 per ton, effective for the 2019–2020 and subsequent fiscal periods. Any reports that are currently being collected would no longer be required.

The Order has been in effect since 1957 and has provided the apricot industry in Washington with authority for grade, size, quality, maturity, pack, and container regulations, as well as authority for mandatory product inspection.

Handling regulations requiring apricots to be inspected and meet mandatory pack and container requirements were in effect until 2007 and minimum grade, size, maturity, and quality requirements until 2014. Following a recommendation from the Committee, USDA suspended the container regulations for apricots for one-year, effective April 6, 2006 (71 FR 16982), and subsequently extended that suspension indefinitely effective August 1, 2007 (72 FR 16265). The Committee believed that with changing market dynamics container regulations were no longer necessary to ensure orderly marketing and that suspension would provide greater flexibility to handlers for packing and shipping apricots.

In 2013, based on the Committee's recommendation, USDA issued an interim rule suspending the handling regulations for apricots effective October 24, 2013 (78 FR 62936). A final rule affirming the indefinite suspension published in the **Federal Register** on March 20, 2014 (79 FR 15539). Again, the Committee believed the cost of complying with the Order's handling and inspection requirements outweighed the benefits to both producers and handlers of apricots. Both actions were unanimously recommended by the Committee.

Following these regulatory suspensions, the Committee continued to levy assessments to maintain its functionality. The Committee believed that it should continue to fund its full operational capability, collect industry statistics on an ongoing basis, and maintain the program in the event market conditions warranted regulation.

The Committee met on May 11, 2021, to discuss market dynamics and the Committee's budget and assessments. A significant decrease in the 2020–2021 crop production and increased Committee expenses would require the Committee to increase the assessment rate by 365 percent, from $2.86 to $13.30 per ton, to maintain its functionality. During those discussions, the Committee determined that the suspension of handling and container requirements had not adversely affected the marketing of Washington apricots rendering the Order no longer necessary to the industry. The Committee concluded that termination of the Order would have no adverse effect on industry. In preparing to terminate the Order, the Committee recommended a budget of expenditures of $5,508 for the period beginning April 1, 2021, and ending with the termination.

Following the May 11, 2021, meeting, the Committee conducted a vote among all its members to terminate the Order. Termination of the Order was unanimously supported by the Committee. This proposed rule would indefinitely suspend the handler assessments and any reports being collected, in preparation for the termination of the Order.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 315 growers of Washington apricots and approximately 8 apricot handlers in the production area subject to regulation under the Order. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $30,000,000, and small agricultural producers are defined as those having annual receipts of less than $1,000,000 (13 CFR 121.201).

Based on USDA National Agricultural Statistics Service (NASS) data, and given the number of Washington apricot growers, average grower revenue is below $1,000,000. NASS's 2020 Washington apricot price per ton of $2,040 yields annual grower estimated revenue of $3,321,120 which equals approximately $10,543 average annual receipts per grower ($2,040 price per ton multiplied by 1,628 tons divided by 315 growers). Thus, most Washington apricot growers would be considered small businesses under the SBA definition.

In addition, according to data from USDA's Market News, an estimated Washington apricot 2020 season average Free on Board (f.o.b.) shipper (handler) price per carton was approximately $31.59 (for Washington apricots, 2-layer tray pack carton, all sizes, June–July 2020, midpoint of the ''mostly low'' and ''mostly high'' prices). With a standard Market News weight of 18 pounds per tray pack carton of apricots, the f.o.b. price is approximately $1.755 per pound, or $3,510 per ton ($31.59 divided by 18 pounds). The Committee reported that the industry shipped 1,628 tons for the 2020 season. Total 2020 estimated handler receipts are $5.714 million (1,628 tons times $3,510 per ton). Average annual receipts per handler are approximately $714,000 ($5.714 million divided by 8 handlers). Thus, most Washington apricot handlers would be considered small businesses under the SBA definition.

This rule proposes to suspend the assessment requirements of the Order and any reports currently being collected. The assessment rate that would be suspended is the $2.86 per ton rate in effect for the 2019–2020 fiscal period and continuing to the present day. The Committee also recommended a budget of expenditures of $5,508 for the period beginning April 1, 2021, and ending with the termination of the Order. The budget was based on the Committee's estimated financial resources on March 31, 2021. Budgeted expenditures include administrative expenses and any expenses necessary to finalize the termination of the Order.

On July 7, 2021, the Committee made the recommendation to suspend the remaining reporting and handler assessments as an adjunct to the recommendation to terminate the Order. As such, the alternative discussed by the Committee was to maintain the status quo and continue to collect handler assessments. The Committee determined that the decrease in the 2020–2021 crop production and the increases in Committee expenses would require the Committee to increase the assessment rate by 365 percent, from $2.86 to $13.30 per ton. Further, the 2020–2021 crop production was the smallest crop on record, and evidence

suggests that this decline is a continuation of an industry trend.

In addition, the suspension of the handling and packing regulations has not adversely affected the marketing of Washington apricots. Evidence from the past 7 years showed that apricots can be marketed from the production area in the absence of the Order's requirements without a negative economic impact on the industry.

After considering the alternative, the Committee concluded that the cost to maintain the Order outweighed its benefit to producers and handlers and, therefore, unanimously voted to suspend the reporting requirements and collection of assessments beginning with 2021 fiscal period, and to terminate the Order.

This action would suspend the reporting and assessment obligations imposed on handlers. When in effect, assessments are applied uniformly on all handlers, and some of those costs may be passed on to producers. The suspension of the reporting and assessment requirements would reduce the regulatory burden on handlers and would be expected to reduce the burden on producers.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189 Fruit Crops. No changes are necessary in those requirements because of this proposed action. Should any changes become necessary, they would be submitted to OMB for approval.

This rule would not impose any additional reporting or recordkeeping requirements on either small or large apricot handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

The Committee's meetings were widely publicized throughout the Washington apricot industry, and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Meetings are held virtually or in a hybrid style with participants having a choice whether to attend in person or virtually.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 922 as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 922.235 [Stayed]

■ 2. Section 922.235 is stayed indefinitely.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2021–25277 Filed 11–22–21; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2021–0194]

Guidance for Implementation of 10 CFR 50.59, ''Changes, Tests and Experiments,'' at Non-Power Production or Utilization Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide (DG), DG–2007, ''Guidance for Implementation of 10 CFR 50.59, ''Changes, Tests and Experiments,'' at Non-power Production or Utilization Facilities.'' This DG describes an approach that is acceptable to the NRC staff to meet the regulatory requirements ''Changes, tests and experiments,'' at a nonpower production and utilization facility (NPUF), as defined in the DG.

DATES: Submit comments by December 23, 2021. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

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

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0194. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Michael Eudy, Office of Nuclear Regulatory Research, telephone: 301–415–3104, email: *Michael.Eudy@nrc.gov* and Duane Hardesty, Office of Nuclear Reactor Regulation, telephone: 301–415–3724, email: *Duane.Hardesty@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0194 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0194.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.*

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's Public Document Room (PDR), Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0194 in your comment submission.

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

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

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The DG, entitled ''Guidance for Implementation of 10 CFR 50.59, ''Changes, Tests and Experiments,'' at Non-power Production or Utilization Facilities,'' is temporarily identified by its task number, DG–2007 (ADAMS Accession No. ML21243A103).

This DG, if finalized, would describe an approach that is acceptable to the staff of the NRC to meet the regulatory requirements of § 50.59 of title 10 of the *Code of Federal Regulations* (10 CFR) at NPUFs, as defined in the DG. It would endorse, with clarifications and an exception, Nuclear Energy Institute (NEI) 21–06, ''Guidelines for 10 CFR 50.59 Implementation at Non-power Production and Utilization Facilities,'' issued August 2021 (ADAMS Accession No. ML21236A089).

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML21243A104) for DG–1389. The staff developed the regulatory analysis to assess the value of issuing DG–2007 as well as alternative courses of action.

III. Backfitting, Forward Fitting, and Issue Finality

The issuance of this DG, if finalized, would not constitute backfitting, as that term is defined in 10 CFR 50.109, ''Backfitting,'' because § 50.109 does not apply to research reactors, testing facilities, and other non-power facilities licensed under 10 CFR part 50, as documented in the preamble to the proposed rule, ''Non-Power Production or Utilization Facility License Renewal'' (82 FR 15643; March 30, 2017).

Dated: November 15, 2021.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

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

[FR Doc. 2021–25260 Filed 11–22–21; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2021–BT–STD–0029]

RIN 1904–AE64

Energy Conservation Program: Energy Conservation Standards for Consumer Products; Early Assessment Review; Consumer Furnace Fans

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'') is undertaking an early assessment review for amended energy conservation standards for consumer furnace fans to determine whether to amend applicable energy conservation standards for this product. Specifically, through this request for information (''RFI''), DOE seeks data and information to evaluate whether amended energy conservation standards would result in significant savings of energy; be technologically feasible; and be economically justified. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised in this RFI), as well as the submission of data and other relevant information concerning this early assessment review.

DATES: Written comments and information are requested and will be accepted on or before December 23, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2021–BT–STD–0029, by any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* To *ConsumerFurnFan2021STD0029@ee.doe.gov.* Include docket number EERE–2021–BT–STD–0029 in the subject line of the message.

No facsimile (''fax'') transmissions will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to

make temporary modifications to the comment submission process in light of the ongoing coronavirus 2019 (''COVID–19'') pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at: *www.regulations.gov/docket/EERE-2021-BT-STD-0029.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Rivest, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–7335. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Linda Field, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–3440. Email: *Linda.Field@hq.doe.gov.*

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

DOE has established an early assessment review process to conduct a more focused analysis to evaluate, based on statutory criteria, whether a new or amended energy conservation standard is warranted. Based on the information received in response to the RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for a new or amended energy conservation standard. If DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. If DOE makes an initial determination based upon available evidence that a new or amended energy conservation standard would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or amended energy conservation standards are not warranted.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include consumer furnace fans, the subject of this document. (42 U.S.C. 6295(f)(4)(D))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA 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 42 U.S.C. 6297(d).

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy or water efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy, or is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3))

EPCA also requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) DOE is publishing this RFI to collect data and information to inform its decision to satisfy the 6-year-lookback review requirement.

B. Rulemaking History

DOE established energy conservation standards at 10 CFR 430.32(y) for furnace fans through a final rule published in the **Federal Register** on July 3, 2014 (''July 2014 Final Rule''). 79 FR 38130. Compliance with the prescribed standards established for consumer furnace fans in the July 2014 Final Rule was required as of July 3, 2019. DOE's energy conservation standard for furnace fans use the fan energy rating (''FER'') metric, which is the ratio of the electrical energy consumption to airflow, expressed as watts per 1,000 cubic feet per minute of airflow (''W/1,000 cfm''). 10 CFR 430.32(y). The test procedure for determining FER is establishes at 10

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

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

CFR part 430 subpart B appendix AA, *Uniform Test Method for Measuring the Energy Consumption of Furnace Fans* (''appendix AA''). In parallel to this rulemaking, DOE is considering whether amendments are warranted for the current test procedure for furnace fans. On July 7, 2021, DOE published an early assessment request for information concerning the test procedure for furnace fans. 86 FR 35660.

II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. Below DOE has identified certain topics for which information and data are requested to assist in the evaluation of the potential for amended energy conservation standards. DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

A. Scope & Product Classes

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. (42 U.S.C. 6295(q)) 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. *(Id.)*

A ''furnace fan'' is ''an electrically-powered device used in a consumer product for the purpose of circulating air through ductwork.'' 10 CFR 430.2. DOE has established ten product classes for furnace fans: Non-Weatherized, Non-Condensing Gas Furnace Fans; Non-Weatherized, Condensing Gas Furnace Fans; Weatherized Non-Condensing Gas Furnace Fans; Non-Weatherized, Non-Condensing, Oil Furnace Fans; Non-Weatherized Electric Furnace/Modular Blower Fans; Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fans; Mobile Home Non-Weatherized, Condensing Gas Furnace Fans; Mobile Home Electric Furnace/Modular Blower Fans; Mobile Home Weatherized Gas Furnace Fans; and Mobile Home Non-Weatherized Oil Furnace Fans. 10 CFR 430.32(y). Mobile Home Weatherized Gas Furnace Fans and Mobile Home Non-Weatherized Oil Furnace Fans are not currently subject to performance standards because DOE did not have sufficient data to analyze and establish standards for these product classes at the time of the July 2014 Final Rule. 79 FR 38180, 38150 (July 3, 2014). The current standards for furnace fans are shown in Table II–1.

TABLE II–1—ENERGY CONSERVATION STANDARDS FOR COVERED CONSUMER FURNACE FANS *

Product class	FER ** (W/1,000 cfm)
Non-Weatherized, Non-Condensing Gas Furnace Fan (NWG–NC)	FER = 0.044 × Q_{Max} + 182.
Non-Weatherized, Condensing Gas Furnace Fan (NWG–C)	FER = 0.044 × Q_{Max} + 195.
Weatherized Non-Condensing Gas Furnace Fan (WG–NC)	FER = 0.044 × Q_{Max} + 199.
Non-Weatherized, Non-Condensing Oil Furnace Fan (NWO–NC)	FER = 0.071 × Q_{Max} + 382.
Non-Weatherized Electric Furnace/Modular Blower Fan (NWEF/NWMB)	FER = 0.044 × Q_{Max} + 165.
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan (MH–NWG–NC)	FER = 0.071 × Q_{Max} + 222.
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan (MH–NWG–C)	FER = 0.071 × Q_{Max} + 240.
Mobile Home Electric Furnace/Modular Blower Fan (MH–EF/MB)	FER = 0.044 × Q_{Max} + 101.
Mobile Home Non-Weatherized Oil Furnace Fan (MH–NWO)	Reserved.
Mobile Home Weatherized Gas Furnace Fan (MH–WG) **	Reserved.

* Furnace fans incorporated into hydronic air handlers, small-duct high-velocity (''SDHV'') modular blowers, SDHV electric furnaces, and CAC/HP indoor units are not subject to the standards listed in this table.

** Q_{Max} is the airflow, in cfm, at the maximum airflow-control setting measured using the final DOE test procedure at 10 CFR part 430, subpart B, appendix AA.

Additionally, in the analysis conducted in support of the July 2014 Final Rule, DOE excluded several products for which it was not aware of any shipments. These products included Weatherized Non-Condensing Oil Furnace Fans; Weatherized Electric Furnace/Modular Blower Fans; Mobile Home Weatherized Oil Furnace Fans; Mobile Home Weatherized Electric Furnace/Modular Blower Fans; and Non-Weatherized, Condensing Oil Furnace Fans; and Hydronic Air Handlers. 79 FR 38130, 38150 (July 3, 2014). DOE also excluded furnace fans used in single-package central air conditioners (''CAC'') and heat pumps (''HP'') and split-system CAC/HP blower-coil units. 79 FR 38130, 38145 (July 3, 2014). DOE noted that its test procedure for furnace fans at the time was not equipped to address these furnace fans for such products, as would be required for the adoption of standards under 42 U.S.C. 6295(o)(3). 79 FR 38130, 38149 (July 3, 2014). DOE stated that it may consider these and other such products as data information become available with which to develop credible analyses for them. 79 FR 38130, 38145–38149 (July 3, 2014).

On March 9, 2021, DOE published a Decision and Order granting a waiver to ECR International, Inc. (''ECR'') for certain furnace fan basic models from specified portions of the DOE test procedure and prescribed an alternate test procedure for such models.

The basic models for which the waiver was granted are factory-equipped for operation at an external static pressure (''ESP'') of 0.20 inches water column (''' w.c.'') and cannot operate within the ESP range of 0.65″–0.70″ w.c. required in appendix AA. 86 FR 13530, 13531 (March 9, 2021). The Decision and Order was based, in part, on ECR's statement that for these models, which are designed for heating only (*i.e.,* not intended to be paired with a central air conditioner), the higher ESP required for the test reduces airflow, which in turn increases the temperature rise to the high temperature limit, resulting in the unit shutting off before the test can be completed. As a result, DOE is considering whether separate product classes are warranted for furnace fans designed for ''heating only'' applications. Specifically, DOE is reviewing whether such products provide a unique utility and have performance characteristics that affect their energy consumption as measured by the FER metric.

Issue 1: DOE seeks comment on whether there are any products that are covered by the definition of ''furnace fans'' and should be regulated by DOE,

but are not covered by any of the current classes of furnace fans that are regulated by DOE.

Issue 2: DOE seeks information regarding any other new product classes it should consider for inclusion in its analysis. In particular, DOE seeks information regarding furnace fans designed for ''heating only'' applications and whether separate product classes, with separate energy conservation standards, are warranted for such products. DOE also requests relevant data detailing the corresponding impacts on energy use that would justify separate product classes (*i.e.,* explanation for why the presence of certain performance-related features would increase or decrease energy consumption).

B. Significant Savings of Energy

In the July 2014 Final Rule, DOE established an energy conservation standard for furnace fans that is expected to result in 3.99 quadrillion British thermal units (''quads'') of full-fuel-cycle [3] (''FFC'') energy savings over a 30-year period. 79 FR 38130, 38131–38132. In that Final Rule, DOE adopted TSL 4, which was composed of a mix of efficiency levels (''ELs'') 1 and 4. 79 FR 38130, 38184 and 38201 (July 3, 2014). In the corresponding analysis, DOE estimated that the max-tech level (EL 6) would have reduced FER values by at least 10 percent more than EL 1 and EL 4. 79 FR 38130, 38159 (July 3, 2014). Additionally, in the July 2014 Final Rule, DOE estimated that an energy conservation standard established at an energy efficiency level equivalent to that achieved using the maximum available technology (''max-tech'') would have resulted in 1.65 additional quads of savings. 79 FR 38130, 38192 (July 3, 2014).

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

Issue 3: In order to accurately disaggregate energy savings by product class, DOE is interested in shipments data, broken out by product class, efficiency level, and region.

Issue 4: DOE requests feedback on the levels of energy savings that could be expected from the adoption of more-stringent standards for furnace fans.

[3] The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels). 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).

Issue 5: DOE requests data on the typical operating conditions for furnace fans when performing heating, cooling, and constant-circulating functions. Additionally, DOE seeks field data on the ESP when furnace fans are in use.

Issue 6: DOE requests data on the fraction of time spent and furnace fan energy consumed by system mode (heating, cooling, constant circulation).

Issue 7: DOE requests feedback and sources of data or recommendations to support sizing criteria of furnace fans for typical consumer space heating and space cooling applications.

C. Technological Feasibility

1. Technology Options

During the analysis conducted in support of July 2014 Final Rule, DOE considered a number of technology options that manufacturers could use to reduce energy consumption in furnace fans. In total, DOE considered eight technology options that would be expected to improve the efficiency of furnace fans: (1) Fan housing and airflow path design modifications; (2) high-efficiency fan motors (in some cases paired with multi-stage or modulating heating controls); (3) inverter-driven permanent-split capacitor (''PSC'') fan motors; (4) backward-inclined impellers; (5) constant-airflow brushless permanent magnet (''BPM'') motor control relays; (6) toroidal transformers; (7) switching mode power supplies; and (8) multi-staging and modulating heating controls. 79 FR 38130, 38150 (July 3, 2014).

Constant-airflow BPM motor control relays, toroidal transformers, and switching mode power supplies were removed from consideration as technology options because they only apply to standby mode and off mode operation and were no longer applicable once DOE revised its proposed scope of coverage to no longer address hydronic air handlers (which is the only furnace fan product class for which standby mode and off mode energy consumption is not already fully accounted for in the DOE energy conservation standards rulemakings for consumer furnaces and residential CAC and HPs). 79 FR 38130, 38150 (July 3, 2014).

Issue 8: DOE seeks information on the aforementioned technologies, including their applicability to the current market and how these technologies may impact the energy use of furnace fans as measured according to the DOE test procedure. DOE also seeks information on how these technologies may have changed since they were considered in the July 2014 Final Rule analysis.

Issue 9: DOE seeks information on each of the aforementioned technologies regarding their market adoption, costs, and any concerns with incorporating them into products (*e.g.,* impacts on consumer utility, potential safety concerns, manufacturing/production/implementation issues, etc.), particularly as to changes that may have occurred since the July 2014 Final Rule.

Issue 10: DOE seeks comment on any other technology options that it should consider for inclusion in its analysis and if these technologies may impact equipment features or user utility.

2. Screening Analysis

The purpose of the screening analysis is to evaluate the technologies that improve product efficiency to determine which technologies will be eliminated from further consideration and which will be passed to the engineering analysis for further consideration. DOE determines whether to eliminate certain technology options from further consideration based on the following criteria: Technological feasibility; practicability to manufacture, install, and service; adverse impacts on product utility or product availability; adverse impacts on health or safety; and unique-pathway proprietary technologies. 10 CFR part 430, subpart C, appendix A, 6(c)(3).

In the July 2014 Final Rule, DOE screened out fan housing and airflow path design modifications as these were found to increase envelope sizes, which would adversely impact practicability to manufacture and install, as well as product utility. 79 FR 38130, 38153. Therefore, the technology options that DOE did not screen out were: (1) Inverter-driven PSC fan motors; (2) high-efficiency fan motors; (3) multi-stage or modulating heating controls; and (4) backward-inclined impellers. *Id.*

Issue 11: DOE requests feedback on what impact, if any, the screening criteria described in this section would have on each of the aforementioned technology options with respect to furnace fans. Similarly, DOE seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in furnace fans.

Issue 12: With respect to fan housing and airflow path design modifications, which were screened out in the previous rulemaking analysis, DOE seeks information on whether, based on current and projected assessments, this technology option should remain screened out under the screening criteria described in this section.

3. Engineering Efficiency Analysis

The engineering analysis estimates the cost-efficiency relationship of equipment at different levels of increased energy efficiency (''efficiency levels''). This relationship serves as the basis for the cost-benefit calculations for consumers, manufacturers, and the Nation, as described further in section II.D of this document.

As discussed, the current energy conservation standard for each furnace fan product class is based on FER, in watts per 1,000 CFM, and determined according to an equation using the furnace fan's airflow (in CFM) at the maximum airflow-control setting measured using the DOE test procedure at appendix AA. The current standards for furnace fans are found at 10 CFR 430.32(y).

As part of DOE's analysis, DOE develops efficiency levels as potential energy conservation standards to evaluate in the rulemaking analyses. Among these, DOE typically establishes efficiency levels at the maximum-available and maximum technologically feasible (''max-tech'') efficiencies. The maximum-available efficiency level represents the highest efficiency units currently available on the market. The max-tech level represents the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible.

DOE has performed an initial review of furnace fan basic models reported in DOE's Compliance Certification Management System (''CCMS'') Database,[4] to assess the potential to improve efficiency relative to current (*i.e.,* baseline) standard levels. DOE observed that models are currently available with FERs significantly lower than the currently allowable FER energy conservation standards. For example, DOE has observed certain models in the MH–NWG–C, NWG–C, NWO–NC, and WG–NC classes that have certified FER ratings at least 100 W/1,000 cfm below their applicable standards. For the NWG–C class in particular, certain models have FER ratings that are less than 10% of their applicable FER standard. Further, several models from the NWO–NC class have ratings more than 300 W/1,000 cfm below their applicable standards, which correspond to ratings that are approximately 30% of the applicable standard. DOE has also observed that certain technology options, and in particular constant-airflow BPM motors, are incorporated in models at both baseline and max-tech efficiency levels.

Issue 13: DOE seeks input on whether the maximum-available efficiency levels (*i.e.,* the lowest available FER levels) are appropriate and technologically feasible for consideration as possible energy conservation standards for furnace fans for each current product class. DOE seeks information on the design options incorporated into these maximum-available models, and also on the order in which manufacturers incorporate each design option when improving efficiency from the baseline to the maximum-available efficiency level (*i.e.,* which design options would be included at intermediate efficiency levels between the baseline and maximum-available). DOE also requests information on the design changes implemented to achieve efficiencies greater than the max-tech considered in the July 2014 Final Rule analysis.

Issue 14: DOE seeks feedback on what design options would be incorporated at a max-tech efficiency level, and the efficiencies associated with those levels, for each product class. As part of this request, DOE also seeks information as to whether there are limitations on the use of certain combinations of design options. DOE is particularly interested in any design options that may have become available since the July 2014 Final Rule that would allow greater energy savings relative to the max-tech efficiency levels assessed for each product class in that rulemaking.

Issue 15: DOE seeks input on the costs associated with design options incorporated into furnace fans to improve efficiency, including the design options incorporated into the maximum-available models. DOE also requests information on the investments necessary to incorporate specific design options, including, but not limited to, costs related to new or modified tooling (if any), materials, engineering and development efforts to implement each design option, and manufacturing/production impacts.

D. Economic Justification

In determining whether a proposed energy conservation standard is economically justified, DOE analyzes, among other things, the potential economic impact on consumers, manufacturers, and the Nation. DOE seeks comment on whether there are economic barriers to the adoption of more-stringent energy conservation standards. DOE also seeks comment and data on any aspects of its economic justification analysis from the July 2014 Final Rule that may indicate whether a more-stringent energy conservation standard would be economically justified or cost effective.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

1. Life-Cycle Cost and Payback Period Analysis

DOE conducts the life-cycle cost (''LCC'') and payback period (''PBP'') analysis to evaluate the economic effects of potential energy conservation standards for furnace fans on individual consumers. For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimated baseline level. The LCC is the total consumer expense over the life of the equipment, consisting of purchase, installation, and operating costs (expenses for energy use, maintenance, and repair). 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. Inputs to the calculation of total installed cost include the cost of the equipment—which includes the manufacturer selling price, distribution channel 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, discount rates, and the year that compliance with new and amended standards is required.

Issue 16: DOE requests feedback on the typical distribution channels for furnace fans. In particular, DOE seeks comment on whether there is a market share for replacement furnace fans. DOE further seeks comment on whether there is a significant retail distribution channel for furnace fans.

Issue 17: DOE requests shipments data for furnace fans, broken down by product class and region, that show current market shares by efficiency level. DOE also seeks input on similar historic data.

Issue 18: DOE requests comment on the anticipated future market share of higher-efficiency products as compared to less-efficient products for each furnace fan product class, in the absence of amended efficiency standards.

2. Manufacturer Impact Analysis

The purpose of the manufacturer impact analysis (''MIA'') is to estimate the financial impact of amended energy conservation standards on manufacturers of furnace fans, and to evaluate the potential impact of such

[4] Available at *www.regulations.doe.gov/certification-data/CCMS-4-Furnace_Fans.html#q=Product_Group_s%3A%22Furnace%20Fans%22.*

standards on direct employment and manufacturing capacity. As part of the MIA, DOE intends to analyze impacts of amended energy conservation standards on subgroups of manufacturers of covered equipment, including small business manufacturers. DOE uses the Small Business Administration's (''SBA'') small business size standards to determine whether manufacturers qualify as small businesses, which are listed by the North American Industry Classification System (''NAICS'').[5] Manufacturing of furnace fans is classified under NAICS 333415, ''Air-conditioning and warm air heating equipment and commercial and industrial refrigeration equipment manufacturing,'' and the SBA sets a threshold of 1,250 employees or less for a domestic entity to be considered as a small business. This employee threshold includes all employees in a business' parent company and any other subsidiaries.

One aspect of assessing manufacturer burden involves examining the cumulative impact of multiple DOE standards and the product-specific regulatory actions of other federal agencies that affect the manufacturers of a covered product or equipment. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

Issue 19: To the extent feasible, DOE seeks the names and contact information of any domestic or foreign-based manufacturers of the covered product in the United States.

Issue 20: DOE requests the names and contact information of small business manufacturers, as defined by the SBA's size threshold, that distribute covered products in the United States. In addition, DOE requests comment on any other manufacturer subgroups that could disproportionally be impacted by amended energy conservation standards. DOE requests feedback on any potential approaches that could be considered to address impacts on manufacturers, including small businesses.

Issue 21: DOE requests information regarding how the cumulative regulatory burden impacts manufacturers of furnace fans associated with (1) other DOE standards applying to different products or equipment that these manufacturers may also make, and (2) product-specific regulatory actions of other Federal agencies. DOE also requests comment on its methodology for computing cumulative regulatory burden and whether there are any flexibilities it can consider that would reduce this burden while remaining consistent with the requirements of EPCA.

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date under the **DATES** heading, comments and information on matters addressed in this notification and on other matters relevant to DOE's early assessment of whether more-stringent energy conservation standards are warranted for furnace fans.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page requires you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit information to *www.regulations.gov* for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Anyone submitting comments through the website will waive any CBI claims on the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. Faxes will not be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide only documents that are: Not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket,

[5] Available online at: *www.sba.gov/document/support--table-size-standards.*

without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

Signing Authority

This document of the Department of Energy was signed on November 17, 2021, by Kelly J. Speakes-Backman, Principal Deputy 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**.

Signed in Washington, DC, on November 18, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–25540 Filed 11–22–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1013; Project Identifier MCAI–2020–01530–T]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2017–12–08, which applies to all BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes. AD 2017–12–08 requires revising the maintenance or inspection program, as applicable, to incorporate new or revised structural inspection requirements. Since the FAA issued AD 2017–12–08, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 7, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1013; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228; email *todd.thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1013; Project Identifier MCAI–2020–01530–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated

as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Todd Thompson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228; email *todd.thompson@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2017–12–08, Amendment 39–18923 (82 FR 27414, June 15, 2017) (AD 2017–12–08), for all BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes; and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes. AD 2017–12–08 requires revising the maintenance or inspection program, as applicable, to incorporate new or revised structural inspection requirements. AD 2017–12–08 resulted from a determination that new or revised structural inspection requirements are necessary. The FAA issued AD 2017–12–08 to address fatigue cracking of certain structural elements, which could adversely affect the structural integrity of the airplane.

Actions Since AD 2017–12–08 Was Issued

Since the FAA issued AD 2017–12–08, the FAA has determined that new or more restrictive airworthiness limitations are necessary.

The Civil Aviation Authority (CAA), which is the aviation authority for the United Kingdom, has issued CAA AD G–2021–0011, dated October 8, 2021 (CAA AD G–2021–0011) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all BAe 146 and AVRO 146–RJ airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1013.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address fatigue cracking of certain structural elements, which could adversely affect the structural integrity of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

BAE Systems has issued Chapter 05 of BAe 146 Series/AVRO 146–RJ Series Aircraft Maintenance Manual, Revision 132, dated August 18, 2021. This service information describes airworthiness limitations, including life limits, maintenance tasks, and CDCCLs.

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

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would retain certain requirements of AD 2017–12–08. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k)(1) of this proposed AD.

Costs of Compliance

The FAA estimates that this proposed AD affects 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2017–12–08 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
■ a. Removing Airworthiness Directive (AD) 2017–12–08, Amendment 39–18923 (82 FR 27414, June 15, 2017); and
■ b. Adding the following new AD:

BAE Systems (Operations) Limited: Docket No. FAA–2021–1013; Project Identifier MCAI–2020–01530–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 7, 2022.

(b) Affected ADs

This AD replaces AD 2017–12–08, Amendment 39–18923 (82 FR 27414, June 15, 2017) (AD 2017–12–08).

(c) Applicability

This AD applies to all BAE Systems (Operations) Limited airplanes, certificated in any category, identified in paragraphs (c)(1) and (2) of this AD.

(1) Model BAe 146–100A, –200A, and –300A airplanes.

(2) Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking of certain structural elements, which could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision to the Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2017–12–08, with no changes. Within 90 days after July 20, 2017 (the effective date of AD 2017–12–08): Revise the maintenance or inspection program, as applicable, to incorporate new and revised limitations, tasks, thresholds, and intervals using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA.

Note 1 to paragraph (g): An additional source of guidance for the actions specified in paragraph (g) of this AD can be found in BAe 146/AVRO 146–RJ Airplane Maintenance Manual, Revision 112, dated October 15, 2013.

Note 2 to paragraph (g): An additional source of guidance for the actions specified in paragraph (g) of this AD can be found in Corrosion Prevention Control Program (CPCP) Document No. CPCP–146–01, Revision 4, dated September 15, 2010.

Note 3 to paragraph (g): An additional source of guidance for the actions specified in paragraph (g) of this AD can be found in Supplemental Structural Inspections Document (SSID) Document No. SSID–146–01, Revision 2, dated August 15, 2012.

Note 4 to paragraph (g): An additional source of guidance for the actions specified in paragraph (g) of this AD can be found in Maintenance Review Board Report Document No. MRB 146–01, Issue 2, Revision 19, dated August 2012.

Note 5 to paragraph (g): An additional source of guidance for the actions specified in paragraph (g) of this AD can be found in BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–237, Revision 1, dated April 2, 2013.

(h) Retained No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs), With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2017–12–08, with no changes. Except as specified in paragraph (i) of this AD: After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used, unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(i) New Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 05 of BAe 146 Series/AVRO 146–RJ Series Aircraft Maintenance Manual, Revision 132, dated August 18, 2021. The initial compliance time for doing the tasks is at the time specified in Chapter 05 of BAe 146 Series/AVRO 146–RJ Series Aircraft Maintenance Manual, Revision 132, dated August 18, 2021, or within 90 days after the effective date of this AD, whichever occurs later. Accomplishing the revision required by this paragraph terminates the actions required by paragraph (g) of this AD.

(j) New No Alternative Actions, Intervals, or CDCCLs

After the existing maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(ii) AMOCs approved for AD 2017–12–08 are approved as AMOCs for the corresponding provisions of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or the Civil Aviation Authority (CAA); or BAE Systems (Operations) Limited's CAA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) CAA AD G–2021–0011, dated October 8, 2021, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1013.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228; email *todd.thompson@faa.gov.*

(3) For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on November 17, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–25464 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1012; Project Identifier MCAI–2021–00697–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. This proposed AD was prompted by a report of restricted collective lever movement caused by entanglement of the emergency flashlight strap with the cargo hook emergency release lever, causing the emergency flashlight to leave its seat. This proposed AD would require replacing each affected emergency flashlight with a serviceable part, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). This proposed AD would also prohibit installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 7, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.0
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For EASA material that is proposed for IBR in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1012.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1012; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1012; Project Identifier MCAI–2021–00697'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0149, dated June 21, 2021 (EASA AD 2021–0149), to correct an unsafe condition for Airbus Helicopters Deutschland GmbH Model EC135 P1, EC135 P2, EC135 P2+, EC135 P3, EC135 T1, EC135 T2, EC135 T2+, EC135 T3, EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters, all variants, all serial numbers up to 820 inclusive. Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters are not certificated by the FAA and are not included on the U.S. type certificate data sheet, except where the U.S. type certificate data sheet explains that the Model EC635T2+ helicopter having serial number 0858 was converted from Model EC635T2+ to Model EC135T2+. This proposed AD, therefore, does not include Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters in the applicability.

This proposed AD was prompted by a report of restricted collective lever movement caused by entanglement of the emergency flashlight strap with the cargo hook emergency release lever, causing the emergency flashlight to leave its seat. The FAA is issuing this AD to address entanglement of the

emergency flashlight strap with the cargo hook emergency release lever. The unsafe condition, if not addressed, could result in reduced control of the helicopter, resulting in damage to the helicopter and injury to occupants. See EASA AD 2021–0149 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0149 requires replacing each affected emergency flashlight with a serviceable part. EASA AD 2021–0149 also specifies that an affected part can be modified and re-identified into a serviceable part. EASA AD 2021–0149 also prohibits the installation of an affected part.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0149, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2021–0149 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0149 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0149 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0149. Service information referenced in EASA AD 2021–0149 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1012 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 335 helicopters of U.S. Registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement of affected part	1 work-hour × $85 per hour = $85	$219	$304	$101,840

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters Deutschland GmbH: Docket No. FAA–2021–1012; Project Identifier MCAI–2021–00697–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 7, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1,

EC135T2, EC135T2+, and EC135T3 helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0149, dated July 5, 2021 (EASA 2021–0149).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 2510, Flight Compartment Equipment.

(e) Unsafe Condition

This AD was prompted by a report of restricted collective lever movement. Subsequent inspection determined that the emergency flashlight was stuck under that lever caused by entanglement of the emergency flashlight strap with the cargo hook emergency release lever, causing the emergency flashlight to leave its seat. The FAA is issuing this AD to address entanglement of the emergency flashlight strap with the cargo hook emergency release lever. The unsafe condition, if not addressed, could result in reduced control of the helicopter, resulting in damage to the helicopter and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0149.

(h) Exceptions to EASA AD 2021–0149

(1) Where EASA AD 2021–0149 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0149.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(j) Related Information

(1) For EASA AD 2021–0149, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1012.

(2) For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

Issued on November 16, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–25396 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 50

RIN 3038–AF18

Swap Clearing Requirement To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for information and comment.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is seeking information and public comment on how the Commission could amend its swap clearing requirement to address the cessation of certain interbank offered rates (IBORs) (*e.g.,* the London Interbank Offered Rate (LIBOR)) used as benchmark reference rates and the market adoption of alternative reference rates; namely, overnight, nearly risk-free reference rates (RFRs). The Commission is requesting input from market participants and all interested members of the public on aspects of the Commission's swap clearing requirement that may be affected by the transition from certain IBORs to alternative reference rates.

DATES: Comments must be received on or before January 24, 2022.

ADDRESSES: You may submit comments, identified by RIN 3038–AF18, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://comments.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations. The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language.

FOR FURTHER INFORMATION CONTACT: Sarah E. Josephson, Deputy Director, at 202–418–5684 or *sjosephson@cftc.gov;* Melissa D'Arcy, Special Counsel, at 202–418–5086 or *mdarcy@cftc.gov;* or Daniel O'Connell, Special Counsel, at 202–418–5583 or *doconnell@cftc.gov;* each in the Division of Clearing and Risk at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

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I. Background

A. The Commission's Swap Clearing Requirement

Over a decade has passed since the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) [1] established a comprehensive new regulatory framework for swaps. Title VII of the Dodd-Frank Act (Title VII) amended the Commodity Exchange Act (CEA) to require, among other things, that a swap be cleared through a derivatives clearing organization (DCO) that is registered under the CEA or a DCO that is exempt from registration under the CEA if the Commission has determined that the swap, or group, category, type, or class of swap, is required to be cleared, unless an exception to the clearing requirement applies.[2]

The CEA, as amended by Title VII, provides two avenues for the Commission to issue a clearing requirement determination. First, under Section 2(h)(2)(A) of the CEA, the Commission may issue a clearing requirement determination based on a Commission-initiated review of a swap.[3] Second, under Section 2(h)(2)(B) of the CEA, the Commission may issue a clearing requirement determination based on a swap submission from a DCO.[4]

The Commission has issued two clearing requirement determinations. The first clearing requirement determination (First Determination) was adopted in 2012 and covered certain credit default swap indexes, and interest rate swaps in four currencies and in four classes: (1) Fixed-to-floating swaps; (2) basis swaps; (3) forward rate agreements (FRAs); and (4) overnight index swaps (OIS).[5] The four classes of interest rate swaps required to be cleared, along with their specifications, discussed below, are set forth in Commission regulation 50.4 (Clearing Requirement).[6] The second clearing requirement determination (Second Determination) was adopted in 2016 and covered interest rate swaps in nine additional currencies.[7]

Section 2(h)(2)(D)(ii) of the CEA requires the Commission to consider the following five factors when making a clearing requirement determination: (I) The existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data; (II) the availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is traded; (III) the effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the DCOs available to clear the contract; (IV) the effect on competition, including appropriate fees and charges applied to clearing; and (V) the existence of reasonable legal certainty in the event of the insolvency of the relevant DCO or 1 or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property.[8] The Commission considered each factor in making both clearing requirement determinations.

The Commission has explained in prior clearing requirement determinations that while there exists a wide degree of variability in contract specifications for interest rate swaps,[9] there also exist certain conventions and specifications that DCOs and market participants commonly use, and which allow classes of swaps, and primary specifications within each class, to be identified.[10] The Commission has adopted clearing requirement determinations for four classes of swaps based on these common conventions and specifications, and submissions from DCOs of swaps accepted for clearing. In the notice of proposed rulemaking preceding the First Determination, consistent with the factors set forth in CEA section 2(h)(2)(D)(ii), the Commission proposed to adopt a clearing requirement after concluding that each of the four swap classes being cleared had significant outstanding notional amounts and trading liquidity, and that a large percentage of each class was already being cleared.[11] The Commission reaffirmed those conclusions in the final rule.[12] The Commission also identified six specifications for the interest rate swaps that are subject to the clearing requirement: (1) The currency in which the notional and payment amounts are specified; (2) the rates referenced for each leg of the swap; (3) the stated termination date of the swap; (4) whether the swap contains optionality, as specified by the DCOs; (5) whether the swap contains dual currencies; and (6) whether the swap contains conditional notional amounts.[13] Now, as the international regulatory community and financial markets transition from IBORs to alternative reference rates, the Commission is requesting information and comment on each of the swaps currently subject to the clearing requirement, and whether the Commission should update any of its prior determinations due to the

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[2] Section 2(h)(1)(A) of the CEA, 7 U.S.C. 2(h)(1)(A).

[3] 7 U.S.C. 2(h)(2)(A). Commission regulation 39.5(c) sets forth the procedures for Commission-initiated reviews of swaps that have not been accepted for clearing by a DCO to determine whether they should be required to be cleared. 17 CFR 39.5(c).

[4] Section 2(h)(2)(B) of the CEA, 7 U.S.C. 2(h)(2)(B), and the implementing regulations in Commission regulation 39.5(b), require a DCO to submit to the Commission each swap, or any group, category, type, or class of swaps, that it plans to accept for clearing. Section 2(h)(2)(B)–(C) of the CEA describes the process by which the Commission is required to review swap submissions from DCOs to determine whether the swaps should be subject to the clearing requirement. Commission regulation 39.5(b) establishes the procedures for the submission of swaps by a DCO to the Commission for a clearing requirement determination.

[5] Clearing Requirement Determination Under Section 2(h) of the CEA; Final Rule, 77 FR 74284 (Dec. 13, 2012).

[6] 17 CFR 50.4.

[7] Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps; Final Rule, 81 FR 71202 (Oct. 14, 2016). The Commission adopted the Second Determination largely in order to further harmonize its Clearing Requirement with those of other jurisdictions, specifically: Australia, Canada, the European Union, Hong Kong, Mexico, Singapore, and Switzerland. *Id.* at 71203–05. Harmonizing the Commission's Clearing Requirement with other jurisdictions' clearing requirements serves an important anti-evasion goal. As the Commission explained, if a non-U.S. jurisdiction issued a clearing requirement and a swap dealer located in the U.S. were not subject to that non-U.S. clearing requirement, then a swap market participant in the non-U.S. jurisdiction could potentially avoid the non-U.S. clearing requirement by entering into a swap with the swap dealer located in the U.S. *Id.* at 71203.

[8] 7 U.S.C. 2(h)(2)(D)(ii).

[9] Clearing Requirement Determination Under Section 2(h) of the CEA; Notice of Proposed Rulemaking, 77 FR 47170, 47186 & n.77 (Aug. 7, 2012) (citing a Federal Reserve Bank of New York staff report that over 10,500 different combinations of significant interest rate swaps terms had been identified in a single three-month period in 2010).

[10] First Determination, 77 FR 74301.

[11] 77 FR 47194–96 (discussing data from the Bank of International Settlements, TriOptima, the G14 Dealers to the OTC Derivatives Supervisors Group, and LCH).

[12] First Determination, 77 FR 74307–08.

[13] *Id.* at 74302–03, 74332. The term ''conditional notional amount'' refers to a notional amount that is subject to change over the term of a swap based on a condition that the swap counterparties establish upon the execution of the swap, such that the notional amount of the swap is unknown and may change based on the occurrence of a future event. *Id.* at 74302 n.108. Additionally, the Commission believed that swaps with optionality, multiple currency swaps, and swaps with notional amounts not specified at the time of execution give rise to concerns regarding accurate pricing and consistency across contracts, and should therefore be excluded from the clearing requirement. *Id.* at 74332. The Commission also stated that, as of the time of the final rulemaking for the First Determination, no DCO was offering swaps meeting these negative specifications for clearing. *Id.*

ongoing and anticipated market-wide shift in reference rates.

The Commission's Clearing Requirement covers a number of swaps that reference IBORs: Swaps in multiple currencies in each of the fixed-to-floating swap, basis swap, and FRA class that refer to LIBOR are required to be cleared. The First Determination covered certain interest rate swaps in each of these classes referencing LIBOR in three currencies: U.S. dollars (USD), British pounds (GBP), and Japanese yen (JPY).[14] The Second Determination covered certain fixed-to-floating interest rate swaps referencing LIBOR in Swiss francs (CHF).[15]

The Commission is monitoring changes to benchmark reference rates around the world and how those changes may affect trading liquidity and clearing availability, as well as the other factors discussed above, in different interest rate swap products. Although benchmark reforms are ongoing, there have been recent updates with respect to LIBOR rates for the major currencies, including USD, GBP, JPY, and CHF, that may warrant changes to the Clearing Requirement in the near future.

B. The End of LIBOR

LIBOR is an interest rate benchmark that is intended to measure the average rate at which a bank can obtain unsecured funding in the London interbank market for a given tenor and currency. It is among the world's most frequently referenced interest rate benchmarks and serves as a reference rate for a wide variety of derivatives and cash market products. LIBOR is calculated based on submissions from a panel of 11 to 16 contributor banks, depending on the currency, and is published on every London business day for five currencies (USD, GBP, Euro (EUR), CHF, and JPY) and seven tenors (overnight or spot next,[16] 1-week, 1-month, 2-month, 3-month, 6-month, and 12-month), resulting in 35 individual LIBOR rates. Each contributor bank submits data for all seven tenors in each currency for which it is on a panel.[17]

The announcement in 2012 of government investigations concerning alleged manipulation of LIBOR, and a decline in the volume of interbank lending transactions that LIBOR is intended to measure, have given rise to concerns regarding the integrity and reliability of LIBOR and other IBORs.[18] Notably, the Commission's enforcement actions against LIBOR manipulators helped to raise awareness about potential shortcomings in the reliability of LIBOR reports and calculations.[19]

In response to calls for reform, LIBOR was brought within the U.K. Financial Conduct Authority (FCA)'s regulatory scope and placed under IBA's administration.[20] IBA has reformed LIBOR in a number of ways, including enhancing the benchmark's oversight procedures and establishing a new calculation methodology.[21] However, regulators and global standard-setting bodies do not view these reforms as a long-term solution.

Following a public consultation by IBA launched in December 2020, on March 5, 2021,[22] the FCA announced that publication of LIBOR would not be provided by any administrator or be compelled after the final publication on Friday, December 31, 2021, for the following:[23]

(i) EUR LIBOR in all tenors;

(ii) CHF LIBOR in all tenors;

(iii) JPY LIBOR in the spot next, 1-week, 2-month, and 12-month tenors;

(iv) GBP LIBOR in the overnight, 1-week, 2-month, and 12-month tenors; and

(v) USD LIBOR in the 1-week and 2-month tenors.

The FCA further determined that GBP and JPY LIBOR in 1-month, 3-month, and 6-month tenors would no longer be representative of the underlying market and economic reality they are intended to measure after December 31, 2021, and that representativeness would not be restored. Additionally, the FCA determined that USD LIBOR in the overnight and 12-month tenors would cease after June 30, 2023, and that USD LIBOR in the 1-month, 3-month, and 6-month tenors would not be representative after that date. The future of USD LIBOR in the 1-month, 3-month, and 6-month tenors is uncertain because the FCA may decide to continue to publish those tenors based on a new methodology (*i.e.,* on a synthetic basis). Following a public consultation, on September 29, 2021, the FCA confirmed that it would require LIBOR's administrator to continue publishing GBP and JPY LIBOR in the 1-, 3-, and 6-month tenors, using a synthetic methodology based on term RFRs, through 2022.[24] The Commission is monitoring these developments and will consider LIBOR's cessation in certain currencies and tenors as it evaluates potential changes to the Clearing

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[14] First Determination, 77 FR 74310–11.

[15] Second Determination, 81 FR 71202.

[16] The shortest tenor for USD, GBP, and EUR LIBOR is overnight; the shortest tenor for CHF and JPY LIBOR is spot next.

[17] *See generally* ICE Benchmark Administration (IBA), LIBOR, available at *https://www.theice.com/iba/libor.* The current contributor bank panel members are expected to fulfill their roles through the end of 2021, and all but one of the current USD LIBOR bank panel members are expected to continue submissions until June 30, 2023 for the overnight, 1-month, 3-month, 6-month, and 12-month tenors. IBA, ICE LIBOR Feedback Statement on Consultation on Potential Cessation, March 5, 2021, at 4 n.2 [hereinafter ''ICE LIBOR Feedback Statement on Consultation on Potential Cessation''], available at *https://www.theice.com/publicdocs/ICE_LIBOR_feedback_statement_on_consultation_on_potential_cessation.pdf.*

[18] *See, e.g.,* International Organization of Securities Commissions (IOSCO), Principles for Financial Benchmarks, July 2013, at 1, available at *https://www.iosco.org/library/pubdocs/pdf/IOSCOPD415.pdf*; David Bowman, et al., ''How Correlated Is LIBOR With Bank Funding Costs?,'' FEDS Notes, June 29, 2020, available at *https://www.federalreserve.gov/econres/notes/feds-notes/how-correlated-is-libor-with-bank-funding-costs-20200629.htm;* Alternative Reference Rates Committee, *Second Report,* Mar. 2018, at 1–3 [hereinafter ''ARRC Second Report''], available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2018/ARRC-Second-report.*

[19] *See, e.g., In re Société Générale S.A.,* No. 18–14 (CFTC June 4, 2018) ($475 million penalty); *In re Deutsche Bank AG,* No. 15–20 (CFTC Apr. 23, 2015) ($800 million penalty); *In re The Royal Bank of Scotland plc,* No. 13–14 (CFTC Feb. 6, 2013) ($325 million penalty); *In re UBS AG,* No. 13–09 (CFTC Dec. 19, 2012) ($700 million penalty); *In re Barclays PLC,* No. 12–25 (CFTC June 27, 2012) ($200 million penalty).

[20] Previously, LIBOR was administered by the British Bankers Association.

[21] *See generally* IBA, Methodology, available at *https://www.theice.com/publicdocs/ICE_LIBOR_Methodology.pdf* (describing IBA's current LIBOR calculation methodology); H.M. Treasury, The Wheatley Review of LIBOR: Final Report, Sept. 2012, available at *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191762/wheatley_review_libor_finalreport_280912.pdf* (recommending reforms to LIBOR). See also Intercontinental Exchange (ICE), ICE LIBOR Evolution, Apr. 25, 2018, at 4, available at *https://www.theice.com/publicdocs/ICE_LIBOR_Evolution_Report_25_April_2018.pdf* (describing IBA's reforms to LIBOR since 2014). Among other revisions, IBA implemented changes to the way that panel banks form their LIBOR submissions by relying on a data-driven waterfall methodology.

[22] *See generally* ICE LIBOR Feedback Statement on Consultation on Potential Cessation; IBA, ICE LIBOR Consultation on Potential Cessation, Dec. 2020, available at *https://www.theice.com/publicdocs/ICE_LIBOR_Consultation_on_Potential_Cessation.pdf.*

[23] FCA, FCA Announcement on Future Cessation and Loss of Representativeness of the LIBOR Benchmarks, Mar. 5, 2021, available at *https://www.fca.org.uk/publication/documents/future-cessation-loss-representativeness-libor-benchmarks.pdf.*

[24] FCA, ''Further arrangements for the orderly wind-down of LIBOR at end-2021,'' Sept. 29, 2021, available at *https://www.fca.org.uk/news/press-releases/further-arrangements-orderly-wind-down-libor-end-2021.* The FCA also proposed to permit legacy use of synthetic GBP and JPY LIBOR in all contracts except cleared derivatives, citing clearinghouses' plans to transition cleared GBP, JPY, CHF, and EUR LIBOR rates to RFR contracts at the end of 2021. Accordingly, the FCA published an additional public consultation regarding the scope of legacy contracts that will be permitted to rely on the synthetic rates. FCA, ''CP21/29: Proposed decisions on the use of LIBOR (Articles 23C and 21A BMR),'' Sept. 29, 2021, available at *https://www.fca.org.uk/publications/consultation-papers/cp21-29-proposed-decisions-libor-articles-23c-21a-bmr.* The consultation closed on October 20, 2021. *Id.*

Requirement, particularly because the LIBOR rates in four of the five LIBOR currencies serve as the floating rate in swap transactions that are currently subject to the Clearing Requirement.

Although LIBOR in particular has been a major focus for regulators, there are other interest rates that have been, or may in the future be, replaced by alternative reference rates. Additional IBORs and alternative reference rates are discussed in more detail below.

C. Identification of Alternative Reference Rates

The Commission has supported efforts in the U.S. and around the world to identify alternative reference rates to replace LIBOR and other IBORs in the event that they become non-representative.

In 2014, the Federal Reserve Board (FRB) and the Federal Reserve Bank of New York (FRBNY) convened the Alternative Reference Rates Committee (ARRC) as a body for private-market participants, alongside ex-officio banking and financial sector regulators, to identify alternatives to USD LIBOR and help ensure an orderly transition to alternative reference rates.[25] The composition of the ARRC has changed over time, and currently includes a number of financial institutions, financial industry groups, and regulators, including the CFTC, the U.S. Department of the Treasury, and the U.S. Securities and Exchange Commission.[26] On June 22, 2017, after studying several alternative reference rates and considering the input of market participants, the ARRC selected the Secured Overnight Financing Rate (SOFR) as its preferred alternative to USD LIBOR.[27] SOFR measures the cost of overnight repurchase agreement transactions collateralized by U.S. Treasury securities.[28] The FRBNY, in cooperation with the U.S. Office of Financial Research, first published SOFR on April 3, 2018,[29] and publishes the rate each New York business day at 8:00 a.m. ET.[30]

SOFR is comprised of data from several sources: (1) Tri-party repo data; (2) the Fixed Income Clearing Corporation's (FICC) General Collateral Finance Repo data; and (3) bilateral Treasury repo transactions cleared through FICC.[31] The ARRC selected SOFR as its preferred USD LIBOR alternative based on an assessment of a number of factors, including the depth of the underlying market, the robustness of the rate over time, the rate's usefulness to market participants, and consistency with IOSCO's Principles for Financial Benchmarks.[32] SOFR is based on a far deeper pool of underlying transactions than USD LIBOR. According to the ARRC, since SOFR was first published, the volume of underlying transactions has averaged over $980 billion daily, and reflects trading by a diverse group of market participants.[33] In comparison, the median daily volume of 3-month funding transactions between October 2016 and June 2017, underlying the most heavily-referenced USD LIBOR tenor, amounted to less than $1 billion.[34] The ARRC has developed a Paced Transition Plan, discussed below, to facilitate an orderly and incremental transition from USD LIBOR to SOFR.[35]

Regulators and working groups in other jurisdictions are also endeavoring to identify, develop, and implement alternative reference rates.[36] The FSB's November 2020 report *Reforming Major Interest Rate Benchmarks* highlights plans to develop alternatives for numerous other IBORs.[37] A table of

[25] *See generally* ARRC, About [hereinafter ''About the ARRC''], available at *https://www.newyorkfed.org/arrc/about. See also* ARRC, ARRC Minutes for the December 12, 2014 Organizational Meeting, available at *https://www.newyorkfed.org/medialibrary/microsites/arrc/files/2014/Dec-12-2014-ARRC-Minutes.pdf.*

[26] About the ARRC.

[27] ARRC, ''The ARRC Selects a Broad Repo Rate as its Preferred Alternative Reference Rate,'' June 22, 2017, available at *https://www.newyorkfed.org/medialibrary/microsites/arrc/files/2017/ARRC-press-release-Jun-22-2017.pdf. See also* ARRC, Interim Report and Consultation, May 2016, at 13, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2016/arrc-interim-report-and-consultation.pdf?la=en* (discussing other alternative reference rates that the ARRC considered).

[28] FRBNY, Statement Introducing the Treasury Repo Reference Rates, Apr. 3, 2018 [hereinafter ''Statement Introducing the Treasury Repo Reference Rates''], available at *https://www.newyorkfed.org/markets/opolicy/operating_policy_180403. See also* FRBNY, Secured Overnight Financing Rate Data [hereinafter ''SOFR Data''], available at *https://apps.newyorkfed.org/markets/autorates/SOFR#:~:text=The%20SOFR%20is%20calculated%20as,LLC%2C%20an%20affiliate%20of%20the*; FRBNY, Additional Information about the Treasury Repo Reference Rates, available at *https://www.newyorkfed.org/markets/treasury-repo-reference-rates-information.*

[29] Statement Introducing the Treasury Repo Reference Rates.

[30] SOFR Data.

[31] *Id.*

[32] ARRC Second Report at 6.

[33] ARRC, Frequently Asked Questions, Dec. 18, 2020, at 4–5, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/ARRC-faq.pdf.*

[34] ARRC Second Report at 1–3.

[35] Although SOFR is widely viewed as the primary replacement for USD LIBOR, and is preferred by the ARRC, other alternatives are available to market participants, including those who desire a benchmark with a credit risk component. One such alternative is AMERIBOR, which is administered by the American Financial Exchange (AFX) and is calculated based on actual borrowing costs between small and midsize banks that are AFX members. William Shaw, ''Libor Replacement Race Picks Up with Ameribor Swap Debut,'' Bloomberg, Dec. 3, 2020, available at *https://www.bloomberg.com/news/articles/2020-12-03/libor-replacement-race-picks-up-with-ameribor-swap-deal-debut#:~:text=The%20push%20to%20replace%20Libor,notional%20%2424%20million%20on%20Tuesday.* Another potential alternative is the ICE Bank Yield Index (IBYI), which ICE has proposed as a replacement for USD LIBOR. If implemented, IBYI would measure the average yields at which investors are willing to invest USD funds on a wholesale, senior, and unsecured basis in large, international banks over 1-month, 3-month, and 6-month periods. IBA, U.S. Dollar ICE Bank Yield Index Update, May 2020, at 3, available at *https://www.theice.com/publicdocs/Update_US_Dollar_ICE_Bank_Yield_Index_May_2020.pdf.* Unlike USD LIBOR, IBYI would be fully transaction-based. *See id.* at 3, 5–6. An additional potential alternative, Bloomberg's Short-Term Bank Yield Index (BSBY), is a credit-sensitive index which can be added to SOFR or used as a standalone benchmark. Bloomberg, ''Bloomberg Confirms Its BSBY Short-Term Credit Sensitive Index Adheres to IOSCO Principles,'' Apr. 6, 2021, available at *https://www.bloomberg.com/company/press/bloomberg-confirms-its-bsby-short-term-credit-sensitive-index-adheres-to-iosco-principles/. See also* Bloomberg, Bloomberg Short-Term Bank Yield Index, available at *https://www.bloomberg.com/professional/product/indices/bsby/#:~:text=The%20Bloomberg%20Short%2DTerm%20Bank,defines%20a%20forward%20term%20structure*; Bloomberg, Bloomberg Short-Term Bank Yield (BSBY) Index Methodology, Mar. 2021, available at *https://assets.bbhub.io/professional/sites/10/BSBY-Methodology-Document-March-30-2021.pdf.*

[36] For further discussion of the ARRC and working groups in other LIBOR currency jurisdictions and key milestones, *see generally* International Swaps and Derivatives Association, Inc. et al. (ISDA), IBOR Global Benchmark Transition Report, June 2018, at 38–47 [hereinafter ''IBOR Global Benchmark Transition Report''], available at *https://www.isda.org/2018/06/25/ibor-global-benchmark-transition-report/ibor-transition-report/. See also* Working Group on Sterling Risk-Free Reference Rates (RFRWG) Top Level Priorities—2021, Bank of England, Jan. 2021, available at *https://www.bankofengland.co.uk/-/media/boe/files/markets/benchmarks/rfr/rfr-working-group-roadmap.pdf*; European Central Bank, ''Working group on euro risk-free rates,'' available at *https://www.ecb.europa.eu/paym/interest_rate_benchmarks/WG_euro_risk-free_rates/html/index.en.html*; The National Working Group on CHF Reference Rates, NWG Milestones, available at *https://www.snb.ch/en/ifor/finmkt/fnmkt_benchm/id/finmkt_NWG_milestones*; Study Group on Risk-Free Reference Rates, Bank of Japan, available at *https://www.boj.or.jp/en/paym/market/sg/index.htm/*; Financial Stability Board (FSB), Reforming Major Interest Rate Benchmarks, Nov. 20, 2020, at 14–29 [hereinafter ''Reforming Major Interest Rate Benchmarks''], available at *https://www.fsb.org/2020/11/reforming-major-interest-rate-benchmarks-2020-progress-report/.*

[37] *See generally* Reforming Major Interest Rate Benchmarks at 29–43, 54–55. *See also* Andreas Schrimpf and Vladislav Sushko, ''Beyond Libor: a primer on the new reference rates,'' BIS Quarterly Review, Mar. 2019, at 35, available at *https://www.bis.org/publ/qtrpdf/r_qt1903e.pdf*; Bank of England, Preparing for 2022: What You Need to Know about LIBOR Transition, Nov. 2018, at 10, *https://www.bankofengland.co.uk/-/media/boe/files/markets/benchmarks/what-you-need-to-know-about-libor-transition.pdf*; ISDA, et al., IBOR Global Benchmark Survey 2018 Transition Roadmap, Feb. 2018, at 32, *https://www.isda.org/a/g2hEE/IBOR-*

Continued

those identified alternatives is included below.

ALTERNATIVE REFERENCE RATES IDENTIFIED FOR IBORS

Currency	Index	Identified alternative rate	Alternative rate administrator	Secured	Published
Australian dollar (AUD) ...	Bank Bill Swap Rate (BBSW).	Reserve Bank of Australia Interbank Overnight Cash Rate (AONIA).	Reserve Bank of Australia.	No	Yes.
Canadian dollar (CAD)	Canadian Dollar Offered Rate (CDOR).	Canadian Overnight Repo Rate Average (CORRA).	Bank of Canada	Yes	Yes.
CHF	LIBOR	Swiss Average Rate Overnight (SARON).	SIX Swiss Exchange	Yes	Yes.
EUR	LIBOR	Euro Short-Term Rate (€STR).	European Central Bank ..	No	Yes.
	Euro Overnight Index Average (EONIA) [38].	€STR	European Central Bank ..	No	Yes.
	Euro Interbank Offered Rate (EURIBOR).	€STR	European Central Bank ..	No	Yes.
GBP	LIBOR	Sterling Overnight Index Average (SONIA).	Bank of England	No	Yes.
Hong Kong dollar (HKD)	Hong Kong Interbank Offered Rate (HIBOR).	Hong Kong Dollar Overnight Index Average (HONIA).	Treasury Market Association.	No	Yes.
JPY [39]	LIBOR	Tokyo Overnight Average (TONA) Tokyo Interbank Offered Rate (TIBOR) Euroyen TIBOR.	Bank of Japan	No	Yes.
Mexican peso (MXN)	Term Interbank Equilibrium Interest Rate (TIIE).	Overnight TIIE	Banco de Mexico	Yes	Yes.
Singapore dollar (SGD) ...	Singapore Dollar Swap Offer Rate (SOR).	Singapore Overnight Rate Average (SORA).	Association of Banks in Singapore.	No	Yes.
	Singapore Interbank Offered Rate (SIBOR).	SORA	Association of Banks in Singapore.	No	Yes.

On July 6, 2021, the FSB published a progress report discussing the state of transition efforts and highlighting specific issues and challenges.[40] In particular, the report highlighted the need for supervisory authorities to engage in a greater degree of coordination and communication to promote awareness of the urgency and scope of the transition away from LIBOR, and called on market participants to accelerate their adoption of alternatives. The report noted that, while significant progress had been made on some fronts, such as decreasing reliance on GBP LIBOR in favor of SONIA, transition efforts had lagged in other markets. For instance, the report observed that while use of SOFR derivatives had increased, activity in USD LIBOR-based derivatives had grown over the past three years, and the share of outstanding SOFR derivatives remained small compared with USD LIBOR derivatives.[41]

As regulators and market participants in different jurisdictions work to identify alternative reference rates, the Commission anticipates that the interest rate swaps markets will evolve to incorporate those rates, with the goal of shifting all activity to the alternative reference rates before the relevant IBOR is discontinued. The Commission believes this process can occur organically, driven by market demand and DCO offerings.

D. Transition to Alternative Reference Rates

The transition to alternative reference rates in substitution for LIBOR, in particular, has been a priority for regulators and market participants following an announcement by Andrew Bailey, then-Chief Executive of the FCA, on July 27, 2017, that the FCA would not use its authority to compel or persuade LIBOR panel banks to contribute to the benchmark after 2021.[42] Bailey urged market participants to begin planning for the cessation of LIBOR and to start transitioning to the use of alternative reference rates, highlighting the work already done to identify alternative reference rates in the U.S., U.K., and other LIBOR currency

Global-Transition-Roadmap-2018.pdf; Euro Short-Term Rate (€STR), European Central Bank, available at *https://www.ecb.europa.eu/stats/financial_markets_and_interest_rates/euro_short-term_rate/html/index.en.html#:~:text=The%20euro%20short%2Dterm%20rate,activity%20on%201%20October%202019*; Steering Committee for SOR & SIBOR Transition to SORA, Timelines to Cease Issuance of SOR and SIBOR-Linked Financial Products, Mar. 31, 2021, available at *https://abs.org.sg/docs/library/timelines-to-cease-issuance-of-sor-derivatives-and-sibor-linked-financial-products.pdf.*

[38] Under a revised calculation methodology, EONIA is calculated as a spread of 8.5 basis points over the €STR rate. EONIA is expected to be discontinued on January 3, 2022. Reforming Major Interest Rate Benchmarks at 18.

[39] Multiple alternative reference rates are being offered to succeed JPY LIBOR. *See* generally note 66, *infra.*

[40] FSB, Progress Report to the G20 on LIBOR Transition Issues, July 6, 2021, available at *https://www.fsb.org/wp-content/uploads/P060721.pdf.*

[41] *Id.* at 8–10.

[42] Andrew Bailey, ''The future of Libor,'' July 27, 2017, available at *https://www.fca.org.uk/news/speeches/the-future-of-libor.*

jurisdictions.[43] Following Bailey's remarks, other regulatory officials, including previous Chairmen of the Commission and Commissioners, voiced support for an orderly transition from LIBOR to alternative reference rates.[44]

The transition from USD LIBOR to SOFR has been guided by the ARRC's Paced Transition Plan, which was first published in 2017 and has been adjusted over time.[45] As currently formulated, the plan calls for five steps to facilitate market-wide adoption of SOFR: (i) The establishment of infrastructure for futures and/or OIS trading in SOFR by the second half of 2018; (ii) the start of trading in futures and/or bilateral, uncleared OIS that reference SOFR by the end of 2018; (iii) the start of trading in cleared OIS that reference SOFR in the effective federal funds rate (EFFR) price alignment interest (PAI) and discounting environment by the end of the first quarter of 2019; (iv) the Chicago Mercantile Exchange, Inc. (CME)'s and LCH.Clearnet Limited (LCH)'s conversion of discounting, and PAI and price alignment amount (PAA), from EFFR to SOFR with respect to all outstanding cleared USD-denominated swaps by October 16, 2020; and (v) the ARRC's endorsement of a term reference rate based on SOFR derivatives markets by the end of the first half of 2021.

Although the first four steps of the ARRC's Paced Transition Plan were met on schedule,[46] in March 2021, the ARRC announced that it would not be prepared to select an administrator to publish a forward-looking term SOFR rate by the end of the first half of the year.[47] The ARRC noted that this fifth step would be contingent on the continued development of sufficient liquidity in SOFR derivatives markets and a limited scope of use for the term rate.[48] CME Group began publishing 1-, 3-, and 6-month forward-looking term SOFR benchmark rates in April 2021,[49] and in May 2021, the ARRC announced that it planned to recommend CME Group as the administrator for a forward-looking term rate, once certain market indicators were met.[50] On July 29, 2021, shortly after the introduction of the first phase of the Commission's Market Risk Advisory Committee's (MRAC) SOFR First initiative,[51] discussed below, the ARRC formally endorsed CME Group's forward-looking term SOFR rates.[52]

Since its inception, the ARRC has sought to support market-wide adoption of SOFR through the publication of guidance and recommendations for market participants, including periodic publication of transition objectives,[53] recommendations related to the use of SOFR and best practices for SOFR adoption,[54] and the identification of systems and processes likely to be affected by a transition from USD LIBOR to SOFR.[55] The ARRC has also sought regulatory guidance and relief in order to facilitate an orderly transition away from IBORs.[56]

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[43] *Id.*

[44] *E.g.,* Jerome Powell and J. Christopher Giancarlo, ''How to Fix Libor Pains,'' The Wall Street Journal, Aug. 3, 2017, available at *https://www.wsj.com/articles/how-to-fix-libor-pains-1501801028;* CFTC, Opening Statement of Commissioner Brian D. Quintenz before the CFTC Market Risk Advisory Committee Meeting, July 12, 2018, available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement071218;* CFTC, Remarks of Commissioner Rostin Behnam at the ISDA/SIFMA AMG Benchmark Strategies Forum 2020, New York, New York, Feb. 12, 2020, available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehnam14;* CFTC, Statement of Chairman Heath P. Tarbert Regarding the Transition Away from IBORs, Nov. 24, 2020 [hereinafter ''Statement of Chairman Tarbert''], *https://www.cftc.gov/PressRoom/SpeechesTestimony/tarbertstatement112420.*

[45] *See generally* ARRC, Paced Transition Plan, available at *https://www.newyorkfed.org/arrc/sofr-transition#pacedtransition.*

[46] As stated above, the FRBNY began publishing SOFR on April 3, 2018. Shortly thereafter, on May 7, 2018, CME Group Inc. (CME Group) launched SOFR futures contracts in the 1- and 3-month tenors. On May 16, 2018, ISDA added a definition of SOFR for use in contracts governed by ISDA Master Agreements. On October 1, 2018, ICE Futures Europe launched 1- and 3-month SOFR futures contracts. On July 18, 2018, LCH began clearing interest rate swaps referencing SOFR, with PAI and discounting linked to EFFR. On October 9, 2018, CME began clearing interest rate swaps referencing SOFR, with PAI and discounting linked to SOFR. Most recently, on October 16, 2020, CME and LCH converted discounting and PAI/PAA from EFFR to SOFR for all outstanding cleared USD-denominated swaps. *Id.*

[47] ARRC, ARRC Provides Update on Forward-Looking SOFR Term Rate, Mar. 23, 2020 [hereinafter ''ARRC Provides Update on Forward-Looking SOFR Term Rate''], available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/arrc-press-release-term-rate-for-publication.* At the time, the ARRC recommended that market participants use existing tools, such as SOFR averages and index data, instead of waiting for a term SOFR. *Id.* In May 2021, the ARRC released a set of market indicators that it would consider before recommending a forward-looking term SOFR rate. ARRC, ''ARRC Identifies Market Indicators to Support a Recommendation of a Forward-Looking SOFR Term Rate,'' May 6, 2021, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/20210506-term-rate-indicators-press-release.*

[48] ARRC Provides Update on Forward-Looking SOFR Term Rate.

[49] CME Group, CME Group Announces Launch of CME Term SOFR Reference Rates, Apr. 21, 2021, available at *https://www.cmegroup.com/media-room/press-releases/2021/4/21/cme_group_announceslaunchofcmetermsofrreferencerates.html.*

[50] ARRC, ''ARRC Releases Update on its RFP Process for Selecting a Forward-Looking SOFR Term Rate Administrator,'' May 21, 2021, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/20210521-ARRC-Press-Release-Term-Rate-RFP.pdf.*

[51] The MRAC's SOFR First initiative is not Commission action and should be viewed as a best practice.

[52] ARRC, ''ARRC Formally Recommends Term SOFR,'' July 29, 2021, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/ARRC_Press_Release_Term_SOFR.pdf.* Prior to its endorsement of CME Group's forward-looking term SOFR rates, the ARRC released a statement of best practices supporting the use of SOFR term rates in connection with business loan activities, but not in connection with the vast majority of derivatives markets activities, with the exception of end-user facing derivatives intended to hedge cash products that reference the SOFR term rate. ARRC, ARRC Best Practice Recommendations Related to Scope of Use of the Term Rate, July 21, 2021, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/ARRC_Scope_of_Use.pdf.*

[53] *E.g.,* ARRC, 2020 Objectives, Apr. 17, 2020, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC_2020_Objectives.pdf;* ARRC, 2019 Incremental Objectives, June 6, 2019, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2019/ARRC_2019_Incremental_Objectives.pdf.*

[54] *E.g.,* ARRC, Addendum to Recommendations for Voluntary Compensation for Swaptions Impacted by Central Counterparty Clearing Houses' Discounting Transition to SOFR, Sept. 11, 2020 available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC-swaptions-recommendations.pdf;* ARRC, Recommended Best Practices, Sept. 3, 2020, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC-Best-Practices.pdf;* ARRC, Vendor Best Practices, May 7, 2020, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC-Vendor-Recommended-Best-Practices.pdf;* ARRC, Recommendations for Interdealer Cross-Currency Swap Market Conventions, Jan. 24, 2020, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/Recommendations_for_Interdealer_Cross-Currency_Swap_Market_Conventions.pdf;* ARRC, Buy-Side Checklist for SOFR Adoption, Jan. 31, 2020, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC_Buy_Side_Checklist.pdf;* ARRC, Practical Implementation Checklist for SOFR Adoption, Sept. 19, 2019, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2019/ARRC-SOFR-Checklist-20190919.pdf.* The ARRC's resources include proposed guidance and recommended fallback language for cash market products. While many of the ARRC's recommended best practices for SOFR adoption are intended to apply to users of cash market products, some are specific to derivatives market participants. They include adherence to ISDA's Fallbacks Protocol, specific steps that dealers can take to promote liquidity in, and client access to, SOFR derivatives, and cessation of new trades in LIBOR derivatives maturing after 2021, except in limited circumstances.

[55] ARRC, Internal Systems & Processes: Transition Aid for SOFR Adoption, July 8, 2020, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC-Internal-Systems-Processes-Transition-Aid.pdf.*

[56] CFTC staff have addressed concerns raised by ARRC associated with the transition away from LIBOR in two separate sets of no-action letters issued in December 2019 and August 2020, including by issuing no action relief from the Clearing Requirement with respect to amendments to certain uncleared swaps. CFTC Staff Letter No. 19–28, Dec. 17, 2019, available at *https://www.cftc.gov/csl/19-28/download* as superseded by CFTC Staff Letter No. 20–25, Aug. 31, 2020, available at *https://www.cftc.gov/csl/20-25/download.*

As the end of 2021 approaches, regulators, global standard-setting bodies, and alternative reference rate working groups have increased calls for market participants to accelerate their adoption of alternative reference rates. On November 30, 2020, the FRB, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation released a joint statement encouraging banks to cease entering new contracts referencing USD LIBOR ''as soon as practicable'' and no later than December 31, 2021, in light of ''safety and soundness risks'' posed by continued use of the benchmark.[57] The statement advised market participants that new contracts entered into before December 31, 2021, should utilize a non-LIBOR reference rate, or otherwise contain ''robust fallback language that includes a clearly defined alternative reference rate after LIBOR's discontinuation.'' [58] On June 2, 2021, IOSCO echoed the joint statement in its Statement on Benchmarks Transition,[59] and the FSB announced the publication of a set of documents designed to assist market participants and regulators in the transition, including a roadmap of steps for firms to take as they transition their portfolios to alternative reference rates, a white paper reviewing RFRs and term rates, and a statement encouraging regulators to set consistent expectations for the cessation of new USD LIBOR activity.[60] Additionally, on July 13, 2021, the Commission's MRAC adopted SOFR First, a phased initiative to switch interdealer trading conventions from LIBOR to SOFR in a variety of products.[61]

E. International Regulatory Developments

Under Section 752(a) of the Dodd-Frank Act, the Commission, along with the Securities and Exchange Commission and other prudential regulators, was directed to consult and coordinate with non-U.S. regulatory authorities in order to establish consistent international standards for regulating swaps.[62] The Commission complied with this directive in 2016 when it considered regulatory developments in swap clearing around the world for the Second Determination and noted that it was important to harmonize the Clearing Requirement with clearing mandates in other jurisdictions.[63] Now, as in the past, the Commission is reviewing proposals and plans by other regulators to modify clearing mandates for interest rate swaps. The Commission has long recognized the interconnectedness of the interest rate swaps market, and is working cooperatively with other jurisdictions as they consider and adopt new clearing mandates.[64]

On May 20, 2021, the Bank of England launched a public consultation regarding a proposal to modify its clearing obligation in light of the cessation of LIBOR and adoption of alternative reference rates.[65] The Bank of England proposed three key changes to its clearing obligation. First, on October 18, 2021, the requirement to clear EONIA OIS with a maturity of 7 days to 3 years would be replaced with a requirement to clear €STR OIS for the same maturity range. Second, on December 6, 2021, the requirement to clear JPY LIBOR basis and fixed-to-floating swaps would be removed.[66] Third, on December 20, 2021, the requirement to clear GBP LIBOR basis and fixed-to-floating swaps, and FRAs, would be replaced with a requirement to clear SONIA OIS with an amended maturity range of 7 days to 50 years. According to the proposal, any changes to the clearing obligation would enter into force shortly after a number of DCOs complete a contractual conversion process, discussed below. On September 29, 2021, in a final policy statement, the Bank of England announced that it would adopt these changes as

[57] Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, Statement on LIBOR Transition, Nov. 30, 2020, available at *https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20201130a1.pdf.*

[58] *Id.* The agencies stated that such circumstances may include ''(i) transactions executed for purposes of required participation in a central counterparty auction procedure in the case of a member default, including transactions to hedge the resulting USD LIBOR exposure; (ii) market making in support of client activity related to USD LIBOR transactions executed before January 1, 2022, (iii) transactions that reduce or hedge the bank's or any client of the bank's USD LIBOR exposure on contracts entered into before January 1, 2022; and (iv) novations of USD LIBOR transactions executed before January 1, 2022.'' *Id.* A fallback rate refers to the rate provided for use in a contract if the benchmark that the contract uses becomes unavailable or unrepresentative. ISDA, Understanding IBOR Benchmark Fallbacks, June 2, 2020, available at *https://www.isda.org/a/YZQTE/Understanding-Benchmarks-Factsheet.pdf.* Prior to ISDA's IBOR Fallbacks Supplement, discussed below, ISDA's 2006 Definitions called for the counterparty serving as the calculation agent for a swap to calculate a fallback rate based on quotations obtained by polling banks, an approach which was viewed as unsustainable in the event of a permanent cessation to a benchmark rate. *See* IBOR Global Benchmark Transition Report at 15.

[59] *See generally* IOSCO, Statement on Benchmarks Transition, June 2, 2021, available at *https://www.iosco.org/library/pubdocs/pdf/IOSCOPD676.pdf. See also* ARRC, ARRC Recommends Acting Now to Slow USD LIBOR Use over the Next Six Weeks to be Well-Positioned to Meet Supervisory Guidance by Year-End, Oct. 14, 2021, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/20211013-arrc-press-release-supporting-a-smooth-exit-post-arrc* (recommending market participants take steps to curtail new use of USD LIBOR consistent with federal supervisory guidance).

[60] FSB, ''FSB issues statements to support a smooth transition away from LIBOR by end 2021,'' June 2, 2021, available at *https://www.fsb.org/2021/06/fsb-issues-statements-to-support-a-smooth-transition-away-from-libor-by-end-2021/.*

[61] CFTC, ''CFTC Market Risk Advisory Committee Adopts SOFR First Recommendation at Public Meeting,'' July 13, 2021, available at *https://www.cftc.gov/PressRoom/PressReleases/8409-21.* The first phase of the initiative, covering USD-denominated linear swaps, began on July 26, 2021. The MRAC's SOFR First initiative mirrors a SONIA-First best practice adopted by the FCA and the Bank of England. *See* Bank of England, ''The FCA and the Bank of England encourage market participants in further switch to SONIA in interest rate swap markets,'' Sept. 28, 2020, available at *https://www.bankofengland.co.uk/news/2020/september/fca-and-boe-joint-statement-on-sonia-interest-rate-swap.* The second phase of MRAC's SOFR First initiative, covering cross-currency swaps with CHF, GBP, JPY, and USD LIBOR legs, began on September 21, 2021. *See* CFTC, SOFR First: MRAC Subcommittee Recommendation, July 13, 2021 [hereinafter ''SOFR First: MRAC Subcommittee Recommendation''], available at *https://www.cftc.gov/media/6176/MRAC_SOFRFirstSubcommitteeRecommendation071321/download.* The third phase of SOFR First, covering non-linear derivatives, launched on November 8, 2021. *See* CFTC, CFTC's Interest Rate Benchmark Reform Subcommittee Selects November 8 for SOFR First for Non-Linear Derivatives, Oct. 15, 2021, available at *https://www.cftc.gov/PressRoom/PressReleases/8449-21.* The fourth and final phase of SOFR First will cover exchange-traded derivatives. Timing for implementation of this phase remains to be determined by is expected to occur no later than December 31, 2021. *Id.*; SOFR First: MRAC Subcommittee Recommendation.

[62] Section 752 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[63] Second Determination, 81 FR 71203.

[64] *See* Second Determination, 81 FR 71223 (noting that ''the interest rate swaps market is global and market participants are interconnected''); First Determination, 77 FR 74287 (''The Commission is mindful of the benefits of harmonizing its regulatory framework with that of its counterparts in foreign countries. The Commission has therefore monitored global advisory, legislative, and regulatory proposals, and has consulted with foreign regulators in developing the final regulations.'').

[65] Bank of England, ''Derivatives clearing obligation—modifications to reflect interest rate benchmark reform: Amendments to BTS 2015/2205,'' May 20, 2021, available at *https://www.bankofengland.co.uk/paper/2021/derivatives-clearing-obligation-modifications-to-reflect-interest-rate-benchmark-reform-amendments.* The consultation closed on July 14, 2021. *Id.*

[66] The Bank of England initially proposed that the JPY LIBOR clearing obligation be removed, rather than replaced, due to uncertainty with respect to which alternative reference rate would become the market standard alternative for JPY LIBOR. While the Japanese Study Group on Risk-Free Reference Rates has identified TONA as its preferred JPY LIBOR alternative, the Japanese Bankers Association, which publishes TIBOR and Euroyen TIBOR, is considering retaining JPY TIBOR while discontinuing Euroyen TIBOR at the end of 2024. *See generally* JBA TIBOR Administration, ''Current status and outlook of JBA TIBOR (March 2021),'' Mar. 2021, available at *https://www.jbatibor./or.jp/english/about/a05337c8b9e2b22ccd2c0464bc4b2e86b76098d3.pdf.*

proposed.[67] However, citing recent announcements by Japanese authorities[68] and anticipated changes in market activity,[69] the Bank of England proposed to add TONA OIS to the scope of contracts subject to its clearing obligation. The proposal contemplates that the clearing obligation for TONA OIS would come into force on December 6, 2021, and would cover a maturity range of 7 days to 30 years.[70]

On July 9, 2021, the European Securities and Markets Authority (ESMA) published a public consultation on draft regulatory technical standards (RTS) amending ESMA's clearing and derivatives trading obligations.[71] The draft RTS proposes to eliminate the clearing obligation for (i) GBP and JPY LIBOR swaps in the basis and fixed-to-floating swap classes; (ii) GBP LIBOR swaps in the FRA class; and (iii) EONIA swaps in the OIS class.[72] It also proposes to add a clearing obligation to the OIS class for €STR and SOFR swaps (in each case, for a maturity range of 7 days to 3 years) and extend the maximum maturity range for SONIA OIS from 3 years to 50 years.[73] Once ESMA finalizes the RTS, it will be submitted to the European Commission for endorsement.[74]

II. Market Adoption of Alternative Reference Rates

A. Industry Initiatives

Consistent with calls for a broadly coordinated benchmark reform effort by the FSB Official Sector Steering Group, Financial Stability Oversight Council, and others, market participants have played a critical role in the identification, development, and adoption of alternative reference rates through leadership in and engagement with alternative reference rate working groups such as the ARRC, as well as through influencing numerous aspects of the adoption of alternative reference rates via the provision of feedback in public consultations by the ARRC, ISDA, ICE, and others.[75] Market participants also have provided much of the infrastructure needed for increased market adoption of, and trading liquidity in, derivatives referencing alternative reference rates, including providing for the offering of alternative reference rate-linked futures contracts, clearing of alternative reference rate-linked swaps, and adjusting PAI and discounting methodology to rely on alternative reference rates.

One of the most significant industry initiatives to facilitate the transition from IBORs to alternative reference rates in interest rate swaps markets has been ISDA's efforts to update its standard contract documentation to reflect ongoing benchmark reform efforts, including (i) ISDA's 2020 IBOR Fallbacks Protocol, published on October 23, 2020, and (ii) ISDA's Supplement number 70 to the 2006 ISDA Definitions, finalized on October 23, 2020 and published and effective on January 25, 2021 (IBOR Fallbacks Supplement).[76] The IBOR Fallbacks Supplement, which applies to new cleared and uncleared derivatives contracts entered into on or after January 25, 2021 that incorporate the 2006 ISDA Definitions and reference any of the IBORs to which the supplement applies, provides that contracts referencing those IBORs will fall back to adjusted versions of the RFR identified for the relevant IBOR in the event that an IBOR ceases or, in the case of LIBOR, either ceases or is deemed non-representative.[77] Concurrent with its publication of the IBOR Fallbacks Supplement, ISDA also launched an IBOR Fallbacks Protocol, which allows counterparties to uncleared derivatives transactions to bilaterally amend existing uncleared transactions to incorporate the fallbacks detailed in the Supplement, effectively allowing counterparties to apply the IBOR Fallbacks Supplement's amendments to legacy uncleared swaps entered into prior to the effective date of the IBOR Fallbacks Supplement.[78] On March 5, 2021, following the FCA's statement that all 35 LIBOR settings will either permanently cease to be published or become non-representative, ISDA released guidance explaining that its fallbacks will become effective on the date that each of the relevant settings will cease publication or become non-representative.[79] The ARRC and regulators have called for widespread adherence to ISDA's IBOR Fallbacks Protocol as an important means of minimizing potential market disruption

[67] Bank of England, ''Derivatives clearing obligation—modifications to reflect interest rate benchmark reform: Amendments to BTS 2015/2205,'' Sept. 29, 2021, available at *https://www.bankof/england.co./uk/paper/2021/derivatives-clearing-obligation-modifications-to-reflect-interest-rate-benchmark-reform.*

[68] Japan's Financial Services Agency published a draft regulatory notice on September 8, 2021 requesting public comment on rules related to, among other things, the obligation to centrally clear over-the-counter derivatives transactions. Financial Services Agency Weekly Review No. 456, Sept. 16, 2021, available at: *https://www.fsa./go.jp/en/newsletter/weekly/2021/456.html.*

[69] Specifically, the Bank of England cited (i) a report from the Bank of Japan's Sub-Group for the Development of Term Reference Rates urging market participants to cease new JPY LIBOR swaps activity by the end of September 2021 and recommending that TONA become the primary replacement rate for JPY LIBOR; (ii) recommendations by liquidity providers to change quoting conventions from JPY LIBOR to TONA; and (iii) a September 8, 2021 consultation by Japan's Financial Services Agency regarding changes to its clearing obligation.

[70] Bank of England, ''Derivatives clearing obligation—introduction of contracts referencing TONA: Amendment to BTS 2015/2205,'' Sept. 29, 2021 [hereinafter ''Derivatives clearing obligation—introduction of contracts referencing TONA: Amendment to BTS 2015/2205''], available at *https://www.bankof/england.co./uk/paper/2021/derivatives-clearing-obligation-introduction-of-contracts-referencing-tona;* Bank of England, Public Register for the Clearing Obligation, available at *https://www.bankofengland./co.uk/-/media/boe/files/eu-withdrawal/clearing-obligation-public-register.pdf.* The consultation closed on October 27, 2021. Derivatives clearing obligation—introduction of contracts referencing TONA: Amendment to BTS 2015/2205.

[71] ESMA, ''Consultation Paper: On the clearing and derivative trading obligations in view of the benchmark transition,'' July 9, 2021, available at *https://www.esma./europa.eu/sites/default/files/library/consultation_paper_on_the_co_and_dto_for_swaps_referencing_rfrs.pdf.* The consultation closed on September 2, 2021. *Id.* at 8.

[72] *Id.* at 37–39.

[73] *Id.*

[74] *Id.* at 8. The RTS will become effective on the later of January 3, 2022 or 20 days after publication in the *Official Journal of the European Union. Id.* at 58–59.

[75] *See generally* ISDA, Summary of Responses to the ISDA 2020 Consultation on How to Implement Pre-Cessation Fallbacks in Derivatives, May 14, 2020, available at *https://www.isda./org/a/cuQTE/2020./05.14-Pre-cessation-Re-Consultation-Report-FINAL.pdf;* ISDA, Summary of Responses to the ISDA Consultation on Final Parameters for the Spread and Term Adjustment Methodology, Nov. 15, 2019, available at *http://assets./isda.org/media/3e16cdd2/d1b3283f.pdf;* ISDA, Anonymized Narrative Summary of Responses to the ISDA Consultation on Term Fixings and Spread Adjustment Methodology, Dec. 20, 2018, available at *http://assets./isda.org/media/04d213b6/db0b0fd7.pdf;* ARRC, ARRC Consultation on Swaptions Impacted by the CCP Discounting Transition to SOFR, Feb. 7, 2020, available at *https://www.newyorkfed.org/media/library/Microsites/arrc/files/2020/ARRC_Swaption_Consultation./pdf.*

[76] ISDA, ''Amendments to the 2006 ISDA Definitions to include new IBOR fallbacks,'' Oct. 23, 2020, available at *http://assets.isda.org/media/3062e7b4/23aa1658.pdf;* ISDA, ISDA 2020 IBOR Fallbacks Protocol, Oct. 23, 2020 [hereinafter ''IBOR Fallbacks Protocol''], available at *http://assets.isda.org/media/3062e7b4/08268161-pdf/.*

[77] The following IBORs are within the scope of the IBOR Fallbacks Supplement: GBP LIBOR, CHF LIBOR, USD LIBOR, EUR LIBOR, EURIBOR, JPY LIBOR, TIBOR, Euroyen TIBOR, BBSW, CDOR, HIBOR, SOR, and THBFIX. The IBOR Fallbacks Supplement also provides that if a specific LIBOR tenor is discontinued or declared non-representative, it is to be determined based on linear interpolation if the next longest and shortest tenor remain available. *See generally* IBOR Fallbacks Supplement. For instance, under ISDA's fallback methodology, between December 31, 2021 and June 30, 2023, the 1-week and 2-month USD LIBOR settings are to be calculated using linear interpolation.

[78] *See generally* IBOR Fallbacks Protocol.

[79] ISDA, Future Cessation and Non-Representative Guidance, Mar. 5, 2021, available at *https://www.isda.org/a/dIFTE/ISDA-Guidance-on-FCA-announcement_LIBOR-Future-Cessation-and-Non-Representativeness-April-Update.pdf.*

as a result of a LIBOR cessation.[80] As of November 2021, over 14,700 parties had adhered to ISDA's Protocol.[81]

ISDA's IBOR Fallbacks Supplement also has provided DCOs with a template to adopt, with adjustments, changes that are required to transition cleared swaps referencing IBORs to alternative reference rates, in order to ensure that the swaps can continue to be risk-managed. The FSB specifically urged providers of cleared products that reference IBORs to ensure that those products incorporate fallback provisions aligned with those in the IBOR Fallbacks Supplement.[82] Several DCOs have adopted rule amendments to facilitate the use of the alternative reference rates provided for in the IBOR Fallbacks Supplement in cleared swap contracts.[83]

B. Availability of Clearing

As the market for interest rate swaps moves away from IBORs to alternative reference rates, DCOs have started to transition their product offerings and are working to assist clearing members with the process of transferring positions. A number of DCOs have started clearing OIS in SOFR and other alternative reference rates.[84] A table with clearing availability at DCOs registered under the CEA is included below. This table does not include DCOs exempt from registration under the CEA or any other central counterparty that is not a registered DCO where additional liquidity in alternative reference rate products may exist.

ALTERNATIVE REFERENCE RATE CLEARING AVAILABILITY

Swap class	Currency	Floating rate	DCOs clearing the swaps (termination date range offered)
Basis Swaps	AUD	BBSW–AONIA	LCH (up to 31 yrs).
	CAD	CDOR–CORRA	LCH (up to 31 yrs).
	EUR	EURIBOR-€ESTR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
	GBP	LIBOR–SONIA	Eurex (up to 51 yrs), LCH (up to 51 yrs).
	JPY	LIBOR–TONA	Eurex (up to 31 yrs), LCH (up to 41 yrs).
	SGD	SOR–SORA	LCH (up to 21 yrs).
	USD	LIBOR–SOFR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
		Fed Funds-SOFR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
Overnight Index Swaps	AUD	AONIA	CME (up to 31 yrs), LCH (up to 31 yrs).
	CAD	CORRA	CME (up to 31 yrs), LCH (up to 31 yrs).
	CHF	SARON	CME (up to 31 yrs), Eurex (up to 31 yrs), LCH (up to 31 yrs).
	EUR	€ESTR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
	GBP	SONIA	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
	JPY	TONA	CME (up to 31 yrs), Eurex (up to 31 yrs), LCH (up to 41 yrs).
	SGD	SORA	LCH (up to 21 yrs).
	USD	SOFR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).

Certain DCOs have observed that market participants identified some challenges with respect to implementing ISDA's fallbacks for both cleared and uncleared contracts: (1) The bifurcation of liquidity between trading in legacy IBOR contracts that reference alternative reference rates (a pool of contracts that would become less liquid over time with increasing adoption of alternative reference rates), and "'new' OIS contracts"; and (2) significant costs related to the operational upgrades required to calculate floating rate coupons and update valuation methodologies.[85] DCOs continue to consider how to address these concerns through discussions with their clearing members and other market participants. One way that certain DCOs are attempting to mitigate these problems is to transition outstanding cleared IBOR-linked products to market standard RFR OIS through conversion events prior to the cessation of certain IBORs.

[80] *E.g.,* Statement of Chairman Tarbert; ARRC, "ARRC Urges Timely and Widespread Adherence to the Protocol," Oct. 22, 2020, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/ARRC_Press_Release_ISDA_Protocol.pdf;* FSB, Global Transition Roadmap for LIBOR [hereinafter "Global Transition Roadmap for LIBOR"], Oct. 16, 2020, at 2, available at *https://www.fsb.org/wp-content/uploads/P161020-1.pdf.*

[81] ISDA, List of Adhering Parties, *https://www.isda.org/protocol/isda-2020-ibor-fallbacks-protocol/adhering-parties.*

[82] Global Transition Roadmap for LIBOR at 2.

[83] ISDA's Fallbacks Supplement and changes to reference rates have prompted ISDA to undertake a comprehensive review of their interest rate swap definitions. As a result, ISDA has produced a new set of interest rate derivatives definitions that DCOs are incorporating into their rulebooks. *E.g.,* LCH, LCH Limited Self-Certification: 2021 ISDA Interest Rate Derivatives Definitions, Sept. 17, 2021, available at *https://www.lch.com/system/files/media_root/FINAL%20-%20LCH%20self%20cert_2021%20ISDA%20Defs%202021%2009%2017%20v1.pdf;* CME, CME Submission No. 21–431, CFTC Regulation 40.6(a) Certification, Amendments to CME Chapters 900 ("Interest Rate Products") and 901 ("Interest Rate Swaps Contract Terms") in Connection with the Implementation of 2021 ISDA Definitions for Over-the-Counter Interest Rate Swap Products, Sept. 17, 2021, available at *https://www.cmegroup.com/content/dam/cmegroup/market-regulation/rule-filings/2021/9/21-431.pdf;* Eurex, ECAG Rule Certification 074–21, Aug. 23, 2021, available at *https://www.eurex.com/resource/blob/2754378/c6faf642c399f93edfb030274a0c79b4/data/ecag_cftc_filing_for_circular_074-21.pdf.*

[84] Eurex, EurexOTC Clear Product List, available at *https://www.eurex.com/resource/blob/227404/03073af977450b1834d84eae808c7a7e/data/ec15075e_Attach.pdf;* CME, Cleared OTC Interest Rate Swaps, available at *https://www.cmegroup.com/trading/interest-rates/cleared-otc.html#;* CME, CME OTC IRS Supported Product List, available at *https://www.cmegroup.com/trading/interest-rates/cleared-otc/files/cme-otc-irs-supported-product-list.xlsx;* LCH, What We Clear, available at *https://www.lch.com/services/swapclear/what-we-clear;* LCH, Product Specific Contract Terms and Eligibility Criteria Manual, Oct. 15, 2021, available at *https://www.lch.com/system/files/media_root/211015%20-%20Product%20Specific%20Contract%20Terms%20%28EMTA%20Template%20and%20JS%20deletions%29.pdf.*

[85] CME, Cleared Swaps Considerations for IBOR Fallback and Conversion Proposal, Jan. 14, 2021, available at *https://www.cmegroup.com/trading/interest-rates/files/cleared-swaps-considerations-for-ibor-fallbacks-and-conversion-proposal.pdf.*

For example, CME, Eurex, and LCH launched processes to replace cleared swaps contracts referencing EONIA outstanding after October 15, 2021 with a conversion to €STR.[86] EONIA will be discontinued on January 3, 2022. The European Money Markets Institute publishes EONIA and has committed to publishing the benchmark rate until January 3, 2022.[87] Nonetheless, these DCOs have conducted an early transition from cleared positions in EONIA to €STR. LCH plans to convert cleared CHF, EUR, and JPY LIBOR contracts outstanding at close of business on December 3, 2021, and cleared GBP LIBOR contracts outstanding at close of business on December 17, 2021, to standardized alternative reference rate contracts.[88] CME and Eurex plan to convert cleared CHF LIBOR, JPY LIBOR, and GBP LIBOR contracts to standardized alternative reference rate contracts on the same timeline.[89] DCOs may change these plans or decide to stop clearing other products in the lead up to the IBOR transition as well. The Commission encourages market participants to consider these changes to product offerings as they plan to transition their IBOR-linked swaps.

The Commission anticipates that DCO product offering changes (*i.e.,* discontinuing clearing for certain LIBOR products after the contract conversion date) may make the current Clearing Requirement impossible to satisfy. The Commission is monitoring the evolution of conversion plans, and potential conversion-related challenges, and seeks input from the public about this and other topics in the sections below.

C. Current Trends in Alternative Reference Rates

The effort to shift trading liquidity and outstanding notional derivatives positions from IBORs to alternative reference rates by the industry has begun, but certain currency and rate pairs have seen more activity in alternative reference rates than others. Clarus Financial Technology (CFT) submitted a response to IBA's December 2020 consultation that outlined their conclusions regarding data on global trading activity in cleared OTC derivatives and exchange-traded interest rate derivatives that reference LIBOR in each of the five LIBOR currencies.[90] CFT commented that based on its review of derivatives data: (i) Market participants have shifted derivatives activity from GBP LIBOR to SONIA positions; (ii) markets have developed to facilitate the transfer of USD LIBOR positions to SOFR, but market participants have not made significant progress transferring those positions; and (iii) there has been some progress in transferring derivatives activity from CHF and JPY LIBOR to those benchmarks' respective alternative reference rates, but progress has been slow.[91]

CFT observed that there have been low volumes of EUR LIBOR-linked derivatives historically and did not comment on the cessation of EUR LIBOR.[92] Data reported by ISDA also indicates that there has been only limited activity in EUR LIBOR-based derivatives.[93]

With respect to the USD LIBOR market, CFT observed that trading activity in USD derivatives markets has not changed materially in response to the calls to transition away from USD LIBOR. CFT stated that the although SOFR products trading doubled from 2019 to 2020, it remains at low levels. In October 2020, as market participants managed the transition from the EFFR to SOFR discounting and PAI/PAA at LCH and CME, SOFR trading activity increased.[94] CFT believes this data demonstrates that market participants are able to use SOFR derivatives to manage risks when there is demand. The decline in SOFR trading after the October 2020 discounting event shows that market participants were able to use SOFR derivatives when needed, but have not continued to use SOFR and instead have reverted to USD LIBOR. As demonstrated by the data below, trading in SOFR swaps has not approached the levels of USD LIBOR trading, in notional value or trade count, but it has increased substantially in recent weeks.

The data on GBP LIBOR swaps activity presents evidence that market participants are transitioning to SONIA derivatives. CFT attributes some of the success of the transition to the statements made by UK regulators.[95] Overall, the swaps activity in SONIA provides evidence that market participants are shifting derivatives positions in GBP to SONIA.

Levels of trading and swaps activity in CHF SARON and JPY TONA had previously not been rising rapidly year over year, but data from more recent months in 2021 have shown substantial increases in the notional value traded and number of trades alongside a significant decrease in the trading of CHF LIBOR and JPY LIBOR. Recently, CFT highlighted rapid shifts from the low levels of trading in CHF SARON and JPY TONA in March 2021, to almost 50 percent of the market risk in those currencies.[96] More detailed data related to notional value traded and trade count for certain interest rate swaps in recent weeks.

[86] *See* CME, CME Submission No. 21–413, CFTC Regulation 40.6(a) Certification, Notification Regarding Modification of Cleared Euro Overnight Index Average (''EONIA'') Overnight Index Swaps to Reference Euro Short Term Rate (''€STR'') Ahead of Scheduled Discontinuation of EONIA, Sept. 29, 2021, available at *https://www.cmegroup.com/content/dam/cmegroup/market-regulation/rule-filings/2021/9/21-413.pdf;* Eurex Clearing, ECAG Rule Certification 081–21, Sept. 16, 2021 [hereinafter ''ECAG Rule Certification 081–21''], available at *https://www.eurex.com/resource/blob/2781070/61d1fccdd00bc1a06753877a5fa3f483/data/ecag_cftc_filing_for_circular_081-21.pdf;* Eurex, Eurex Clearing Circular 111/20 EurexOTC Clear: Summary of Consultation on the Transition Plan for Transactions Referencing the EONIA Benchmark, Dec. 14, 2020, available at *https://www.eurex.com/ec-en/find/circulars/clearing-circular-2373634;* LCH, LCH Limited Self-Certification: Benchmark Reform—Rates Conversion, Sept. 29, 2021, (hereinafter ''LCH Limited Self-Certification: Benchmark Reform—Rates Conversion'') available at *https://www.lch.com/system/files/media_root/FINAL%20-%20LCH%20self%20cert_Benchmark%20Reform%202021%2009%2029%20v3%20%28Clean%29.pdf.*

[87] European Money Markets Institute, About EONIA, available at *https://www.emmi-benchmarks.eu/euribor-eonia-org/about-eonia.html.*

[88] LCH Limited Self-Certification: Benchmark Reform—Rates Conversion; LCH, Supplementary Statement on LCH's Solution for Outstanding Cleared LIBOR Contracts, LCH Circular No. 4146, Mar. 18, 2021, available at *https://www.lch.com/membership/ltd-membership/ltd-member-updates/supplementary-statement-lchs-solution-outstanding.*

[89] ECAG Rule Certification 081–21; CME, CME IBOR Conversion Plan for Cleared Swaps, June 9, 2021, available at *https://www.cmegroup.com/trading/interest-rates/files/cleared-swaps-considerations-for-ibor-fallbacks-and-conversion-plan.pdf.* On September 24, 2021, CME converted LIBOR-linked basis swaps to pairs of offsetting fixed-to-floating swaps.

[90] IBA, List of Non-Confidential Responses, at 3, available at *https://www.theice.com/publicdocs/List_of_non-confidential_responses.pdf.*

[91] *Id.*

[92] *Id.* at 4.

[93] ISDA SwapsInfo, updated weekly, available at *http://isda.informz.net/z/cjUucD9taT04MzA0NjUwJnA9MSZ1PTg0MzY2NjIxNyZsaT03MDQ4MTA0OA/index.html.* ISDA SwapsInfo collects data from the Depository Trust & Clearing Corporation (DTCC) swap data repository, and in the past had included data from the Bloomberg swap data repository (BSDR LLC).

[94] IBA, List of Non-Confidential Responses, at 11, available at *https://www.theice.com/publicdocs/List_of_non-confidential_responses.pdf. See also* ARRC, Progress Report: The Transition from U.S. Dollar LIBOR, at 6, Mar. 22, 2021, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/20210322-arrc-press-release-USD-LIBOR-Transition-Progress-Report.pdf.*

[95] IBA, List of Non-Confidential Responses, at 8, available at *https://www.theice.com/publicdocs/List_of_non-confidential_responses.pdf.*

[96] CFT, RFR Trading is Now at 50% in CHF and JPY!, Sept. 15, 2021, available at *https://www.clarusft.com/rfr-trading-is-now-at-50-in-chf-and-jpy/.*

NOTIONAL VALUE OF SWAPS TRADED [97]

[Measured in U.S. dollars, billions]

Currency and floating rate	Week ending on October 22, 2021	Week ending on October 29, 2021	Week ending on November 5, 2021
USD LIBOR	1,814.4	2,065.2	1,698.0
SOFR	294.4	291.0	282.3
GBP LIBOR	88.3	31.6	164.1
SONIA	1,218.8	668.8	931.3
CHF LIBOR	6.2	3.3	1.2
SARON	9.2	11.6	14.2
JPY LIBOR	5.7	6.4	6.8
TONA	36.9	33.5	47.0
EURIBOR	785.3	805.4	1,052.4
€STR	178.6	292.0	324.1

TRADE COUNT OF SWAPS REPORTED [98]

Currency and floating rate	Week Ending on October 22, 2021	Week Ending on October 29, 2021	Week Ending on November 5, 2021
USD LIBOR	12,443	13,742	12,397
SOFR	2,935	3,093	2,805
GBP LIBOR	1,768	552	1,224
SONIA	3,201	3,557	4,002
CHF LIBOR	124	154	34
SARON	199	277	291
JPY LIBOR	541	412	250
TONA	515	586	626
EURIBOR	7,559	7,798	9,152
€STR	666	733	1,009

As discussed above, clearing in the alternative reference rates is available at more than one DCO. According to data from LCH's SwapClear service, clearing in certain alternative reference rates has increased over the past few months. Most notably, the outstanding notional amount of cleared SOFR swaps has increased substantially.

LCH SWAPCLEAR STATISTICS [99] NOTIONAL AMOUNTS OUTSTANDING AS OF MONTH-END

[Measured in U.S. dollars, billions]

Currency and floating rate	Month ending August 2021	Month ending September 2021	Month ending October 2021
USD SOFR	7,292.45	8,595.71	11,068.33
GBP SONIA	23,041.30	25,089.41	29,795.27
CHF SARON	633.74	725.71	888.89
JPY TONA	593.83	776.84	1,073.85
EUR €STR	1,959.42	2,329.71	19,075.77

Finally, Commission staff has been monitoring data reported to DTCC's swap data repository and CME's swap data repository in order to track the rate of voluntary clearing in certain RFRs. Reviewing swap transaction data from January 2021 to October 2021, the Commission staff has estimated that over 90% of the volume of fixed-to-floating swaps referencing USD SOFR, GBP SONIA, CHF SARON, JPY TONA, and EUR €STR has been cleared on a voluntary basis.[100] The Commission will continue to monitor the level of cleared and uncleared swaps activity in the alternative reference rates as the transition away from IBORs proceeds.

III. Request for Information

The Commission recognizes that information related to the transition away from IBORs is changing daily, and that the information reflected in certain statements above may have changed as of the publication of this request for information. The Commission invites commenters to provide new or updated information related to any aspect of the transition away from IBORs that may offer additional background for the Commission to consider. In addition, the Commission encourages commenters to include the assigned number of the specific request for information below in their responses in

[97] ISDA SwapsInfo, updated weekly, available at *http://isda.informz.net/z/cjUucD9taT04MzA0NjUwJnA9MSZ1PTg0MzY2NjIxNyZsaT03MDQ4MTA0OA/index.html.* ISDA SwapsInfo collects data from DTCC, and in the past had included data from BSDR LLC.

[98] ISDA SwapsInfo, updated weekly, available at *http://isda.informz.net/z/cjUucD9taT04MzA0NjUwJnA9MSZ1PTg0MzY2NjIxNyZsaT03MDQ4MTA0OA/index.html.* ISDA SwapsInfo collects data from DTCC swap data repository, and in the past had included data from BSDR LLC.

[99] LCH SwapClear reports statistics on the monthly registration volume as well as the notional amounts outstanding at the month end of swaps referencing one of the listed RFRs, updated monthly, available at *https://www.lch.com/services/swapclear/volumes/rfr-volumes.*

[100] Commission staff believes that the volume of swap activity cleared is a better measure of overall clearing rates than the number of transactions submitted for clearing. Commission staff has prepared these conservative estimates by excluding certain transactions between affiliated entities. Such affiliated entities may or may not be subject to the Clearing Requirement.

order to facilitate staff's review of information provided.

A. Swaps Subject to the Clearing Requirement

The Commission requests information related to a DCO's ability to continue clearing or offering clearing services for swaps that reference GBP LIBOR, JPY LIBOR, CHF LIBOR, and 1-week and 2-month USD LIBOR after December 31, 2021, EONIA after January 3, 2022, or in the case of remaining USD LIBOR tenors and SGD SOR–VWAP, after June 30, 2023, including but not limited to the following:

1. The Commission requests that DCOs provide, for swaps currently subject to the Clearing Requirement referencing each of GBP LIBOR, JPY LIBOR, CHF LIBOR, USD LIBOR, and SGD SOR–VWAP, in each of the fixed-to-floating swap, basis swap, FRA, and OIS classes, data for the month ending November 30, 2021 concerning: (A) The amount of notional cleared, including as a percentage of total notional cleared of all swaps; (B) total notional outstanding, including as a percentage of total notional outstanding; and (C) total number of clearing members clearing such swaps, including as a percentage of the total population of clearing members.

2. The Commission requests that DCOs provide an assessment of the DCO's ability to conduct an auction of a defaulting clearing member's positions in swaps referencing LIBOR after December 31, 2021 (not including certain USD LIBOR tenors and SGD SOR–VWAP that will continue until June 30, 2023), if the DCO has not conducted, or is not planning on conducting, a conversion event.

3. The Commission requests that DCOs provide an assessment of the DCO's ability to transfer or port to other clearing members a defaulting clearing member's positions in swaps referencing LIBOR after December 31, 2021 (not including certain USD LIBOR tenors and SGD SOR–VWAP that will continue until June 30, 2023).

4. The Commission would like to know whether any clearing member firms of DCOs have experienced challenges with respect to the transition from any IBOR to an alternative reference rate, and any related DCO conversion event, including whether and how such challenges were resolved, and whether clearing member firms believe there are any steps the Commission can take to help resolve ongoing challenges.

5. The Commission requests that registered swap dealers and other market participants provide data related to market participants' outstanding net LIBOR risk as of November 30, 2021.

B. Swaps Not Currently Subject to the Clearing Requirement

6. The Commission requests that DCOs file submissions with the Commission under Commission regulation 39.5 for any swaps that have been or may be identified as swaps that reference an alternative reference rate that are not currently subject to the Clearing Requirement and for which a DCO has not previously filed a submission under Commission regulation 39.5(b).

7. The Commission requests that DCOs provide for swaps that reference one of the alternative reference rates including, GBP SONIA, JPY TONA, CHF SARON, €STR, and USD SOFR in each of the fixed-to-floating swap, basis swap, FRA, and OIS classes, data from the quarter ending September 30, 2021 concerning: (A) The amount of notional cleared, including as a percentage of total notional cleared of all swaps; (B) total notional outstanding, including as a percentage of total notional outstanding; and (C) total number of clearing members clearing such swaps, including as a percentage of the total population of clearing members.

IV. Request for Comment

A. General Request for Comment

The Commission requests comment on all aspects of the swap clearing requirement and any related regulations that may be affected by the transition away from LIBOR and the other IBORs to alternative reference rates. The Commission seeks comments on these matters generally and commenters are encouraged to address any relevant matters that are not specifically identified in the requests for comment below. Detailed instructions on how and when to submit comments in response to this request for comment are located at the beginning of this document in the **ADDRESSES** and **DATES** sections.

In responding to this general request for comment, and the specific requests for comment below, the Commission encourages commenters to provide empirical support for their arguments and analyses. Furthermore, comments that identify and provide specific information or data that would be relevant to the Commission's considerations discussed in this request for comment would be of the greatest assistance to the Commission.

As noted above in the Commission's request for information section, the Commission recognizes that the information related to the IBOR transition is changing daily and that some of the information reflected in the statements above may have changed as of the publication of this request for comment. The Commission invites commenters to assume certain facts or information that may have changed or been released after this document was published for comment, and would appreciate comments identifying any relevant information that the Commission may have missed in its review. The Commission welcomes comments based on new or updated information when responding to the questions below. In addition, the Commission encourages commenters to include the assigned number of the specific request for comment below in their responses in order to facilitate staff's review of information provided.

B. Specific Requests for Comment

i. Current Swap Clearing Requirement-Related Questions

1. Are market participants concerned about access to clearing for certain swaps that are subject to the Clearing Requirement? If so, are there any Commission actions or regulatory amendments that could facilitate the IBOR transition for market participants?

2. Please discuss recommendations for how the Commission should modify its Clearing Requirement under Commission regulation 50.4 and any related advantages or disadvantages (including anticipated costs) that might be expected from a specific approach.

3. More specifically, should the Commission modify the termination date range, or any other specifications, with respect to SONIA OIS, AONIA OIS, CORRA OIS or any other OIS that are subject to the Clearing Requirement and for which the index has been nominated as an alternative reference rate? If such an amendment is recommended, please discuss a potential timeline for considering and adopting a modification and the reasons for adopting such timeline.

4. Should the Commission revise the clearing requirement related to the SGD SOR–VWAP rate as part of the initial LIBOR transition or should market participants be given additional time to consider changes to SGD SOR–VWAP Clearing Requirement because it is based on USD LIBOR (and may continue until 2023)?

ii. Swap Clearing Requirements for Alternative Reference Rates

5. Are market participants concerned about access to clearing for certain swaps that reference alternative reference rates and are not currently

subject to the Clearing Requirement? If so, please explain current or anticipated barriers to clearing swaps in alternative reference rates.

6. Are there any steps related to the SOFR transition that have not been completed that would enable a significant number of market participants to submit swaps referencing SOFR to clearing? Are there specific metrics or products associated with the new SOFR rate that need to be developed before swaps referencing SOFR can be used by a broad range of market participants?

7. Would requiring the clearing of swaps referencing SOFR or other alternative reference rates that are not currently subject to the Clearing Requirement affect the ability of a DCO to comply with the CEA's core principles for DCOs?

8. Are there specific data the Commission should consider in determining whether significant notional amount and liquidity exists in swaps referencing SOFR or other alternative reference rates that are not currently subject to the Clearing Requirement?

9. Are there specific thresholds that the Commission should apply with respect to notional amount and liquidity in determining whether swaps referencing SOFR or other alternative reference rates that are not currently subject to the Clearing Requirement should be subject to the clearing requirement?

10. Have market participants observed sufficient outstanding notional exposures and trading liquidity in swaps referencing SOFR during both stressed and non-stressed market conditions to support a clearing requirement?

11. Is there adequate pricing data for DCO risk and default management of swaps referencing SOFR? Why or why not?

12. What are the challenges that DCOs may face or have faced in accepting new SOFR swaps or swaps referencing other alternative reference rates for clearing that are not currently subject to the Clearing Requirement from a governance, rule framework, operational, resourcing, or credit support infrastructure perspective?

13. Would requiring the clearing of swaps referencing SOFR mitigate systemic risk? Please explain why or why not and provide supporting data.

14. Would requiring the clearing of swaps referencing SOFR increase risk to DCOs? If so, are DCOs capable of managing that risk? Please explain why or why not and provide supporting data.

15. Would adopting a clearing requirement for swaps referencing SOFR or other alternative reference rates that are not currently subject to the Clearing Requirement materially and beneficially affect trading activity in those swaps?

16. How and when should the Commission evaluate whether to require clearing for interest rate swaps denominated in USD that reference alternative reference rates other than SOFR, such as credit-sensitive benchmark rates (*e.g.,* Ameribor and BSBY)? Provided that one or more DCOs have made such swaps available for clearing, are there additional factors or considerations beyond those specified in Section 2(h)(2)(D)(ii) of the CEA that the Commission should consider in determining whether to adopt a clearing requirement for such swaps?

17. Would adopting a clearing requirement for a new product that references an alternative reference rate, or expanding the scope of the Clearing Requirement to cover additional maturities, create conditions that increase or facilitate an exercise of market power over clearing services by any DCO that would: (i) Adversely affect competition for clearing services and/or access to product markets for swaps referencing alternative reference rates (including conditions that would adversely affect competition for these product markets and/or increase the cost of such swaps); or (ii) increase the cost of clearing services? Please explain why or why not and provide supporting data.

18. What new information, if any, should the Commission consider as it prepares to review whether interest rate swaps linked to the alternative reference rates should be subject to a clearing requirement? Are there specific regulatory requirements that the Commission should consider when reviewing overall market conditions, such as uncleared margin requirements implemented by prudential regulators and/or the uncleared margin requirements for swap dealers and major swap participants under part 23 of the Commission's regulations?

iii. New Swap Product Documentation

19. With respect to all new swap products, including those referencing alternative reference rates, is there additional documentation that the Commission should require DCOs to submit with swap submissions beyond the documentation that Commission regulation 39.5 currently requires?

iv. Swap Clearing Requirement Specifications

20. The Commission recognizes that at this time a majority of the swaps subject to the Clearing Requirement fall within the fixed-to-floating swap class. That may change as new alternative reference rates are adopted and will be characterized as OIS or other types of swaps. Should the Commission designate any additional classes of swaps or specifications for purposes of classifying swaps under Commission regulation 50.4? Do DCOs or market participants have suggestions about how to reorganize or structure the classes of swaps subject to the clearing requirement under Commission regulation 50.4? Should the Commission include a new class covering variable notional swaps as a table under Commission regulation 50.4(a)?

v. Cost-Benefit Considerations

21. The Commission requests comment from DCOs and market participants on the nature and extent of any operational, compliance, or other costs they may incur as a result of potential changes to the Clearing Requirement in response to the market-wide shift to alternative reference rates. Please provide supporting data.

Issued in Washington, DC, on November 17, 2021, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix To Swap Clearing Requirement Amendments To Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates—Commission Voting Summary

On this matter, Acting Chairman Behnam and Commissioner Stump voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2021–25450 Filed 11–22–21; 8:45 am]

BILLING CODE 6351–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 418

[Docket No. SSA–2021–0006]

RIN 0960–AI55

Addressing Certain Types of Fraud Affecting Medicare Income Related Monthly Adjusted Amounts (IRMAA)

AGENCY: Social Security Administration.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: Certain Medicare beneficiaries may have their taxable income affected by fraudulent activity, which in turn could affect the amount

of and their ability to afford their Medicare Part B (medical insurance) and Medicare Part D (prescription drug coverage) premiums. We are seeking information from the public on the type of information we should consider relating to evidence of life changing events (LCE) resulting from criminal fraud or theft. Information from the public will help us determine whether and how we should revise our rules to provide relief to beneficiaries affected by fraud.

DATES: To be sure that we consider your comments, we must receive them no later than January 24, 2022.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2021–0006 so that we may associate your comments with the ANPRM.

CAUTION: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers, financial account numbers, or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the internet. Please visit the Federal eRulemaking portal at *https://www.regulations.gov.* Use the Search function to find docket number SSA–2021–0006. Once you submit your comment, the system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Address your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 3100 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *https://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Monica Nolan, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–2075. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

Medicare Part B as set forth in Title XVIII, Part B of the Social Security Act (Act) [1] and explained in 42 CFR part 407, is a voluntary supplemental medical insurance program that provides coverage for services such as physician's care, diagnostic services, and medical supplies. Medicare Part D established by Title XVIII of the Act, Part D [2] and explained in 42 CFR part 423 is a voluntary program that covers certain prescription drug costs.

Many beneficiaries enrolled in Part B and Part D pay deductibles, co-insurances associated with covered services, and monthly premiums. The Part B and Part D premiums are periodic payments that an enrolled beneficiary makes to Medicare or a participating health care or prescription drug plan in exchange for medical insurance and prescription drug cost coverage.[3] The Federal Government subsidizes the Part B and Part D programs, and most enrollees pay a monthly premium representing about roughly 25 percent of the estimated actual cost for Part B and the cost of basic prescription drug coverage for Part D.[4] The Centers for Medicare & Medicaid Services (CMS) administers the Medicare program and sets the standard and base monthly premiums. The Social Security Administration in turn determines and deducts the amount of certain Part B and Part D premiums from beneficiaries' Social Security benefits.

Beneficiaries with modified adjusted gross incomes (MAGI) [5] above a specified threshold [6] must pay a higher percentage of the Medicare Part B and Part D costs based on where their MAGI falls within certain income ranges.[7] CMS sets and publishes all MAGI threshold and range amounts each year based on changes in the Consumer Price Index.[8] We refer to this subsidy reduction as the Income Related Monthly Adjustment Amount (IRMAA), which is the amount of additional premiums these beneficiaries must pay based on their income.[9]

The Internal Revenue Service (IRS) provides us with MAGI information each year. We use an individual's MAGI and Federal income tax filing status for the tax year two years before the *effective year*—the calendar year for which we make an IRMAA determination [10]—to determine whether a beneficiary must pay an IRMAA, and if so, how much.[11] If information is not yet available for the tax year two years before the effective year, we will use information from the tax year three years before the effective year until the later information becomes available to us.[12]

As an example, we would use 2019 MAGI and Federal income tax filing status information when making a determination for a beneficiary who must pay an IRMAA beginning in January 2021 (2021 being the effective year). This is because we use the most current tax data available from the IRS, which is usually two years before the effective year. The determination is generally made prior to the effective year, and thus tax data from the prior year (2020 in this example) will generally not be available to the Social Security Administration (SSA) at the time of the determination. Consequently, we must use the latest tax data available to us to make an IRMAA determination.

Beneficiaries who experience a major life-changing event may request that we use information from a more recent tax year to make a new IRMAA determination by completing an SSA–44 (Office of Management and Budget (OMB) No. 0960–0784).[13] Major life-changing events include marriage, divorce or annulment, death of a spouse, work reduction or stoppage, loss of income-producing property, loss of employer pension or receipt of settlement payment from a current or former employer.[14] If a beneficiary provides evidence that a qualifying major life-changing event caused a significant reduction in MAGI, we will determine the IRMAA based on data from a more recent tax year.[15] During the annual verification process, SSA will verify MAGI for beneficiaries for

[1] See 42 U.S.C. 1395j.

[2] See 42 U.S.C. 1395w–101.

[3] See 20 CFR 418.1010(b)(9), 418.2010(b)(7), and 42 CFR 408.20 through 408.28.

[4] See 42 U.S.C. 1395r(a), 1395w–115(a).

[5] *Modified Adjusted Gross Income* is your adjusted gross income as defined by the Internal Revenue Code, plus certain forms of tax-exempt income set out in the regulations. See 20 CFR 418.1010(b)(6) and 418.2010(b)(6).

[6] See 20 CFR 418.1105 and 418.2105.

[7] See 20 CFR 418.1115 and 418.2115.

[8] See 20 CFR 418.1105(c), 418.1115(e), 418.2105(c), and 418.2115(e).

[9] See 20 CFR 418.1101 and 418.2101.

[10] See 20 CFR 418.1010(b)(2) and 418.2010(b)(2).

[11] See 20 CFR 418.1120 and 418.2120.

[12] See 20 CFR 418.1135(b) and 418.2135.

[13] See 20 CFR 418.1201, 418.1205, 418.2201, and 418.2205.

[14] See 42 U.S.C. 1395r (i)(4)(C)(ii)(II); 20 CFR 418.1205, and 418.2205.

[15] See 20 CFR 418.1201; 418.1205, 418.2201, and 418.2205.

whom SSA has been temporarily using MAGI from the tax year 3 years prior to the effective year, beneficiaries whom we are using a copy of their 2 years prior or 1 year prior to the effective year tax return, beneficiaries who supplied estimates for their MAGI in connection with a life changing event, and for beneficiaries who attested to not needing to file a tax return.[16] We define a significant reduction in MAGI as any change that results in a reduction or elimination of IRMAA.[17]

Increase in Fraudulent Activities

Fraud impacts a greater number of Americans each year and to a greater economic extent. The Federal Trade Commission (FTC) reported receiving more than 2.2 million reports of fraud from consumers, who reported losses of more than $3.3 billion in 2020 (an increase from $1.8 billion in 2019). Just over a third of all consumers who filed a fraud report with the FTC—34 percent—reported losing money, up from 23 percent in 2019.[18] For example, among the increasing reports of fraud, the FTC cites imposter fraud as the number one category of fraud by loss amount.[19] The ''imposter fraud'' category includes ''. . . romance scams, people falsely claiming to be the government, a relative in distress, a well-known business, or a technical support expert, to get a consumer's money.'' [20] Additionally, as the COVID–19 pandemic continues to impact the United States, the Federal Communications Commission has learned of new scam text-message campaigns and robocalls that prey on virus-related fears,[21] and the FTC has warned against scammers attempting to cash in on confusion relating to COVID–19 vaccines.[22]

In addition to the above noted new and increased types of fraud, we have also become aware of a significant increase in Social Security number (SSN)-related fraud, and scammers who pose as government employees to defraud unsuspecting victims of their personal information and money.[23] In January 2020, our Inspector General appeared before Congress to address this matter. The Inspector General gave testimony about a significant increase in complaints of callers impersonating Social Security employees or alleging an SSN-related problem. She noted that, in fiscal year (FY) 2018, our Office of the Inspector General (SSA OIG) recorded about 15,000 related complaints, while in FY 2019, the number of such complaints grew to over 478,000.[24] For FY 2020, SSA OIG recorded over 718,000 complaints related to Social Security telephone scams,[25] and in its most recent semiannual report to Congress (for the period of October 1, 2020 through March 31, 2021), SSA OIG reports having received more than 400,000 such complaints during that 6-month period, which would exceed the rate for FY 2020.[26] The FTC reports that Social Security-related phone scams are the most common type of government imposter fraud targeting the public.[27] Recently, the U.S. Attorney's Office for the Northern District of Georgia helped shut down a criminal ring that defrauded the public of over $20 million by impersonating Social Security or IRS employees.[28] We note, however, that Social Security impersonation scams are only one among many types of fraud that could result in income changes that ultimately affect IRMAA amounts.

During the January 2020 congressional hearing, the Inspector General testified that scammers typically ''spoof'' or mimic legitimate government telephone numbers, so those numbers appear on a victim's caller ID, providing a veil of legitimacy. Scammers seek to deceive and frighten victims by telling them that their SSNs have been linked to crimes, or that their accounts are subject to a fine or debt which the number holder needs to pay to receive or continue to receive their Social Security benefits, or avoid legal action, including arrest. Some scammers have even emailed fake letters and reports that appear to come from Social Security, to further intimidate and convince potential victims of their legitimacy. The scammers then demand payment in the form of cash, retail gift cards, or pre-paid debit cards, wire transfers, or digital currency, all of which are difficult for authorities to trace.[29]

Scams, regardless of whether they involve impersonation of SSA employees, may severely harm our beneficiaries in numerous ways, including with respect to our determinations regarding IRMAA. For example, a beneficiary may be defrauded out of a significant amount of money. In addition to losing money, the victim may engage in financial transactions to pay scammers—such as withdrawing funds from tax-advantaged retirement accounts or liquidating stock—that increase their MAGI for the year in question. The higher reported income appearing on the victim's tax return can result in an IRMAA assessment or IRMAA increase two years later.

Our Existing Regulations

Under our current regulations, a significant reduction in income due to a loss of income-producing property—including a loss due to criminal fraud or theft—can qualify as an LCE.[30] All beneficiaries who seek to qualify for an LCE based on a loss of income-producing property must provide evidence documenting the loss, such as an insurance claim.[31]

The current regulations require victims of criminal fraud or theft who have lost income-producing property to submit proof that a court has convicted the perpetrator of a crime.[32] While this requirement is necessary to safeguard

[16] See 20 CFR 418.1140 and HI 01130.001.

[17] See 20 CFR 418.1215 and 418.2215.

[18] Id.

[19] The Federal Trade Commission's *Consumer Sentinel Network: Data Book 2020,* page 8, available at: *https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2020/csn_annual_data_book_2020.pdf.*

[20] Id. at page 4.

[21] *Coronavirus Scams—Consumer Resources https://www.fcc.gov/covid-scams.*

[22] Scammers cash in on COVID–19 vaccination confusion (January 27, 2021) available at: *https://www.consumer.ftc.gov/blog/2021/01/scammers-cash-covid-19-vaccination-confusion.*

[23] *That's Not the Government Calling: Protecting Seniors from the Social Security Impersonation Scam: Hearing Before the Special Committee on Aging,* U.S. Senate, 116th Cong., 2nd Sess. (2020) (Statement of Gail S. Ennis, Inspector General, Social Security Administration) (*https://oig.ssa.gov/newsroom/congressional-testimony/thats-not-government-calling-protecting-seniors-social-security*).

[24] *Id.* at 2 and Exhibit 1.

[25] SSA OIG, *Semiannual Report to Congress, October 1, 2019–March, 31, 2020,* at 10 (May 29, 2020) (*https://oig.ssa.gov/sites/default/files/semiannual/SAR-Spring-2020.pdf*); SSA OIG *Semiannual Report to Congress, April 1, 2020–September 30, 2020,* at 11 (November 23, 2020) (*https://oig.ssa.gov/sites/default/files/Fall_2020_SAR_1.pdf*).

[26] SSA OIG, *Semiannual Report to Congress, October 1, 2020–March 31, 2021,* at 12 (May 28, 2021) SPRING 2021 SAR_FINAL_0.pdf (*ssa.gov*).

[27] Federal Trade Commission: Consumer Protection Data Spotlight, available at: *https://www.ftc.gov/news-events/blogs/data-spotlight/2019/07/government-imposter-scams-top-list-reported-frauds.*

[28] SSA OIG *India-Based VOIP Provider and Its Director Indicted for Facilitating Millions of Scam Robocalls to Americans* available at: *https://oig.ssa.gov/audits-and-investigations/investigations/nov17-ga-india-based-voip-provider-fraud-scam-robocalls* (November 17, 2020).

[29] *That's Not the Government Calling: Protecting Seniors from the Social Security Impersonation Scam: Hearing Before the Special Committee on Aging,* U.S. Senate, 116th Cong., 2nd Sess. (2020) (Statement of Gail S. Ennis, Inspector General, Social Security Administration) (*https://oig.ssa.gov/newsroom/congressional-testimony/thats-not-government-calling-protecting-seniors-social-security*).

[30] See 20 CFR 418.1205(e) and 418.2205.

[31] See 20 CFR 418.1255(e) and 418.2255.

[32] Id.

against unfounded or unproven allegations, convictions may be more difficult to obtain in these types of fraud cases. Perpetrators of these increasingly prevalent fraud schemes are employing new technological means, and, as noted above, are seeking new forms of payment which make them difficult to identify and convict. As Calvin A. Shivers, the Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation noted in his June 2020 testimony before the U.S. Senate Judiciary Committee:

> With the rise in the use of virtual assets and encrypted devices and applications, the interconnectivity of communication platforms and the ever-changing landscape of emerging payment systems, the world is more connected today than ever. This also means it has become increasingly difficult to track illicit finance flows and identify the criminal actors behind them.[33]

Consequently, we are exploring whether and how we might change the evidentiary standard in our regulations for showing a loss of income-producing property due to criminal fraud or theft by a third party.

What is the purpose of this ANPRM?

We are seeking information on whether and how we should update our regulations to provide for relief in cases where beneficiaries are victims of criminal fraud or theft and their incomes are affected, but no criminal convictions (or arrest) may have taken place.

We seek to aid beneficiaries adversely affected by fraud that has affected their IRMAA status, while maintaining our commitment to safeguard the public funds in our trust. Our current regulations safeguard against unfounded or unproven allegations by requiring evidence of fraud or loss, but may not address all situations. We are seeking input from the public to more fully understand the new forms of fraudulent activity affecting beneficiaries, to better understand the types of evidence of fraudulent activities such victims can present, to learn more about the types of financial transactions beneficiaries have engaged in as a result of fraud, and to determine how we might revise our rules to better assist victim-beneficiaries.

[33] *COVID–19 Fraud: Law Enforcement's Response to Those Exploiting the Pandemic* U.S. Senate Judiciary Committee (Statement of Calvin A. Shivers, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation June 9, 2020) available at: *https://www.fbi.gov/news/testimony/covid-19-fraud-law-enforcements-response-to-those-exploiting-the-pandemic.*

What We Will Consider When We Decide Whether To Propose Revisions to Our Rules

We will consider the public comments and any research or data identified in response to this solicitation. We will also consider any information we obtain through research or other activities intended to inform our policy decisions in this area.

What should the public comment about?

We are specifically asking the public to provide us with comments on the following topics related to this ANPRM:

- *Types of fraud that can affect IRMAA status*—We seek to learn more about the types of scams the public is experiencing, including how affected persons were contacted; what was the technique employed by the scammer; what kinds of property were targeted; what kinds of financial transactions did affected persons engage in as a result of the fraud; whether affected persons experienced an increase in taxable income as a result; how much of a monetary loss if any did affected persons sustain; were there any arrests or convictions; what was the experience with law enforcement; *etc.*). As noted above, *please be certain not to include any personally identifiable information in your comments;*
- *Types of evidence*—What types of evidence should we seek from affected beneficiaries to demonstrate that the loss was due to criminal fraud or theft? How can we best balance evidentiary needs with the burden evidence requirements impose on affected beneficiaries? We are seeking information about forms of convincing evidence that would be common among such victims.

How should we determine whether a loss of income-producing property due to alleged criminal fraud or theft is ''a result of the ordinary risk of investment,'' and thus may not be considered under existing regulations [20 CFR 418.1205(e).]

Consideration of and Response to Public Comments

We will consider all relevant public comment we receive in response to this ANPRM. If we decide to propose specific revisions to our rules, we will publish a notice of proposed rulemaking in the **Federal Register**, and you will have a chance to comment on any revisions we propose.

List of Subjects in 20 CFR Part 418

Administrative practice and procedure, Aged, Blind, Disability benefits, Medicare subsidies, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

The Acting Commissioner of Social Security, Kilolo Kijakazi, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for the Social Security Administration, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislative and Congressional Affairs, Social Security Administration.

[FR Doc. 2021–25364 Filed 11–22–21; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE INTERIOR

25 CFR Part 1000

[222A2100DD/AAKC001030/A0A501010.999900 253G]

Self-Governance PROGRESS Act Negotiated Rulemaking Committee Establishment; Proposed Membership

AGENCY: Office of the Assistant Secretary—Indian Affairs, Interior.

ACTION: Proposed membership of Committee, notification of intent to establish committee, and nominations.

SUMMARY: The U.S. Department of the Interior (DOI) is announcing the proposed members to form the Self-Governance PROGRESS Act Negotiated Rulemaking Committee (Committee). The Committee will advise the Secretary of the Interior (Secretary) on a proposed rule to implement the Practical Reforms and Other Goals To Reinforce the Effectiveness of Self-Governance and Self-Determination for Indian Tribes Act of 2019 (PROGRESS Act) to revise the regulations on Tribal Self-Governance Annual Funding Agreements Under the Tribal Self-Governance Act Amendments to the Indian Self-Determination and Education Act. This document solicits comments on the proposed membership and the proposal to establish the Committee and invites additional nominations for Committee members who will adequately represent the interests that are likely to be significantly affected by the proposed rule. The Secretary also proposes to appoint Federal representatives to the Committee as listed.

DATES: Comments must be submitted no later than December 23, 2021.

ADDRESSES: Send comments and nominations to the Designated Federal Officer, Vickie Hanvey, by any of the following methods:

• (Preferred method) Email to: *consultation@bia.gov;*

• Mail, hand-carry or use an overnight courier service to the Designated Federal Officer, Ms. Vickie Hanvey, Office of the Assistant Secretary—Indian Affairs, 1849 C Street NW, Mail Stop 4660, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer, Ms. Vickie Hanvey, Program Policy Analyst, Office of Self-Governance, Office of the Assistant Secretary—Indian Affairs; telephone: (918) 931–0745; email: *Vickie.Hanvey@bia.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 2020, the PROGRESS Act was signed into law and amends subchapter I of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 5301 *et seq.,* which addresses Indian Self-Determination, and subchapter IV of the ISDEAA, which addresses DOI's Tribal Self-Governance Program. The PROGRESS Act calls for a negotiated rulemaking committee to be established under 5 U.S.C. 565, with membership consisting only of representatives of Federal and Tribal governments, with the Office of Self-Governance serving as the lead agency for the DOI. The PROGRESS Act also authorizes the Secretary to adapt negotiated rulemaking procedures to the unique context of the self-governance relationship between the United States and Indian Tribes. The purpose of the Committee is to serve as an advisory committee under the Federal Advisory Committee Act (FACA) and the Negotiated Rulemaking Act (NRA). The Committee will use a negotiated rulemaking process to develop regulations for implementation of the PROGRESS Act to amend, delete, and add provisions to the existing regulations at 25 CFR part 1000, Annual Funding Agreements Under the Tribal Self-Government Act Amendments to the Indian Self-Determination and Education Act, which addresses Tribal Self-Governance compacts.

II. Proposed Work of the Committee

The objectives of the Committee are to represent the interests that will be significantly affected by the final regulations, negotiate in good faith, and reach consensus, where possible, on recommendations to the Secretary for the proposed regulations.

The Committee will be charged, consistent with subchapter IV regarding the Tribal Self-Governance Program, with developing proposed regulations to implement the PROGRESS Act's provisions regarding the DOI's Self-Governance Program. The proposed regulations will be considered by the Secretary and subject to government-to-government consultation.

The Committee will be expected to meet approximately 3–5 times and each meeting is expected to last multiple hours for a consecutive 2–3 days each. The initial meeting will be held by teleconference and/or web conference; later meetings may be held either virtually or in person. The Committee's work is expected to occur over the course of 6–12 months, and it is the Secretary's intent to publish the proposed rule for notice and comment by 2022 (within 18 months of the anticipated date of the Committee's establishment). However, the Committee may continue its work for up to two years. The Office of Self-Governance has dedicated resources required to: ensure the Committee is able to conduct meetings, provide technical assistance, and provide any additional support required to fulfill the Committee's responsibilities.

III. Proposed Tribal Committee Members

On February 1, 2021, the Office of Assistant Secretary—Indian Affairs (AS–IA) published a **Federal Register** notice of intent (86 FR 7656) requesting comments and nominations for Tribal representatives for the Committee. The comment period for that notice of intent closed March 3, 2021.

Within the notice, AS–IA solicited comments on the proposal to establish the Committee, including comments on any additional interests not identified. AS–IA solicited nominations from Indian Tribes and Tribal organizations as defined in section 4(I) of the Indian Self-Determination and Education Assistance Act that are currently participating in the Tribal Self-Governance Program and those that are not currently participating in, but are interested in participating in, the Tribal Self-Governance Program and who would be affected by the final rule. AS–IA requested that these Tribes and Tribal organizations nominate representatives to serve on the Committee.

The Secretary has selected 14 Tribal representatives (7 Primary, 7 Alternate) for the Committee and 12 Federal representatives (6 Primary, 6 Alternate) for the Committee, for a proposed total of 26 members (13 Primary, 13 Alternate). Primary representatives are voting members. Both primary and alternate representatives are expected to attend all meetings. Alternate representatives are to remain abreast of discussions and to be prepared to vote in the event the Primary is unavailable. The Designated Federal Officer (DFO) and Alternate DFO are considered non-members of the Committee. The proposed Committee was selected based upon nominations submitted through the process identified in the **Federal Register** (85 FR 7656) dated February 1, 2021, under the ''Nominations'' section. The Secretary did not consider nominations that were received in any other manner or were received after the deadline.

The Secretary proposes the following 14 Tribal representatives for the Committee:

Proposed committee member	Affiliation
W. Ron Allen, Chairman/CEO	Jamestown S'Klallam Tribe.
Melanie Benjamin, Chief Executive	Mille Lacs Band of Ojibwe.
Richard Peterson, President	Central Council Tlingit and Haida Indian Tribes of Alaska.
Michael Dolson, Councilman	The Confederated Salish and Kootenai Tribes of the Flathead Nation.
Melanie Fourkiller, Director of Self-Governance	Choctaw Nation of Oklahoma.
Russel (Buster) Attebery, Chairman	Karuk Tribe.
Karen Fierro, Self-Governance Director	Ak-Chin Indian Community.

The Secretary proposes the following alternate Tribal representatives for the Committee:

Proposed alternate committee member	Affiliation
Sandra Sampson, Board Treasurer	Confederated Tribes of the Umatilla Indian Reservation.
Jennifer Webster, Councilwoman	Oneida Nation.
Gerry Hope, Transportation Director, Former Tribal Leader	Sitka Tribe of Alaska.
Jody LaMere, Councilwoman	Chippewa Cree Tribe of the Rocky Boy's Reservation.
Jacklyn King, Secretary	Sac and Fox Nation.
Will Micklin, Second Vice President	Central Council Tlingit and Haida Indian Tribes of Alaska.
Annette Bryan, Council Member	Puyallup Tribe of Indians.

IV. Proposed Federal Committee Members

The Designated Federal Officer for the Committee will be Ms. Vickie Hanvey, Office of Self-Governance. The Secretary proposes the following 12 Federal representatives for the Committee:

Name	Affiliation
Sharee Freeman, Director	Office of Self-Governance, Assistant Secretary—Indian Affairs.
Bryan Shade, Attorney-Advisor	Branch of Self-Governance and Economic Development, Office of the Solicitor.
Vicki Cook, Native American and International Affairs Office	Bureau of Reclamation.
Bryon Loosle, Division Chief	National Conservation Lands, Bureau of Land and Minerals Management.
Scott Aikin, National Native American Programs Coordinator	U.S. Fish and Wildlife Service Head Quarters.
Rose Petoskey, Senior Counselor to the Assistant Secretary—Indian Affairs.	Office of the Assistant Secretary—Indian Affairs.

The Secretary proposes the following alternate Federal representatives for the Committee:

Name	Affiliation
Matt Kallappa, Northwest Field Office Manager	Office of Self-Governance, Assistant Secretary—Indian Affairs.
Jody Schwarz, Attorney-Advisor	Branch of Self-Governance and Economic Development, Office of the Solicitor.
Kelly Titensor, Native American Affairs Advisor	Bureau of Reclamation.
C. Dave Johnson, Tribal Liaison	Bureau of Land and Minerals Management.
Dorothy FireCloud, Native American Affairs Liaison	National Park Service.
Samuel Kohn, Senior Counselor to the Assistant Secretary—Indian Affairs.	Office of the Assistant Secretary—Indian Affairs.

V. Comments

The Secretary solicited comments on the proposal to establish the Committee and received seven written responses submitted through the process identified in the **Federal Register** (86 FR 7656) dated February 1, 2021. The Secretary did not consider comments that were received in any other manner or were received after the close of the comment period. The written comments were received from the Tribal Self-Governance Title IV Task Force and the following six Tribes: (1) Choctaw Nation of Oklahoma, (2) Central Council Tlingit and Haida Indian Tribes of Alaska, (3) Squaxin Island Tribe, (4) Jamestown S'Klallam Tribe, (5) Muscogee (Creek) Nation, and (6) Sac and Fox Nation.

The Task Force and all Tribal commenters except one indicated the Committee should be exempt from the Federal Advisory Committee Act (FACA) based on the following: Members are either elected officials, or employees with designated authority from an elected official to act on their behalf, and so the Committee should be exempt from FACA under the intergovernmental exemption in the Unfunded Mandates Reform Act (UMRA).

Response: The Unfunded Mandates Reform Act (UMRA) excepts certain committees from compliance with FACA if the committee satisfies two requirements. First, meetings between Federal and Tribal governments must be held exclusively between Federal officials and elected officers of State, local, and Tribal governments (or their representatives acting in their official capacities. Second, the meetings must be solely for the purpose of exchanging views, information or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration. See 2 U.S.C. 154(b). The Self-Governance PROGRESS Act Negotiated Rulemaking Committee meets the first requirement but not the second. The Committee is convened to negotiate and promulgate regulations to carry out relevant provisions of the PROGRESS Act, not simply to exchange views, information, or advice on the management or implementation of federal programs. Accordingly, this Committee cannot be exempted from FACA under UMRA.

All Tribal commenters and the Task Force indicated support for using an independent facilitation and six specifically support using the services of the Federal Conciliation and Mediation Service (FMCS).

Response: Under 5 U.S.C. 565(c), DOI may nominate either a person from the Federal Government or a person from outside the Federal Government to serve as a facilitator for the negotiations of the Committee, subject to the approval of

the Committee by consensus. DOI will consider the nomination of FMCS as a facilitation team.

The Task Force and several of the Tribal commenters indicated: (1) Section IV of the notice was unclear about the nomination of primary and alternative representatives creating confusion if a Tribe should submit a primary and alternate, each region submit a primary and alternate, or each nomination should specify where it is for the primary or alternate representative; (2) the notice indicates Committee members must be able to attend all meetings but then states an alternate who can fulfill the obligations of membership should the primary be unable to attend; (3) selection of Committee members surrounds the use of the terms representation of Tribes with a geographic balance; (4) the deadline was confusing and it seemed contradictory to establish a hard deadline but then state you will accept additional nominations after the deadline passes.

Response: (1) A Tribe or Tribal Organization may submit either a primary or alternate representative or both. (2) Primary and alternate candidates will both be expected to attend all meetings. Primary representatives are voting members. Alternate representatives are expected to attend all meetings to remain abreast of discussions and to be prepared to vote in the event the primary is unavailable. (3) Proposed committee membership was based upon elected Tribal leadership or Tribal official, Tribal size, balanced geographical representation (by geographic region, state, or other geographical determination) (4) Section VI. Nominations of this document clarifies that additional nominations may be offered after proposed committee membership has been published.

The Task Force and two Tribal commenters indicated: (1) Travel and per diem provisions were hard to decipher and, in some instances, seemed contradictory; (2) the notice is unclear with respect to who is responsible for travel expense; (3) provide travel support to all Tribal representatives without evidence of financial resources.

Response: The Negotiated Rulemaking Act section 568(c) states that members of a negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee, except that an agency may, in accordance with section 7(d) of the Federal Advisory Committee Act, pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if:

(1) Such member certifies a lack of adequate financial resources to participate in the committee; and

(2) the agency determines that such member's participation in the committee is necessary to assure an adequate representation of the member's interest.

The DOI will follow the statutory requirements within the Negotiated Rulemaking Act as well as the Federal Advisory Committee Act referenced above. The DOI will provide travel and per diem expenses for the Committee as funding allows.

One Tribal commenter requested clarification on: (1) Next steps for submitting nominations on first **Federal Register** notice; (2) submitting nominations through a second **Federal Register** notice and the deadline; (3) inaugural meeting of the Committee.

Response: (1) Nominations submitted through the process identified in the **Federal Register** (85 FR 7656) dated February 1, 2021, under the ''Nominations'' section closed on March 3, 2021. (2) Section VI Nominations of this document allows for additional nominations to be considered for this Committee. (3) After considering comments and nominations for Tribal representatives, the DOI will publish a **Federal Register** Notice of Establishment and will indicate the proposed meeting schedule.

VI. Nominations

If you are an Indian Tribe or Tribal organization as defined in section 4(I) of the Indian Self-Determination and Education Assistance Act that is currently participating in the Tribal Self-Governance Program or that is not currently participating in, but is interested in participating in Tribal Self-Governance Program, we invite you to comment on the proposed nominations in this document. If there is no adequate representation of those interests that will be significantly affected by a proposed rule, we invite you to nominate other persons for membership on the Committee. The Committee membership should reflect the diversity of Tribal interests, and nominees should only be of representatives and alternates who:

- Are elected officials of Tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and
- Will be able to:
  - Represent one or more of the specified interests with the authority to embody the views of that interest, communicate with interested constituents, and have a clear means to reach agreement on behalf of the interest(s);
  - Coordinate, to the extent possible, with other interests who may not be represented on the Committee;
  - Negotiate effectively on behalf of the interest(s) represented;
  - Commit to time and effort required to attend and prepare for meetings; and
  - Collaborate among diverse parties in a consensus-seeking process.

The Secretary will consider nominations for representatives only if they are nominated through the process identified in this notification of intent and in the **Federal Register** notice of intent at 86 FR 7656. The Secretary will not consider any nominations received in any other manner. The Secretary will not consider nominations for Federal representatives; only the Secretary may nominate Federal employees to the Committee.

Nominations must include the following information about each nominee:

(1) A current letter from the governing body or chairperson of the Tribe representing one of the interest(s) identified supporting the nomination of the individual to serve as a representative for the Tribe on the Committee;

(2) A resume reflecting the nominee's qualifications and experience, to include the nominee's name, Tribal affiliation, job title, major job duties, employer, business address, business telephone and fax numbers (and business email address, if applicable);

(3) The interest(s) to be represented by the nominee (identified in this document) and whether the nominee will represent other interest(s) related to this rulemaking; and

(4) A brief description of how the nominee will represent the views of the identified interest(s), communicate with constituents, and have a clear means to reach agreement on behalf of the interest(s) they are representing; and

(5) A statement on whether the nominee is only representing one interest or whether the expectation is that the nominee represents a specific group of interests.

To be considered, nominations must be received by the close of business on the date listed in the **DATES** section, at the location indicated in the **ADDRESSES** section.

VII. Public Disclosure 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 nomination submission—including your personal identifying information—may be made publicly available at any time. While you can ask us in your submission to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

VIII. Authority

The Practical Reforms and Other Goals To Reinforce the Effectiveness of Self-Governance and Self-Determination for Indian Tribes Act of 2019 (PROGRESS Act), Public Law 116–180 dated October 21, 2020.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2021–25401 Filed 11–22–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG–117575–21]

RIN 1545–BQ27

Prescription Drug and Health Care Spending

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Elsewhere in this issue of the **Federal Register**, the IRS is issuing temporary regulations that increase transparency by requiring group health plans and health insurance issuers in the group and individual markets to report information about prescription drugs and health care spending to the Department of Health and Human Services (HHS), the Department of Labor (DOL), and the Department of the Treasury (the Departments). The IRS is issuing the temporary regulations at the same time that the Office of Personnel Management (OPM), the Employee Benefits Security Administration of DOL, and the Office of Consumer Information and Insurance Oversight of HHS are issuing substantially similar interim final rules with a request for comments. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 24, 2022.

ADDRESSES: In commenting, please refer to file code REG–117575–21. Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9905–IFC, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9905–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Christopher Dellana, (202) 317–5500, Internal Revenue Service, Department of the Treasury, for issues related to Surprise Billing.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. All comments received are posted before the close of the comment period on the following website as soon as possible after they have been received: *http://regulations.gov.* Follow the search instructions on that website to view public comments.

Proposed Applicability Date: These regulations are generally proposed to apply on and after December 27, 2021. As discussed in the preamble to the temporary regulations published elsewhere in this issue of the **Federal Register**, the Departments are temporarily deferring enforcement during the first year of applicability.

Background and Regulatory Impact Analysis

The temporary regulations published elsewhere in this issue of the **Federal Register** add §§ 54.9825–1T, 54.9825–2T, 54.9825–3T, 54.9825–4T, 54.9825–5T, and 54.9825–6T to the Miscellaneous Excise Tax Regulations. The proposed and temporary regulations are being published as part of a joint rulemaking with the OPM, DOL, and HHS. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and provides a regulatory impact analysis.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a proposal is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis (IRFA) of the proposed rule. The Treasury Department and the IRS have not determined whether the proposed regulations, when finalized, will likely have a significant economic impact on a substantial number of small entities. This determination requires further study. However, because there is a possibility of significant economic impact on a substantial number of small entities, an IRFA is provided in these proposed regulations. The Treasury Department and the IRS invite comments on both the number of entities affected and the economic impact on small entities.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on its impact on small business.

1. Need for and Objectives of the Rule

The proposed regulations will implement a reporting requirement for prescription drug costs and other medical expenses. Specifically, group health plans and health insurance issuers will submit key data, which the Departments will use to report and better understand prescription drug pricing trends and their impact on consumers' premiums and out-of-pocket costs. The reporting requirements apply beginning with the data for the 2020 calendar year. This will allow the Departments to better understand national prescription drug costs and identify major drivers of increases in health care spending, which may aid in examining variation of health care costs across the country.

2. Affected Small Entities

The Small Business Administration estimates in its 2020 Small Business Profile that 99.9 percent of United States

businesses meet its definition of a small business.[1] The applicability of these proposed regulations does not depend on the size of the business, as defined by the Small Business Administration. As described more fully in the preamble to the temporary regulations, published elsewhere in this issue of the **Federal Register**, and in this IRFA, these rules may affect a variety of different businesses.

Because small entities may comply with the requirements under the proposed regulations in different ways, it is difficult to estimate at this time the impact of these proposed regulations, if any, on small businesses. Small entities might, for example, enter into contracts with other entities in order to meet the requirements in the proposed regulations. Due to the lack of knowledge regarding what small entities may decide to do in order to satisfy the requirements and any costs they might incur related to contracts, the Departments seek comment on ways that the proposed regulations will impose additional costs and burdens on small entities and how many would be likely engage in contracts to meet the requirements.

The Treasury Department and the IRS expect to receive more information on the impact on small businesses through comments on these proposed regulations.

3. Impact of the Regulations

The proposed regulations require group health plans and health insurance issuers in the group and individual markets to submit certain information about prescription drugs and health care spending to the Departments. The public reports that are required by the proposed regulations could enhance national health transparency and lower prescription drug and health care costs. Consumers could potentially benefit from the required reporting if plans and issuers are able to negotiate lower prescription drug prices and those reductions are passed on to the consumer in the form of reduced out-of-pocket costs and lower premiums. The public reports that are required by the proposed regulations will create certain compliance burdens. The recordkeeping and reporting requirements will increase for plans and issuers subject to the regulations. This includes costs associated with developing, building, and maintaining information technology systems necessary to report the required data. The maintenance costs for these information technology systems may decrease in succeeding years as plans and issuers (or third parties on their behalf) gain efficiencies and experience in updating, managing, and submitting the required data. Although the Treasury Department and the IRS do not have sufficient data to determine precisely the likely extent of the increased costs of compliance, the estimated burden of complying with the recordkeeping and reporting requirements are described in the Paperwork Reduction Act section of the preamble to the temporary regulations, published elsewhere in this issue of the **Federal Register**.

4. Alternatives Considered

As described in more detail in the Regulatory Impact Analysis of the preamble to the temporary regulations, published elsewhere in this issue of the **Federal Register**, the Treasury Department and the IRS considered alternatives to the proposed regulations. For example, in providing rules related to the aggregation of data submitted by reporting entities, the Treasury Department and the IRS considered whether to (i) allow reporting entities to submit aggregated data, or (ii) require plans, issuers, and Federal Employees Health Benefits (FEHB) carriers to submit all of the required information on a plan-by-plan basis. As described in section II.C.3 of the preamble to the temporary regulations, published elsewhere in this issue of the **Federal Register**, the Treasury Department and the IRS, in consultation with DOL, HHS, and OPM, determined that allowing reporting entities to submit aggregated data would be sufficient for purposes of the statutory requirement, without creating or imposing undue burdens on taxpayers.

5. Duplicative, Overlapping, or Conflicting Federal Rules

As explained in the preamble to the temporary regulations, published elsewhere in this issue of the **Federal Register**, the proposed regulations would not duplicate, overlap, or conflict with any relevant Federal rules. The Treasury Department and the IRS invite comment from interested members of the public about identifying and avoiding overlapping, duplicative, or conflicting requirements.

Drafting Information

The principal author of this notice of proposed rulemaking is Christopher Dellana, Office of the Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). The proposed regulations, as well as the temporary regulations, have been developed in coordination with personnel from OPM, DOL, and HHS.

List of Subjects in 26 CFR Part 54

Excise taxes, Pensions, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 54 is proposed to be amended as follows:

PART 54—PENSION EXCISE TAXES

Paragraph. 3. The authority citation for part 54 continues to read as follows:

Authority: 26 U.S.C. 7805

Par. 4. Sections 54.9825–1 through 6 are added to read as follows:

[The text of proposed § 54.9825–1 is the same as the text of § 54.9825–1T published elsewhere in this issue of the **Federal Register**].

[The text of proposed § 54.9825–2 is the same as the text of § 54.9825–2T published elsewhere in this issue of the **Federal Register**].

[The text of proposed § 54.9825–3 is the same as the text of § 54.9825–3T published elsewhere in this issue of the **Federal Register**].

[The text of proposed § 54.9825–4 is the same as the text of § 54.9825–4T published elsewhere in this issue of the **Federal Register**].

[The text of proposed § 54.9825–5 is the same as the text of § 54.9825–5T published elsewhere in this issue of the **Federal Register**].

[The text of proposed § 54.9825–6 is the same as the text of § 54.9825–6T published elsewhere in this issue of the **Federal Register**].

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2021–25202 Filed 11–17–21; 4:15 pm]

BILLING CODE 4630–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[REG–100718–21]

RIN 1545–BQ06

User Fees Relating to the Enrolled Agent Special Enrollment Examination and the Enrolled Retirement Plan Agent Special Enrollment Examination; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

[1] US Small Bus. Admin., *2020 Small Business Profile, https://cdn.advocacy.sba.gov/wp-content/uploads/2020/06/04144214/2020-Small-Business-Economic-Profile-States-Territories.pdf.*

ACTION: Cancellation of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed amendments to the regulations on user fees for the special enrollment examinations for enrolled agents and enrolled retirement plan agents.

DATES: The public hearing, originally scheduled for Tuesday, November 23, 2021 at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Regina Johnson of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 317–5177 (not a toll-free number) or at *publichearings@irs.gov.*

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Wednesday, September 29, 2021 (86 FR 53893) announced that a public hearing to be held by teleconference was scheduled for Tuesday, November 23, 2021 at 10:00 a.m. The subject of the public hearing is under section 9701 of Title 31 of the United States Code.

The public comment period for these regulations expired on November 15, 2021. The notice of proposed rulemaking and notice of hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be discussed. Requests to speak and outlines were due on November 15, 2021. As of the end of the day on November 15, 2021, no one requested to speak. Therefore, the public hearing scheduled for November 23, 2021 at 10:00 a.m. is cancelled.

Oluwafunmilayo A. Taylor,

Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration).

[FR Doc. 2021–25419 Filed 11–22–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

31 CFR Part 16

Program Fraud Civil Remedies

AGENCY: Departmental Offices, Treasury.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking would update the definition of ''investigating official'' in the Department's Program Fraud regulations. The definition would be revised to include inspectors general that have been established since the Program Fraud regulations were implemented.

DATES: *Comment due date:* January 7, 2022.

ADDRESSES: Please submit comments electronically through the *Federal eRulemaking Portal: https://www.regulations.gov.* Comments can be mailed to: Office of the General Counsel, General Law, Ethics & Regulation, 1500 Pennsylvania Avenue NW, Washington, DC 20220, *ATTN:* Program Fraud Proposed Rule. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically.

In general, comments received will be posted on *https://www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Brian Sonfield, Assistant General Counsel for General Law, Ethics & Regulation at (202) 622–9804.

SUPPLEMENTARY INFORMATION:

Background

The Department promulgated implementing regulations for the Program Fraud Civil Remedies Act of 1986 (Act) (31 U.S.C. 3801 through 3812) on September 17, 1987 (52 FR 35071). The Act generally provides that any person who knowingly submits a false claim or statement to the Federal Government may be liable for an administrative civil penalty for each false claim or statement, and, in certain cases, to an assessment equal to double the amount falsely claimed.

The Act vests authority to investigate allegations of liability under its provisions in an agency's investigating official. Based upon the results of an investigation, the agency reviewing official determines, with the concurrence of the Attorney General, whether to refer the matter to a presiding officer for an administrative hearing. Any penalty or assessment imposed under the Act may be collected by the Attorney General, through the filing of a civil action, or by offsetting amounts other than tax refunds, owed the particular party by the federal government.

The Act grants agency investigating officials authority to require by subpoena the production of documentary evidence which is ''not otherwise reasonably available.'' If the case proceeds to hearing, the presiding officer may require the attendance and testimony of witnesses as well as the production of documentary evidence.

The Department of the Treasury adopted implementing regulations at 31 CFR part 16, which designated the Department's Assistant Secretary for Management as the authority head, designated the Department's Inspector General as the investigating official, and assigned the role of reviewing official to the General Counsel or designee.

This Proposed Rule

This proposed rule would revise the definition of investigating official in § 16.2. Since the regulations were promulgated in 1987, three inspectors general have been established including the Treasury Inspector General for Tax Administration (See Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685), the Special Inspector General for the Troubled Asset Relief Program (See Emergency Economic Stabilization Act of 2008, Pub. L. 110–343, 122 Stat. 3765), and the Special Inspector General for Pandemic Recovery (See Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116–136, 134 Stat. 281). The proposed revision would define investigating official as any Inspector General, including any Special Inspector General, with investigatory authority over programs of the Department of the Treasury.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires agencies to prepare an initial regulatory flexibility analysis (IRFA) to determine the economic impact of the rule on small entities. A small entity is defined as either a small business, a small organization, or a small governmental jurisdiction; an individual is not a small entity. Section 605(b) of the RFA allows an agency to prepare a certification in lieu of an IRFA if the rule will not have a significant economic impact on a substantial number of small entities. Pursuant to 5 U.S.C. 605(b), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The proposed rule is limited to updating the definition of investigating official for program fraud investigations in order to reflect current law. Accordingly, this rule, if finalized, will have no direct impacts on small entities. Notwithstanding this certification, the Department invites comments on the

impact this rule would have on small entities.

Regulatory Planning and Review

Executive Orders 13563 and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a ''significant regulatory action'' under Executive Order 12866.

Unfunded Mandates Reform Act

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

Federalism

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

List of Subjects in 31 CFR Part 16

Administrative practice and procedure, Fraud, Investigations, Organizations and functions (Government agencies), Penalties.

For the reasons stated in the preamble, the Department of the Treasury proposes to amend 31 CFR part 16 as follows:

PART 16—REGULATIONS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 31 U.S.C. 3801–3812.

■ 2. In § 16.2, revise the definition of ''Investigating official'' to read as follows:

§ 16.2 Definitions.

* * * * *

Investigating official means any Inspector General, including any Special Inspector General, with investigatory authority over programs of the Department of the Treasury, as applicable.

* * * * *

Laurie Schaffer,

Acting General Counsel.

[FR Doc. 2021–25345 Filed 11–22–21; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596–AD51

Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska

AGENCY: Forest Service, (Agriculture) USDA.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: On January 20, 2021, President Biden ordered all executive departments and agencies to immediately review and, as appropriate and consistent with applicable law, take action to address the promulgation of Federal regulations during the last 4 years that may conflict with protecting the environment, and to immediately commence work to confront the climate crisis (Executive Order 13990). In addition, on January 26, 2021, President Biden directed all Federal agencies to review tribal consultation policies and practices and recommit to more robust nation-to-nation relationships and respect for our Federal trust responsibilities. Consistent with these Presidential directives, the U.S. Department of Agriculture (USDA or Department), proposes to repeal a final rule promulgated in 2020 that exempted the Tongass National Forest (Tongass or the Forest) from the 2001 Roadless Area Conservation Rule (2001 Roadless Rule). The 2001 Roadless Rule prohibited timber harvest and road construction or reconstruction within designated Inventoried Roadless Areas, with limited exceptions. Repealing the Subpart E exemption would reinstate application of the 2001 Roadless Rule to the Tongass (as provided for in the U.S. District Court for the District of Alaska's Judgment in *Organized Village of Kake* v. *USDA*. USDA invites written comments on the proposed rule and associated documents. Substantive comments received during the comment period will be considered in developing the final rule.

DATES: Written comments must be received or postmarked by January 24, 2022.

ADDRESSES: You may send comments by any of the following methods:

- *Preferred:* Federal eRulemaking Portal *www.regulations.gov.*
- *Mail:* Alaska Roadless Rule, USDA Forest Service, P.O. Box 21628, Juneau, Alaska 99802–1628.
- *Hand Delivery/Courier:* Alaska Roadless Rule, USDA Forest Service, 709 W 9th Street, Juneau, Alaska 99802.
- *Email: sm.fs.akrdlessrule@usda.gov.*

All comments received will be posted to *www.regulations.gov,* including any personal information provided. The public may inspect comments received at *www.regulations.gov.* Do not submit any information you consider to be private, Confidential Business Information (CBI), or other information, the disclosure of which is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Joe Krueger, Interdisciplinary Team Leader, at 202–649–1189. Individuals using telecommunication devices for the deaf/hard-of-hearing (TDD) may call the Federal Information Relay Services at 1–800–877–8339, 24 hours a day, every day of the year, including holidays. You may also review information related to this rulemaking at the following website: *www.fs.usda.gov/project/?project=60904.*

SUPPLEMENTARY INFORMATION:

Background

The Tongass is 16.7 million acres and stretches roughly 500 miles northwest from Ketchikan to Yakutat, Alaska. It includes approximately 80 percent of the land area in Southeast Alaska. The Southeast Alaska region has about 75,000 people living in more than 30 towns and villages located in and around the Forest, most of which are located on islands or along the narrow coastal strip. The Tongass supports thriving ecosystems that provide food security, as well as cultural, spiritual,

and socio-economic values to the surrounding communities. What is now known as the Tongass is the traditional homelands of the Tlingit, Haida, and Tsimshian peoples, and is essential to the Alaska Native customary and traditional way of life. Their health, well-being, identity, and worldview are intertwined with the lands, waters, and wildlife of the Tongass.

The Tongass contains large areas of essentially undisturbed forest lands, which represent increasingly scarce and, therefore, increasingly valuable ecosystems. A significant portion of these undisturbed forest lands include the 9.37 million acres of land that were administratively designated as Inventoried Roadless Areas in the 2001 Roadless Rule. Roadless areas are important because of their wildlife and fish habitat, recreation values, importance to multiple economic sectors, inherent passive use values, traditional properties and sacred sites for local indigenous people, and the ecosystem service values they provide, and the Tongass is no exception (Final Environmental Impact Statement (FEIS) for the 2020 Alaska Roadless Rule). The Tongass, along with adjacent areas in Canada, represents the largest intact tract of coastal temperate rainforest on earth, and it contains nearly a third of all old-growth temperate rainforests left in the world. This ecosystem is nationally and globally significant for its ability to sequester carbon in support of a resilient climate and is seen as a critical resource to retain intact in our changing climate. The Tongass holds more biomass per acre than any other rainforest in the world and stores more carbon than any other national forest in the United States. Large old-growth trees in the Tongass are critical for carbon sequestration, addressing the climate crisis, and maintaining the productivity and health of the region's fisheries and fishing industry.

The Tongass is also home to more than 300 mammal and bird species, as well as five species of salmon that return to spawn in the Tongass each year. One important feature of roadless areas is their biological value. Roadless areas are considered high in biological value if they contain a diversity of plant and animal communities, old-growth forests, and/or habitat for threatened, endangered, or sensitive species or wide-ranging species that are dependent on large, undisturbed tracts of land. On the Tongass, roadless areas support biological diversity especially associated with old-growth habitats, sensitive species, endemic species, and the wide-ranging predators of Southeast Alaska.

In addition, the fish and wildlife on the Tongass are of exceptionally high importance for traditional and customary uses, subsistence, recreation, and the economic well-being of the residents and visitors of Southeast Alaska. The Tongass offers large tracts of old growth forest that provide for some of the most productive fishing and hunting areas in the world. In 2018, the tourism and fishing industries combined accounted for 26 and 21 percent of Southeast Alaska's employment and earnings, respectively. Nature-based tourism generates substantial revenues in the region. For example, a 2009 survey of companies in Sitka, Juneau, Chichagof Island, Prince of Wales Island, Petersburg, and Wrangell identified an estimated $277 million generated in annual direct business revenues. In November 2020, numbers released by the U.S. Bureau of Economic Analysis highlighted the importance of Alaska's outdoor recreation industry (3.9 percent of state GDP in 2019) as one of the highest percentages in the country.

In 2018, an estimated 185 million pounds of seafood was harvested in Southeast Alaska with a value of $247 million. Viewed in terms of market value, salmon accounted for more than half (55 percent) of the total commercial catch in Southeast Alaska. Employment in the seafood harvesting and processing sectors remains relatively stable from year to year, despite the fluctuations in the volumes and value of salmon harvested each year. Salmon harvesting employed an estimated 864 people in Southeast Alaska in 2018, with an additional 1,281 people employed harvesting other fish. Wild Pacific salmon originating from streams and lakes within the Tongass' boundaries account for an estimated 75 percent of all commercially harvested salmon (Johnson et al. 2019). These fish support fishing and processing jobs for thousands of local residents and nonresidents.

The Tongass includes high-value, intact watersheds that were designated to be managed for intact ecological values and aquatic habitat productivity. In addition to commercial fisheries, subsistence marine resources are integral to life in Southeast Alaska. Marine resources, including fish, mammals, and plants, account for more than half of total per capita harvest in all Southeast Alaska communities, ranging from 55 percent in Tenakee Springs to 88 percent in Skagway. Salmon, trout, char, and eulachon (hooligan) are harvested in subsistence fisheries and for personal use by local residents. Salmon and trout are also the basis of tourism and guided fisheries enjoyed by thousands of visitors, supporting hundreds of tourism and related businesses.

Timber and mining, as well as other multiple uses on the Tongass, support businesses and jobs in Southeast Alaska. In 2018, timber and mining supported 3 and 5 percent of employment and earnings, respectively in the region. A number of small businesses rely on timber for local community consumption, and wood from the forest also supports cultural uses such as totem poles, canoes and tribal artisan use. Tongass National Forest-related employment in logging and sawmilling declined from 199 jobs in 2003 to a low of 62 jobs in 2018. Factors contributing to the decline include changes in the structure of the Alaska forest sector, macroeconomic conditions both in the United States and overseas (*e.g.,* shifting demand from Asian markets), markets for Alaskan products, and conditions faced by Alaska's competitors. In addition, Alaska faces competitive challenges due to its remote location: The high costs of harvesting and transportation in remote areas of Southeast Alaska and the relatively lower price commanded in dimensional lumber markets limits profitability (Daniels et al. 2016). The timber industry remains an important part of the economy for the rural communities of Southeast Alaska and is in the midst of a transition from old growth harvest to young growth harvest. The young-growth transition strategy as described in the 2016 Tongass Forest Plan Record of Decision (ROD) defines a 16-year period in which the old-growth contribution to the projected timber sale quantity decreases over time as young growth matures and becomes more economical to harvest. The analyses in the FEIS for the Alaska Roadless Rule (USDA Forest Service 2020) considered the continuation of the young-growth transition strategy in all alternatives analyzed. The Department and Forest Service are committed to investing in new opportunities through the Southeast Alaska Sustainability Strategy that will support the transition, including continuing investments in developing young growth opportunities. Mining activity on the Tongass has also continued to support jobs and economic opportunity.

The Tongass supports traditional and cultural uses that are central to the way of life for Alaska Native peoples, who have engaged in these uses for thousands of years. Living off the land is at the core of Alaska Native peoples' culture. For Native people, this tie to place and the harvest, trade, and use of

traditional foods are key elements in fostering Native cultural identity (Alaska Native Heritage Center 2014). In more recent history, non-Native people living in rural Alaska have also come to rely on natural resources for their livelihoods (Office of Subsistence Management 2016).

Legal and Regulatory History

There is a long regulatory and litigation history concerning roadless area management on the Tongass. On January 12, 2001, the Department published the Roadless Area Conservation Rule (2001 Roadless Rule (66 FR 3243 and 66 FR 3272, January 12, 2001)). The 2001 Roadless Rule sought to conserve roadless area characteristics by prohibiting timber harvest and road construction and reconstruction with limited exceptions (including to protect public health and safety, provide access to existing rights or leases, prevent or repair natural resource damage, maintain or restore ecosystem characteristics, or improve habitat for certain species).

During the development of the 2001 Roadless Rule, the Forest Service analyzed an alternative that would have exempted the Tongass from the Rule's application, but in the final rulemaking, in recognition of the multiple values of roadless areas on the Tongass, the Department applied the rule to the Tongass. In 2003, the Department reversed that decision and exempted the Tongass from the 2001 Roadless Rule (68 FR 75136, December 30, 2003). The 2003 rulemaking was later overturned by the U.S. District Court for the District of Alaska and the 2001 Roadless Rule was reinstated on the Tongass (with special instructions) see *Organized Village of Kake* v. *USDA,* 1:09–cv–00023 JWS (D. Alaska filed May 24, 2011). That decision was appealed by the State of Alaska, but ultimately the District Court's ruling was upheld by the U.S. Court of Appeals for the Ninth Circuit and the Supreme Court declined further review. See *Organized Village of Kake* v. *USDA,* 795 F.3d 956 (9th Cir. 2015) (*en banc*) *cert denied sub. nom Alaska* v. *Organized Village of Kake, Alaska,* 577 U.S. 1234 (2016).

Following the reinstatement of the 2001 Roadless Rule on the Tongass in 2011, the State of Alaska filed a new lawsuit in the U.S. District Court for the District of Columbia challenging the legality of the 2001 Roadless Rule, both nationwide and as applied within Alaska. Ultimately, the District Court ruled that the State had not shown that USDA violated any federal statute in promulgating the Roadless Rule, *see Alaska* v. *USDA,* 273 F.Supp. 3d 102 (D.D.C. 2017). The State appealed the ruling, but the appeal was subsequently held in abeyance (temporarily placed on hold) pending resolution of the State's rulemaking petition discussed immediately below. Following promulgation of the 2020 Rule, the government filed a motion with the D.C. Circuit to dismiss the appeal and vacate the underlying District Court ruling on the basis of mootness. On November 16, 2021, the D.C. Circuit dismissed the State of Alaska's challenge to the 2001 Roadless Rule directing that Alaska's claims regarding application of the Roadless Rule to the Tongass National Forest be dismissed as moot and those portions of the district court's decision regarding the Tongass be vacated; and the remaining claims on appeal (regarding the Chugach National Forest) be dismissed for lack of standing, see *State of Alaska* v. *USDA,* No. 17–5260 (D.C. Cir.).

On January 19, 2018, the State of Alaska submitted a rulemaking petition to Secretary of Agriculture Sonny Purdue pursuant to the Administrative Procedure Act (APA). In the petition, the State requested that USDA consider creation of a state-specific rule to exempt the Tongass from the 2001 Roadless Rule and conduct a forest plan revision for the Forest. In June 2018, Secretary Perdue accepted the State's petition and agreed to review the State's concerns on roadless area management. The Secretary directed the Forest Service to move forward with a state-specific roadless rule. The Secretary did not commit to the State's request for a forest plan revision. A proposed state-specific rule and draft environmental impact statement were issued in October 2019. An FEIS was released in September 2020 and the final rule exempting the Tongass was published on October 29, 2020 (85 FR 68688, part 294 of Title 36 of the Code of Federal Regulations subpart E). That rule will be referred to as the ''2020 Alaska Roadless Rule.''

The FEIS for the 2020 Alaska Roadless Rule analyzed six alternatives for managing roadless areas on the Tongass. The following is a brief description of the action alternatives evaluated in the FEIS for the 2020 Alaska Roadless Rule (Chapter 2 of the FEIS contains a complete description of the alternatives):

The application of the 2001 Roadless Rule to the Tongass was analyzed as Alternative 1 (which at the time maintained the regulatory status quo, also known as the no action alternative).

Alternative 2 provided limited additional timber harvest opportunity while maximizing Inventoried Roadless Area designations.

Alternative 3 provided moderate additional timber harvest opportunities by making timber harvest, road construction, and road reconstruction permissible in areas where roadless characteristics have already been substantially altered and in areas immediately adjacent to existing roads and past harvest areas. Alternative 3 also established a Community Priority category to allow for small-scale timber harvest and associated road construction and reconstruction.

Alternative 4 provided substantial additional timber harvest opportunity while maintaining inventoried roadless designations for areas defined in the Tongass Forest Plan as Scenic Viewsheds, T77 Watersheds, and The Nature Conservancy/Audubon Conservation Priority Areas.

Alternative 5 provided maximum additional timber harvest opportunity by removing 2.32 million acres from Inventoried Roadless Area designation.

Alternative 6 fully exempted the Tongass from the 2001 Roadless Rule, removing 9.37 million acres from roadless area designation.

Taken together, the six alternatives represented the spectrum of potential management regimes identified to the Forest Service in public comments, public meetings, consultations with Tribal and Alaska Native corporations, and by cooperating agencies.

Approximately 411,000 comments were received during the development of the Alaska Roadless Rule. The ''large majority of comments supported retaining the 2001 Roadless Rule and opposed the full exemption.'' (85 FR 68697).

In addition, nine Southeast Alaska Tribal governments submitted a petition to the Secretary on July 21, 2020 requesting that the United States government commence a new rulemaking in collaboration with Tribal signatories to create a Traditional Homelands Conservation Rule to identify and protect traditional and customary uses of the Tlingit, Haida, and Tsimshian peoples in the Tongass. This petition also requested that USDA create a new process for engaging in consultation with Tribes based on the principle of ''mutual concurrence.'' The petition states that it was submitted in response to the Tribes' experience in the 2020 Alaska Roadless Rulemaking process and their belief that their contributions were not being adequately considered. Since the initial submission of the Traditional Homelands petition, three additional tribes joined as signatories.

After reviewing the alternatives and considering the comments, the Secretary issued 36 CFR part 294, subpart E (85 FR 68688) on October 29, 2020 (Subpart E), selecting Alternative 6 and fully exempting the Tongass from application of Subpart B of 36 CFR part 294 (the 2001 Roadless Rule).

On December 23, 2020 a coalition of twenty-two plaintiffs, including five federally recognized tribes, two ecotourism companies, and other cultural and environmental organizations filed a complaint in the U.S. District Court for the District of Alaska challenging the 2020 Alaska Roadless Rule. decision. *Organized Village of Kake* v. *Vilsack,* No. 1:20–cv–00011.

Rationale for the Proposed Rule

USDA has the discretion to determine how to manage inventoried roadless areas. Fundamentally, the choice of how to best conserve and manage inventoried roadless areas is an exercise of USDA's delegated authority for management of the renewable surface resources of the National Forest System in a multiple-use and sustained-yield context. Or as stated in the preamble of the 2020 final rule ''roadless area management . . . is fundamentally an exercise in discretion and policy judgement concerning the best use of the NFS lands and resources . . .'' (85 FR 68691).

No statute compels or prohibits USDA's roadless rules, they are derived from the Secretary's delegated organic statutory authorities. The Multiple-Use Sustained-Yield Act (MUSYA), 16 U.S.C. 528–531, establishes multiple-use as the foundation for management of the National Forest System and defines multiple use extremely broadly, calling for management of the various forest resources ''in the combination that will best meet the needs of the American people'' (16 U.S.C. 531(a)). Congress has expressly declared ''that some land will be used for less than all resources'' and ''consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output'' (16 U.S.C. 531(a.1988)).

Courts have similarly found that the MUSYA grants USDA and the Forest Service ''wide discretion to weigh and decide the proper uses within any area'' (*Wind-River Multiple Use Advocates* v. *Espy,* 835 F.Supp. 1362, 1372 (D. Wyo. 1993) (citing *Bighole Ranchers Ass'n* v. *United States Forest Serv.,* 686 F.Supp. 256, 264 (D. Mont. 1988)). Thus, the Secretary and the Chief of the Forest Service have wide discretion in managing the lands entrusted it and may use ''less than all the resources'' in certain areas, for example by prohibiting timber harvest and timber harvesting. In *Wyoming* v. *USDA,* 661 F.3d 1209 (10th Cir. 2011), the Tenth Circuit upheld the legality under MUSYA of the timber harvest and road construction prohibitions imposed by the 2001 Roadless Area Conservation Rule.

As with the Organic Act, the provisions of MUSYA give the Forest Service broad discretion to regulate NFS lands for a wide variety of purposes. See *Perkins* v. *Bergland,* 608 F.2d 803, 806–07 (9th Cir.1979) (''This language [in 16 U.S.C. 528, 529, and 531''] can hardly be considered concrete limits upon agency discretion. Rather, it is language which 'breathe(s) discretion at every pore' '' (quoting *Strickland* v. *Morton,* 519 F.2d 467, 469 (9th Cir.1975)).

Courts have routinely upheld the Forest Service's discretion to weigh and choose the proper mix of uses with the National Forest System. See, for example, *Seattle Audubon Soc.* v. *Lyons,* 871 F.Supp. 1291, 1315 (W.D. Wash. 1991), *aff'd,* 80 F.3d 1401 (9th Cir. 1996) (upholding Forest Service's designation of large reserves within which timber harvest is generally prohibited as ''an exercise of the Secretary's multiple use planning responsibilities''); *Sierra Club* v. *Hardin,* 325 F.Supp. 99, 123 (D. Alaska 1971) (''Congress has given no indication as to the weight to be assigned each value and it must be assumed that the decision as to the proper mix of uses within any particular area is left to the sound discretion and expertise of the Forest Service.''). The rule proposed today is such an exercise of discretionary policy judgment. In addition, as described by the FEIS for the 2020 Alaska Roadless Rule, all of the alternatives analyzed, including Alternative 1 (the no action alternative), satisfied the requirements of the Tongass Timber Reform Act (TTRA). As noted below, the Tongass Timber Reform Act (TTRA) does not require USDA to meet market demand, but only to ''seek to . . . meet [ ]'' such demand, and even that qualified directive is ''subject to'' applicable law and must be ''consistent with'' USDA's authority to provide for the multiple use and sustained yield of renewable forest resources, including recreation, watershed, and wildlife and fish, in addition to timber.

The rationale for the rule proposed today is based on an evaluation of the importance of roadless area conservation for a combination of cultural, social, ecologic and economic values. On January 20, 2021, President Biden ordered all executive departments and agencies to immediately review and, as appropriate and consistent with applicable law, take action to address the promulgation of Federal regulations during the previous four years that may conflict with protecting the environment and to immediately commence work to confront the climate crisis (Executive Order 13990, 86 FR 7037). In addition, on January 26, 2021, President Biden issued a Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships that directs executive departments and Federal agencies to make the following the cornerstones of Federal Indian policy: [1] Respect for Tribal sovereignty and self-governance, commitment to fulfilling Federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultation with Tribal Nations.

Consistent with these Presidential instructions, USDA proposes to repeal the 2020 Alaska Roadless Rule (part 294 of Title 36 of the Code of Federal Regulations Subpart E) and return the Tongass to management under the provisions of the 2001 Roadless Rule, as reinstated by the U.S. District Court for the District of Alaska.

Reinstating application of the 2001 Roadless Rule on the Tongass would prohibit timber harvest and road construction or reconstruction within Inventoried Roadless Areas on the Forest, with the limited exceptions included in the 2001 Roadless Rule and Court Order. Exceptions in the 2001 Roadless Rule were included to allow for some activity, including activity to protect public health and safety, provide access to existing rights or leases including for mining, provide for renewable energy and utility systems, prevent or repair certain natural resource damage, maintain or restore ecosystem characteristics, or improve habitat for certain species.

The original decision rationale for applying the roadless rule to the Tongass in 2001, as described in the response to comments on the final rule on January 12, 2001, stated ''the agency has considered the alternatives of exempting and not exempting the Tongass National Forest, as well as deferring a decision per the proposed rule. Social and economic considerations were key factors in analyzing those alternatives, along with the unique and sensitive ecological character of the Tongass National

[1] *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/.*

Forest, the abundance of roadless areas where road construction and reconstruction are limited, and the high degree of ecological health.''

Then, and again now, in proposing this action, the agency considered the extraordinary ecological values of the Tongass National Forest and the cultural, social and economic needs of the local forest dependent communities in Southeast Alaska. USDA believes that this proposed management approach best reflects those multiple values.

From an ecologic perspective, restoring the 2001 Roadless Rule protections on the Tongass would help conserve natural resources by restoring roadless area management on 9.34 million acres, which protects 188,000 acres of forest from potential roadbuilding and would support retention of the largest and most extensive tracts of undeveloped land for the roadless values, watershed protection, and ecosystem health those lands provide. Roadless areas on the Tongass represent the world's largest remaining, intact, old growth temperate rainforest, which supports biodiversity and sequesters carbon. The proposed rule would reflect the Administration's priority on protecting those values.

Restoring the 2001 Roadless Rule protections also reflects the Administration's priorities to build on the region's primary private-sector economic drivers of tourism and fishing. Roadless areas on the Tongass include watersheds and areas important for fishing, hunting, outdoor recreation and tourism, which support revenue and jobs in Southeast Alaska as well as local community well-being. Restoring 2001 Roadless Rule protections to those areas would support those values. This approach is consistent with the Department's *Southeast Alaska Sustainability Strategy* (more about the strategy is available at *https://go.usa.gov/xMNzF*), announced on July 15, 2021, to serve the broader economy of Southeast Alaska, support community resiliency, and conserve the social, cultural, and ecologic values supported by the Tongass.

As outlined below, restoring the 2001 Roadless Rule protections also responds to the January 26, 2021, Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships (*www.govinfo.gov/app/details/DCPD-202100091*). The proposed rule is directly responsive to unanimous input from Tribal Nations during government-to-government consultation sessions conducted in 2021. Roadless areas on the Tongass are of immense cultural significance for Alaska Native peoples. Restoring application of the 2001 Roadless Rule to the Tongass would reflect the Administration's commitment to strengthening nation-to-nation relationships, and incorporating indigenous knowledge, stewardship and priorities into land management decision-making.

The Administration acknowledges the continued importance of forest products from the Tongass. A number of businesses rely on timber for local community consumption, and wood from the forest also supports cultural uses such as totem poles, canoes and tribal artisan use. Timber harvest and forest products from the Tongass would continue to be provided with the proposed roadless rule's prohibitions in place.

In addition, the Tongass has processed 40 mineral, energy and recreation requests in inventoried roadless areas since the roadless rule was established in 2001, while it has been in effect on the Tongass. This further demonstrates that the 2001 Roadless Rule's exceptions allowing access for existing rights and leases are effective, and that roadless rule prohibitions can coexist with these industries and allow the Forest Service to continue to fulfill its multiple use mission.

Consultation With Indian Tribal Governments and Alaska Native Corporations

During development of the 2020 Alaska Roadless Rule on July 30, 2018, the Forest Service invited government-to-government consultation with 32 Alaska Federally recognized Tribes and 27 Alaska Native corporations. Federally recognized Tribes were invited to participate as cooperating agencies during the rulemaking process. Six Tribes initially agreed to become cooperating agencies, including the Angoon Community Association, Central Council Tlingit and Haida Indian Tribes of Alaska, Hoonah Indian Association, Hydaburg Cooperative Association, Organized Village of Kake, and Organized Village of Kasaan.

All six Tribes eventually withdrew as cooperating agencies.

On July 21, 2020, then-Secretary of Agriculture Sonny Perdue received a petition from nine Southeast Alaska Tribal governments requesting that the United States government commence a new rulemaking in collaboration with Tribal signatories to create a Traditional Homelands Conservation Rule to identify and protect traditional and customary uses of the Tlingit, Haida, and Tsimshian peoples in the Tongass. Since the initial submission of the Traditional Homelands petition, three additional tribes joined as signatories. This petition also requested that USDA create a new process for engaging in consultation with Tribes based on the principle of ''mutual concurrence.'' The petition states that it was submitted in response to the Tribes' experience in the 2020 Alaska Roadless Rulemaking process and their belief that their contributions were not being adequately considered.

On May 24, 2021, Secretary Vilsack acknowledged the petition, expressing a commitment to engaging and learning more and inviting formal consultation with Tribal governments. In July 2021, the Department and the Forest Service held a consultation with 10 tribes in Juneau, Alaska. Topics included the petition, the Alaska Roadless Rule and the Southeast Alaska Sustainability Strategy. The Tribes represented at this consultation expressed their desire to return to the 2001 Roadless Rule's application on the Tongass as quickly and expeditiously as administratively possible.

A second consultation session took place during the week of August 16, 2021, during which the Tribes represented continued to express their interest in seeing action from the Administration to quickly reinstate the 2001 Roadless Rule protections on the Tongass.

The Department and the Forest Service will continue to consult with Tribal Governments and Alaska Native Corporations on this proposed rule.

Relationship of the Alaska Roadless Rules to the Tongass Forest Plan

The 2001 Roadless Rule's scope and applicability language was designed to avoid conflicts with the rule and forest plans, as well as to avoid unnecessary or duplicative administrative processes for the operation of the 2001 Roadless Rule. As such, the 2001 Roadless Rule expressly directed that the rule did not compel the amendment or revision of any land and resource management plan. See 36 CFR 294.14(b) (2001). When the Tongass Land Management Plan was amended in 2016, the Forest Service elected to directly implement the 2001 Roadless Rule's timber harvesting prohibitions in determining suitability (see 2016 Tongass Land Management Forest Plan (2016 Plan), Appendix A, page A–3, Appendix I, page I–177, indicating all Inventoried Roadless Areas were removed from the suitable land base during Stage 1 of the suitability analysis due to the 2001 Roadless Rule).

As part of the Department's 2020 final rulemaking decision to exempt the

Tongass from the 2001 Roadless Rule, the Department directed the Forest Service to issue a ministerial notice of an administrative change to the Tongass Land Management Plan pursuant to 36 CFR 219.13(c), to alter the timber suitability of lands deemed unsuitable solely due to the application of the 2001 Roadless Rule. 36 CFR 294.51. Further, the 2020 rulemaking was clear that administrative change simply provided conformance of the Forest Plan to the final rule in regard to lands suitable for timber production and would not change the level of timber harvest, how timber is harvested on the Tongass, or any other aspects of the Forest Plan. See 85 FR 68695. However, the ministerial administrative change was never issued, and no change has been made to the suitable timber lands designation in the 2016 Plan. Because the timber suitability determination in the 2016 Tongass Land Management Plan was never actually altered pursuant to the 2020 rulemaking, the proposed rule's repeal of the 2020 rulemaking would leave the 2016 Forest Plan's suitability determination undisturbed and operational going forward.

Conclusion

The stated purposes of the 2001 Roadless Rule included retention of the largest and most extensive tracts of undeveloped land for the roadless values of watershed protection and ecosystem health that these lands provide. The Department and Administration believe that the underlying goals and purposes of the 2001 Roadless Rule continue to be important, especially in the context of the values that roadless areas on the Tongass represent for local communities and Native peoples, and the multiple ecologic, social, cultural and economic values supported by roadless areas on the Forest. Once again, the USDA believes that the long-term benefits to the nation of conserving inventoried roadless areas on the Tongass outweigh the potential benefits associated with the Tongass no longer being subject to the 2001 Roadless Rule. USDA believes, considering the FEIS for the 2020 Alaska Roadless Rulemaking, which analyzed the continued implementation of the 2001 Roadless Rule as Alternative 1, that a policy change for the Tongass can be made without significant adverse impacts to the timber and mining industries, while providing benefits to the recreation, tourism and fishing industries. This change would also respond to input from Alaska Tribal Nations and reflect cultural benefits associated with conserving roadless areas on the Tongass.

Therefore, USDA proposes to repeal Subpart E and return roadless management on the Tongass to the regulatory regime previously in force, which would result in the reinstatement of the 2001 Roadless Rule as provided for in the U.S. District Court for the District of Alaska's Judgment in *Organized Village of Kake* v. *USDA,* 1:09–cv–00023 JWS (D. Alaska filed May 24, 2011).

Regulatory Certifications

National Environmental Policy Act

Preliminary Determination of NEPA Adequacy: The Forest Service's preliminary determination is that the FEIS issued in association with promulgation of Subpart E (85 FR 68688) adequately analyzes the environmental effects of this proposed rule and reasonable alternatives. The FEIS is available at: *www.fs.usda.gov/nfs/11558/www/nepa/109834_FSPLT3_5357355.pdf.* The environmental effects associated with adoption of the proposed rule were analyzed and disclosed in detail in Alternative 1 of the FEIS for the 2020 Alaska Roadless Rule (the no action alternative).

The FEIS for the 2020 Alaska Roadless Rule was prepared less than one year ago and included an effects analysis for six alternatives covering a broad range of roadless management options, including both operation under, and exemption from, the 2001 Roadless Rule's prohibitions. The Forest Service's preliminary determination of NEPA adequacy is based upon the criteria outlined at 36 CFR 220.4(j) as applied to the 2020 rule and the proposed rule: (1) The federal action proposed in this rulemaking is identical to the federal action described and analyzed in detail in Alternative 1 in the FEIS for the 2020 Alaska Roadless Rule; (2) the range of alternatives analyzed in the FEIS for the 2020 Alaska Roadless Rule is appropriate with respect to this proposed rulemaking and comparable with the alternatives considered during the 2001 roadless rulemaking and its Final EIS (as noted above, the FEIS for the 2020 Rule included six alternatives covering a broad range of roadless management options); (3) there appears to be no materially relevant new information or circumstances relevant to environmental concerns that would substantially change the environmental analysis disclosed in the FEIS for the 2020 Alaska Roadless Rule; and (4) the environmental effects associated with implementing the proposed rule are not different than, and are effectively identical to, those analyzed in Alternative 1 in the FEIS for the 2020 Alaska Roadless Rule.

A final NEPA determination will be made in association with the final rule and the public may submit as part of its comments on the rulemaking any supporting or contrary views concerning environmental effects.

Regulatory Planning and Review

This rulemaking is a significant regulatory action as it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. The Forest Service has prepared an analysis of potential impacts and discussion of benefits and costs of the proposed rule in its Regulatory Impact Analysis. By removing Subpart E, the proposed rule would return the Tongass to management under the provisions of the 2001 Roadless Rule, which prohibits timber harvest and road construction or reconstruction within designated Inventoried Roadless Areas with limited exceptions. Exceptions in the 2001 Roadless Rule do allow for some activity, including to protect public health and safety, provide access to existing rights or leases, prevent or repair natural resource damage, maintain or restore ecosystem characteristics, or improve habitat for certain species.

Protection of roadless characteristics through reinstatement of the 2001 Roadless Rule that would occur as a result of this proposed rule would provide benefits associated with old-growth conservation and would avoid displacement-related losses to recreationists and the outfitter and guide industry, estimated to be $68,000 to $224,000 annually. Estimated loss of suitable old growth would not decrease timber related jobs, income or output, since the proposed rule does not change the timber sale quantity or timber demand projections from the Tongass Land and Resource Management Plan.

The Tongass, in compliance with the Tongass Timber Reform Act (TTRA), has long acknowledged that the TTRA directs the Forest Service, subject to other applicable laws, to ''seek to meet market demand'' for timber from the Tongass National Forest. See 66 FR at 3255. However, as USDA (and the courts) have repeatedly explained, the TTRA ''does not envision an inflexible harvest level, but a balancing of the market, the law, and other uses, including preservation.'' *Id.* The TTRA expressly declares that subject to appropriations, other applicable law, the requirements of the National Forest Management Act; and to the extent

consistent with providing for the multiple use and sustained yield of all renewable forest resources, the Forest Service is to ''seek to provide a supply of timber from the Tongass, which: (1) Meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle'' (16 U.S.C. 539d).

While the TTRA provides a qualified instruction that USDA ''seek to provide a supply of timber'' from the Tongass that meets market demand, nothing on the face of the 2001 Roadless Rule prevents USDA from seeking to meet market demand through timber sales on lands outside of inventoried roadless areas or consistent with Roadless Rule exceptions, even if operation of the rule would make it more difficult to meet market demand in light of other market factors. The TTRA does not require USDA to meet market demand, but only to ''seek to . . . meet []'' such demand. Even that qualified directive is ''subject to'' applicable law and must be ''consistent with'' USDA's authority to provide for the multiple use and sustained yield of renewable forest resources, including recreation, watershed, and wildlife and fish, in addition to timber. The proposed rule is fully consistent with TTRA's aspirational directive.

Stumpage value changes are quantified in the regulatory impact analysis, alongside agency road maintenance costs, conservation value, avoided lost revenue to outfitters and guides, and value of access by recreationists not using outfitters and guides. Discounted upper bound estimates of net present value are positive for the proposed rule and regulatory alternatives.

Regulatory Flexibility Act and Consideration of Small Entities

USDA certifies that the proposed rule does not have a significant economic impact on a substantial number of small entities as determined in the Regulatory Flexibility Analysis because the proposed rule does not directly subject small entities to regulatory requirements. Therefore, notification to the Small Business Administration's Chief Council for Advocacy is not required pursuant to Executive Order 13272. A number of small and large entities may avoid revenue losses as a result of the proposed rule, or otherwise benefit from activities on National Forest System lands under the proposed rule.

Paperwork Reduction Act

This proposed rule does not require any additional record keeping, reporting requirements, or other information collection requirements as defined in 5 CFR part 1320 that are not already approved for use and, therefore, imposes no additional paperwork on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Regulatory Risk Assessment

A risk assessment is only required under 7 U.S.C. 2204e for a ''major'' rule, the primary purpose of which is to regulate issues of human health, human safety, or the environment. The statute (Pub. L. 103–354, Title III, Section 304) defines ''major'' as any regulation the Secretary of Agriculture estimates is likely to have an impact on the U.S. economy of $100 million or more as measured in 1994 dollars. Economic effects of the proposed rule are estimated to be less than $100 million per year.

Federalism

USDA has considered the proposed rule in context of Executive Order 13132, Federalism, issued August 4, 1999. USDA has determined that the proposed rule conforms with Federalism principles set out in Executive Order 13132, would not impose any compliance costs on any state, and would not have substantial direct effects on states, on the relationship between the national government and the State of Alaska, or any other state, nor on the distribution of power and responsibilities among the various levels of government. Therefore, USDA concludes that this proposed rule does not have Federalism implications. USDA has considered the proposed rule in the context of the public comment received during the Forest Service's previous public comment periods and previous input received from cooperating agencies.

No Takings Implications

USDA has considered the proposed rule in context with the principles and criteria contained in Executive Order 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights,* issued March 15, 1988. USDA has determined that the proposed rule does not pose the risk of a taking of private property because it only applies to management of National Forest System lands and contains exemptions that prevent the taking of constitutionally protected private property.

Consultation With Indian Tribal Governments

The proposed rule was reviewed in accordance with the requirements of Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments.* Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments, or proposed legislation, and other policy statements or actions that may have substantial direct effects 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. In Alaska, the Forest Service is also required to consult with Alaska Native corporations on the same basis as Federally recognized tribes.

In support of the January 26, 2021 Executive Order 13175 and the President's Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, in July 2021, USDA and the Forest Service held a consultation with 10 tribes in Juneau, Alaska. The tribes represented at this consultation expressed their desire to return to the 2001 Roadless Rule as quickly and expeditiously as administratively possible. USDA committed to continuing meaningful consultation throughout the rulemaking.

Civil Justice Reform

USDA reviewed the proposed rule in context of Executive Order 12988. USDA has not identified any state or local laws or regulations that conflict with the proposed rule or would impede full implementation of the rules. However, if the rule is adopted, all state and local laws and regulations that conflict with this proposed rule or would impede full implementation of this proposed rule would be preempted. No retroactive effect would be given to this proposed rule, and the proposed rule would not require the use of administrative proceedings before parties could file suit in court.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), signed into law on March 22, 1995, USDA has assessed the effects of the proposed rule on state, local, and tribal governments and the private sector. The proposed rule does not compel the expenditure of $100 million or more by any state, local, or tribal government, or anyone in the private

sector. Therefore, a statement under section 202 of the Act is not required.

Energy Effects

USDA has considered the proposed rule in context of Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, issued May 18, 2001. USDA has determined the proposed rule does not constitute a significant energy action as defined in Executive Order 13211. Therefore, a statement of energy effects is not required.

E-Government Act

USDA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

List of Subjects in 36 CFR Part 294

National Forests, Recreation areas, Navigation (air), Roadless area management.

For the reasons set forth in the preamble, USDA proposes to amend part 294 of Title 36 of the Code of Federal Regulations as follows:

PART 294—SPECIAL AREAS

■ 1. The authority citation for part 294 continues to read as follows:

Authority: 16 U.S.C. 472, 551, and 1131.

Subpart E—[Removed]

■ 2. Subpart E, consisting of §§ 294.50 and 294.51, is removed.

Dated: November 17, 2021.

Meryl Harrell,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 2021–25467 Filed 11–22–21; 8:45 am]

BILLING CODE 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R02–OAR–2021–0747; FRL–9241–01–R2]

Outer Continental Shelf Air Regulations Update To Include New Jersey State Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by section 328(a)(1) of the Clean Air Act (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the State of New Jersey is the COA. The intended effect of approving the OCS requirements for the State of New Jersey is to regulate emissions from OCS sources in accordance with the requirements onshore. The requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before December 23, 2021.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2021–0747 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Viorica Petriman, Air Programs Branch, Permitting Section, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007, (212) 637–4021, *petriman.viorica@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background and Purpose

On September 4, 1992, EPA promulgated 40 CFR part 55 (''Part 55''),[1] which established requirements to control air pollution from Outer Continental Shelf (OCS) sources in order to attain and maintain Federal and State ambient air quality standards (AAQS) and to comply with the provisions of part C of title I of the Clean Air Act (CAA). The Part 55 regulations apply to all OCS sources offshore of the states except those located in the Gulf of Mexico west of 87.5 degrees longitude.

Section 328(a) of the CAA requires that for such OCS sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the corresponding onshore area (COA). Because the OCS requirements are based on onshore requirements, and onshore requirements may change, CAA section 328(a)(1) requires that the EPA update the OCS requirements as necessary to maintain consistency with onshore requirements. To comply with this statutory mandate, the EPA must incorporate by reference into Part 55 all relevant state rules in effect for onshore sources, so they can be applied to OCS sources located offshore. This limits EPA's flexibility in deciding which requirements will be incorporated into 40 CFR part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into 40 CFR part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the CAA. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

40 CFR 55.12 specifies certain times at which part 55's incorporation by reference of a state's rules must be updated. One time such a ''consistency update'' must occur is when any OCS source applicant submits a Notice of Intent (NOI) under 40 CFR 55.4 for a new or a modified OCS source. 40 CFR 55.4(a) requires that any OCS source applicant must submit to EPA an NOI

[1] The reader may refer to the Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

before performing any physical change or change in method of operation that results in an increase in emissions. EPA must conduct any necessary consistency update when it receives an NOI, and prior to receiving any application for a preconstruction permit from the OCS source applicant. 40 CFR 55.6(b)(2) and 55.12(f). This proposed action is being taken in response to the submittal of an NOI on September 14, 2021, by Ocean Wind, LLC, which proposes to submit an OCS permit application for the construction of a new OCS source (a wind energy project) about 15 miles offshore New Jersey.

II. The EPA's Evaluation

In updating 40 CFR part 55, the EPA reviewed the New Jersey Department of Environmental Protection (''NJDEP'') air rules currently in effect, to ensure that they are rationally related to the attainment or maintenance of Federal and State AAQS or part C of title I of the CAA, that they are not designed expressly to prevent exploration and development of the OCS, and that they are applicable to OCS sources. *See* 40 CFR 55.1. The EPA has also evaluated the rules to ensure they are not arbitrary and capricious. *See* 40 CFR 55.12(e). The EPA has excluded New Jersey's administrative or procedural rules,[2] and requirements that regulate toxics which are not related to the attainment and maintenance of Federal and State AAQS.

III. The EPA's Proposed Action

In today's action, the EPA is proposing to update the ''New Jersey'' section of Appendix A to 40 CFR part 55 to incorporate by reference the following relevant New Jersey air pollution control rules that are currently in effect:

Chapter 27 Subchapter 2—Control and Prohibition of Open Burning (Effective 6/20/1994),

N.J.A.C. 7:27–2.1 through 2.4,7:27–2.6 through 2.8, and 7:27–2.12 through 2.13;

Chapter 27 Subchapter 3—Control and Prohibition of Smoke from Combustion of Fuel (Effective 2/4/2002);

Chapter 27 Subchapter 4—Control and Prohibition of Particles from Combustion of Fuel (Effective 4/20/2009);

Chapter 27 Subchapter 5—Prohibition of Air Pollution (Effective 10/12/1977);

Chapter 27 Subchapter 6—Control and Prohibition of Particles from Manufacturing Processes (Effective 6/12/1998);

Chapter 27 Subchapter 7—Sulfur (Effective 11/6/2017), N.J.A.C. 7:27–7.1 and 7.2;

Chapter 27 Subchapter 8—Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit) (Effective 4/6/2020), N.J.A.C. 7:27–8.1 through 8.9, 7:27–8.11 through 8.21, 7:27–8.23 through 8.25, 7:27–8.27, and Appendix 1;

Chapter 27 Subchapter 9—Sulfur in Fuels (Effective 9/20/2010);

Chapter 27 Subchapter 10—Sulfur in Solid Fuels (Effective 9/6/2011);

Chapter 27 Subchapter 11—Incinerators (Effective 5/4/1998);

Chapter 27 Subchapter 12—Prevention and Control of Air Pollution Emergencies (Effective 5/20/1974);

Chapter 27 Subchapter 16—Control and Prohibition of Air Pollution by Volatile Organic Compounds (Effective 1/16/2018), N.J.A.C. 7:27–16.1 through 16.10, 7:27–16.12 through 16.13, 7:27–16.16 through 16.23, 7:27–16. 27, and Appendix I and II;

Chapter 27 Subchapter 18—Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules) (Effective 11/6/2017);

Chapter 27 Subchapter 19—Control and Prohibition of Air Pollution from Oxides of Nitrogen (Effective 1/16/2018), N.J.A.C. 7:27–19.1 through 19.8, 7:27–19.11, 7:27–19.13 through 19.21, 7:27–19.23, and 7:27–19.25 through 19.26;

Chapter 27 Subchapter 20—Used Oil Combustion (Effective 9/6/2011);

Chapter 27 Subchapter 21—Emission Statements (Effective 1/16/2018);

Chapter 27 Subchapter 22—Operating Permits (Effective 11/2/2020);

Chapter 27B Subchapter 1—Sampling and Analytical Procedures for Determining Emissions of Particles from Manufacturing Processes and from Combustion of Fuels (Effective 6/21/1976);

Chapter 27B Subchapter 2—Procedures for Visual Determination of the Opacity (Percent) and Shade or Appearance (Ringelmann Number) of Emissions from Sources (Effective 6/21/1976); and

Chapter 27B Subchapter 3—Air Test Method 3: Sampling and Analytical Procedures for the Determination of Volatile Organic Compounds from Source Operations (Effective 12/1/2008).

IV. Incorporation by Reference

In this proposed rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the NJDEP air rules that are applicable to OCS sources and which are currently in effect. These regulations are described in Section III (''The EPA's Proposed Action'') of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 2 Office. Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore air control requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into part 55 as they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, the EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the Clean Air Act. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by the EPA.

a. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Orders (E.O.) 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011) and is therefore not subject to review under the E.O.

b. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under PRA because this action only updates the state rules that are incorporated by reference into 40 CFR part 55, Appendix A. OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 55 and, by extension, this update to part 55, and has assigned OMB control number 2060–0249. This action does not impose a new information burden under PRA because this action only updates the state rules

[2] Each COA, which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, as in New Jersey, EPA will use its own administrative and procedural requirements to implement the substantive requirements. *See* 40 CFR 55.14(c)(4).

that are incorporated by reference into 40 CFR part 55, Appendix A.

c. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant impact on a substantial number of small entities under the RFA. This proposed rule does not impose any requirements or create impacts on small entities. This proposed consistency update under CAA section 328 will not create any new requirements but simply proposes to update the State requirements incorporated by reference into 40 CFR part 55 to match the current State requirements.

d. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate or significantly or uniquely affect small governments as described in UMRA, 2 U.S.C. 1531–1538. The action imposes no enforceable duty on any state, local or tribal governments.

e. Executive Order 13132, Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

f. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), 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, nor does it impose substantial direct costs on tribal governments, nor preempt tribal law. It merely updated the State law incorporated by reference into 40 CFR part 55 to match current State requirements.

g. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 and simply proposes to update the State requirements incorporated by reference into 40 CFR part 55 to match the current State requirements.

h. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use.

This proposed rule is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

i. National Technology Transfer and Advancement Act

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

j. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it 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.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 15, 2021.

Walter Mugdan,

Acting Regional Administrator, Region 2.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows.

PART 55—[AMENDED]

■ 1. The authority citation for 40 CFR part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by revising paragraph (e)(15)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states' seaward boundaries, by state.

* * * * *

(e) * * *

(15) * * *

(i) * * *

(A) State of New Jersey Requirements Applicable to OCS Sources, October 6, 2021.

* * * * *

■ 3. Appendix A to 40 CFR part 55 is amended by revising the entry for ''New Jersey'' to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into 40 CFR Part 55, by State

* * * * *

NEW JERSEY

(a) State requirements,

(1) The following State of New Jersey requirements are applicable to OCS Sources, as of October 6, 2021. New Jersey State Department of Environmental Protection—New Jersey Administrative Code. The following sections of Title 7:

Chapter 27 Subchapter 2—Control and Prohibition of Open Burning (Effective 6/20/1994)

N.J.A.C. 7:27–2.1. Definitions
N.J.A.C. 7:27–2.2. Open burning for salvage operations
N.J.A.C. 7:27–2.3. Open burning of refuse
N.J.A.C. 7:27–2.4. General provisions
N.J.A.C. 7:27–2.6. Prescribed burning
N.J.A.C. 7:27–2.7. Emergencies
N.J.A.C. 7:27–2.8. Dangerous material
N.J.A.C. 7:27–2.12. Special permit
N.J.A.C. 7:27–2.13. Fees

Chapter 27 Subchapter 3—Control and Prohibition of Smoke From Combustion of Fuel (Effective 2/4/2002)

N.J.A.C. 7:27–3.1. Definitions
N.J.A.C. 7:27–3.2. Smoke emissions from stationary indirect heat exchangers
N.J.A.C. 7:27–3.3. Smoke emissions from marine installations
N.J.A.C. 7:27–3.4. Smoke emissions from the combustion of fuel in mobile sources
N.J.A.C. 7:27–3.5. Smoke emissions from stationary internal combustion engines and stationary turbine engines
N.J.A.C. 7:27–3.6. Stack test
N.J.A.C. 7:27–3.7. Exceptions

Chapter 27 Subchapter 4—Control and Prohibition of Particles From Combustion of Fuel (Effective 4/20/2009)

N.J.A.C. 7:27–4.1. Definitions
N.J.A.C. 7:27–4.2. Standards for the emission of particles
N.J.A.C. 7:27–4.3. Performance test principle
N.J.A.C. 7:27–4.4. Emissions tests
N.J.A.C. 7:27–4.6. Exceptions

Chapter 27 Subchapter 5—Prohibition of Air Pollution (Effective 10/12/1977)

N.J.A.C. 7:27–5.1. Definitions
N.J.A.C. 7:27–5.2. General provisions

Chapter 27 Subchapter 6—Control and Prohibition of Particles From Manufacturing Processes (Effective 6/12/1998)

N.J.A.C. 7:27–6.1. Definitions
N.J.A.C. 7:27–6.2. Standards for the emission of particles
N.J.A.C. 7:27–6.3. Performance test principles
N.J.A.C. 7:27–6.4. Emissions tests
N.J.A.C. 7:27–6.5. Variances
N.J.A.C. 7:27–6.7. Exceptions

Chapter 27 Subchapter 7—Sulfur (Effective 11/6/2017)

N.J.A.C. 7:27–7.1. Definitions
N.J.A.C. 7:27–7.2. Control and prohibition of air pollution from sulfur compounds

Chapter 27 Subchapter 8—Permits and Certificates for Minor Facilities (and Major Facilities Without an Operating Permit) (Effective 4/6/2020)

N.J.A.C. 7:27–8.1. Definitions
N.J.A.C. 7:27–8.2. Applicability
N.J.A.C. 7:27–8.3. General provisions
N.J.A.C. 7:27–8.4. How to apply, register, submit a notice, or renew
N.J.A.C. 7:27–8.5. Air quality impact analysis
N.J.A.C. 7:27–8.6. Service fees
N.J.A.C. 7:27–8.7. Operating certificates
N.J.A.C. 7:27–8.8. General permits
N.J.A.C. 7:27–8.9. Environmental improvement pilot tests
N.J.A.C. 7:27–8.11. Standards for issuing a permit
N.J.A.C. 7:27–8.12. State of the art
N.J.A.C. 7:27–8.13. Conditions of approval
N.J.A.C. 7:27–8.14. Denials
N.J.A.C. 7:27–8.15. Reporting requirements
N.J.A.C. 7:27–8.16. Revocation
N.J.A.C. 7:27–8.17. Changes to existing permits and certificates
N.J.A.C. 7:27–8.18. Permit revisions
N.J.A.C. 7:27–8.19. Compliance plan changes
N.J.A.C. 7:27–8.20. Seven-day notice changes
N.J.A.C. 7:27–8.21. Amendments
N.J.A.C. 7:27–8.23. Reconstruction
N.J.A.C. 7:27–8.24. Special provisions for construction but not operation
N.J.A.C. 7:27–8.25. Special provisions for pollution control equipment or pollution prevention process modifications
N.J.A.C. 7:27–8.27. Special facility-wide permit provisions

Appendix 1

Chapter 27 Subchapter 9—Sulfur in Fuels (Effective 9/20/2010)

N.J.A.C. 7:27–9.1. Definitions
N.J.A.C. 7:27–9.2. Sulfur content standards
N.J.A.C. 7:27–9.3. Exemptions
N.J.A.C. 7:27–9.4. Waiver of air quality modeling

Chapter 27 Subchapter 10—Sulfur in Solid Fuels (Effective 9/6/2011)

N.J.A.C. 7:27–10.1. Definitions
N.J.A.C. 7:27–10.2. Sulfur contents standards
N.J.A.C. 7:27–10.3. Expansion, reconstruction, or construction of solid fuel burning units
N.J.A.C. 7:27–10.4. Exemptions
N.J.A.C. 7:27–10.5. SO_2 emission rate determinations

Chapter 27 Subchapter 11—Incinerators (Effective 5/4/1998)

N.J.A.C. 7:27–11.1. Definitions
N.J.A.C. 7:27–11.2. Construction standards
N.J.A.C. 7:27–11.3. Emission standards
N.J.A.C. 7:27–11.4. Permit to construct; certificate to operate
N.J.A.C. 7:27–11.5. Operation
N.J.A.C. 7:27–11.6. Exceptions

Chapter 27 Subchapter 12—Prevention and Control of Air Pollution Emergencies (Effective 5/20/1974)

N.J.A.C. 7:27–12.1. Definitions
N.J.A.C. 7:27–12.2. Emergency criteria
N.J.A.C. 7:27–12.3. Criteria for emergency termination
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R01–OAR–2021–0790; FRL–9265–01–R1]

Outer Continental Shelf Air Regulations; Consistency Update for Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; consistency update.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which Massachusetts is the designated COA. The intended effect of approving requirements of the Massachusetts

Department of Environmental Protection is to regulate emissions from OCS sources in accordance with the requirements for onshore sources. The Commonwealth of Massachusetts' requirements discussed in this document are proposed to be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before December 23, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2021–0790 at *https://www.regulations.gov,* or via email to *wortman.eric@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air & Radiation Division, 5 Post Office Square–Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Eric Wortman, Air and Radiation Division, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square (Mail Code 05–2), Boston, MA 02109, (617) 918–1624, *wortman.eric@epa.gov*.

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

Table of Contents

I. Background and Purpose

On September 4, 1992, the EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Clean Air Act (CAA). The regulations at 40 CFR part 55 apply to all OCS sources offshore of the states except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the CAA requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that the EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to 40 CFR 55.12, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent (NOI) under 40 CFR 55.4; or (3) when a state or local agency submits a rule to the EPA to be considered for incorporation by reference in 40 CFR part 55. This proposed action is being taken in response to the submittal of a NOI on September 9, 2021 by Sunrise Wind, LLC. Public comments received in writing within 30 days of publication of this document will be considered by the EPA before publishing a final rule.

Section 328(a) of the CAA requires that the EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. This limits the EPA's flexibility in deciding which requirements will be incorporated into 40 CFR part 55 and prevents the EPA from making substantive changes to the requirements it incorporates. As a result, the EPA may be incorporating rules into 40 CFR part 55 that do not conform to all of the EPA's state implementation plan (SIP) guidance or certain requirements of the CAA. Consistency updates may result in the inclusion of state or local rules or regulations into 40 CFR part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA for SIP approval, nor does it imply that the rule will be approved by the EPA for inclusion in the SIP.

II. EPA's Evaluation

In updating 40 CFR part 55, the EPA reviewed the rules for inclusion in 40 CFR part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards and compliance with part C of title I of the CAA, that they are not designed expressly to prevent exploration and development of the OCS, and that they are potentially applicable to OCS sources. *See* 40 CFR 55.1. The EPA has also evaluated the rules to ensure they are not arbitrary or capricious. *See* 40 CFR 55.12(e). In addition, the EPA has excluded administrative or procedural rules,[2] and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

The EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Region Office listed in the **ADDRESSES** section of this **Federal Register**.

III. Proposed Action

EPA last completed a consistency update for Massachusetts on November 13, 2018 (83 FR 56259). In that action, EPA incorporated by reference into 40 CFR 55 all Massachusetts regulations that EPA believed were relevant to the

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

[2] Each COA which has been delegated the authority to implement and enforce part 55 will use its administrative and procedural rules as onshore. However, in those instances where the EPA has not delegated authority to implement and enforce part 55, the EPA will use its own administrative and procedural requirements to implement the substantive requirements. *See* 40 CFR 55.14(c)(4).

OCS requirements. For this action, EPA has reviewed changes that Massachusetts has made to its underlying regulatory programs since the last consistency update for Massachusetts. This action will have no effect on the provisions of 310 CMR 8.00 that were not subject to changes by Massachusetts and were also previously incorporated by reference into part 55 through EPA's November 13, 2018 rulemaking.

The EPA is proposing to incorporate the rules potentially applicable to sources for which the Commonwealth of Massachusetts will be the COA. The rules that the EPA proposes to incorporate are applicable provisions of (1) 310 Code of Massachusetts Regulations (CMR) 4.00: Timely Action Schedule and Fee Provisions; (2) 310 CMR 6.00: Ambient Air Quality Standards for the Commonwealth of Massachusetts; and (3) 310 CMR 7.00: Air Pollution Control as amended through March 5, 2021. The rules that EPA proposes to incorporate in this action will replace the provisions of 310 CMR 4.00, 310 CMR 6.00, and 310 CMR 7.00 that were previously incorporated into 40 CFR part 55 for Massachusetts. *See* 83 FR 56259; November 13, 2018.

With respect to the Air Pollution Control regulations at 310 CMR 7.00, Massachusetts is divided into six regions known as air pollution control districts, three of which (Merrimack Valley, Metropolitan Boston, and Southeastern Massachusetts) are coastal.[3] Many of the specific provisions of the Air Pollution Control regulations are limited to certain air pollution control districts, or apply differently in different air pollution control districts.

In interpreting such provisions as they are incorporated into 40 CFR part 55, the EPA proposes to treat any existing or proposed OCS source as if it were located in the specific air pollution control district that is geographically closest to the source. The EPA is relying on this interpretation for purposes of this action. If the EPA does not receive comments to the contrary from any party during the public comment period, the interpretation stated above will represent the EPA's formal interpretations of the provisions incorporated into 40 CFR part 55 for the purposes of federal law.

The interpretation discussed above is consistent with the interpretation of the Commonwealth of Massachusetts regulations in prior Agency actions for the purpose of consistency updates under 40 CFR part 55. *See* 83 FR 5971 (February 12, 2018) and 73 FR 10406 (February 27, 2008).

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Code of Massachusetts Regulations rules set forth below. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region 1 Regional Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore air pollution control requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. *See* 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, the EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the CAA. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy direction by the EPA. 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);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide 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).

In addition, this rule does have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), 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, nor does it impose substantial direct compliance costs on tribal governments or preempt tribal law.

This action does not impose any new information collection burden under the Paperwork Reduction Act. *See* 44 U.S.C 3501. The Office of Management and Budget (OMB) has previously approved the information collection activities contained in the existing regulation at 40 CFR part 55 and, by extension, this update to part 55, and has assigned OMB control number 2060–0249.[4] This action does not impose a new information burden under the Paperwork Reduction Act because this action only updates the state rules that are incorporated by reference into 40 CFR part 55, Appendix A.

List of Subjects in 40 CFR Part 55

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

[3] These districts are not associated with separate air pollution control agencies; they are purely conceptual.

[4] OMB's approval of the ICR can be viewed at *www.reginfo.gov.*

Dated: November 10, 2021.

Deborah Szaro,

Acting Regional Administrator, EPA Region 1.

Therefore, for the reasons stated in the preamble, EPA proposes to amend 40 CFR chapter as follows:

PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

■ 1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by revising paragraph (e)(11)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(11) * * *

(i) * * *

(A) Commonwealth of Massachusetts Requirements Applicable to OCS Sources, March 5, 2021.

* * * * *

■ 3. Appendix A to part 55 is amended by revising paragraph (a)(1) under the heading ''Massachusetts'' to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

Massachusetts

(a) * * *

(1) The following Commonwealth of Massachusetts requirements are applicable to OCS Sources, March 5, 2021, Commonwealth of Massachusetts—Department of Environmental Protection.

The following sections of 310 CMR 4.00, 310 CMR 6.00, 310 CMR 7.00 and 310 CMR 8.00:

310 CMR 4.00: Timely Action Schedule and Fee Provisions

Section 4.01: Purpose, Authority and General Provisions (Effective 5/1/2020)
Section 4.02: Definitions (Effective 5/1/2020)
Section 4.03: Annual Compliance Assurance Fee (Effective 5/1/2020)
Section 4.04: Permit Application Schedules and Fee (Effective 5/1/2020)
Section 4.10: Appendix: Schedules for Timely Action and Permit Application Fees (Effective 5/1/2020)

310 CMR 6.00: Ambient Air Quality Standards for the Commonwealth of Massachusetts

Section 6.01: Definitions (Effective 6/14/2019)
Section 6.02: Scope (Effective 6/14/2019)
Section 6.03: Reference Conditions (Effective 6/14/2019)
Section 6.04: Standards (Effective 6/14/2019)

310 CMR 7.00: Air Pollution Control

Section 7.00: Statutory Authority; Legend; Preamble; Definitions (Effective 3/5/2021)
Section 7.01: General Regulations to Prevent Air Pollution (Effective 3/5/2021)
Section 7.02: U Plan Approval and Emission Limitations (Effective 3/5/2021)
Section 7.03: U Plan Approval Exemptions: Construction Requirements (Effective 3/5/2021)
Section 7.04: U Fossil Fuel Utilization Facilities (Effective 3/5/2021)
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Section 7.08: U Incinerators (Effective 3/5/2021)
Section 7.09: U Dust, Odor, Construction and Demolition (Effective 3/5/2021)
Section 7.11: U Transportation Media (Effective 3/5/2021)
Section 7.12: U Source Registration (Effective 3/5/2021)
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Section 7.14: U Monitoring Devices and Reports (Effective 3/5/2021)
Section 7.18: U Volatile and Halogenated Organic Compounds (Effective 3/5/2021)
Section 7.19: U Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO_X) (Effective 3/5/2021)
Section 7.24: U Organic Material Storage and Distribution (Effective 3/9/2018)
Section 7.25: U Best Available Controls for Consumer and Commercial Products (Effective 3/5/2021)
Section 7.26: Industry Performance Standards (Effective 3/5/2021)
Section 7.60: U Severability (Effective 3/5/2021)
7.70: Massachusetts CO Budget Trading Program (Effective 3/5/2021)
7.71: Reporting of Greenhouse Gas Emissions (Effective 3/5/2021)
7.72: Reducing Sulfur Hexafluoride Emissions from Gas-insulated Switchgear (Effective 3/5/2021)
Section 7.00: Appendix A (Effective 3/5/2021)
Section 7.00: Appendix B (Effective 3/5/2021)
Section 7.00: Appendix C (Effective 3/5/2021)

310 CMR 8.00: The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies

Section 8.01: Introduction (Effective 3/9/2018)
Section 8.02: Definitions (Effective 3/9/2018)
Section 8.03: Air Pollution Episode Criteria (Effective 3/9/2018)
Section 8.04: Air Pollution Episode Potential Advisories (Effective 3/9/2018)
Section 8.05: Declaration of Air Pollution Episodes and Incidents (Effective 3/9/2018)
Section 8.06: Termination of Air Pollution Episodes and Incident Emergencies (Effective 3/9/2018)
Section 8.07: Emission Reductions Strategies (Effective 3/9/2018)
Section 8.08: Emission Reduction Plans (Effective 3/9/2018)
Section 8.15: Air Pollution Incident Emergency (Effective 3/9/2018)
Section 8.30: Severability (Effective 3/9/2018)
(2) [Reserved]

* * * * *

[FR Doc. 2021–25004 Filed 11–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0053; FRL–8792–05–OCSPP]

Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities (November 2021)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before December 23, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition (PP) of interest as shown in the body of this document, online at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the 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 the EPA/DC and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), main telephone

number: (703) 305–7090, email address: *RDFRNotices@epa.gov;* or Charles Smith, Biopesticides and Pollution Prevention Division (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at *https://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notification of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

A. Amended Tolerance Exemptions for Non-Inerts (Except PIPS)

1. *PP 1F8916.* (EPA–HQ–OPP–2021–0516). ICA TriNova, LLC. 1 Beavers Street, Suite B, Newman, GA 30263, requests to amend the existing exemption from the requirement for a tolerance for residues of chlorate resulting from the application of gaseous chlorine dioxide as a fungicide, bactericide, and antimicrobial at 40 CFR 180.1364 to include residues in or on raw agricultural commodities from crop group 1 (root and tuber vegetables), crop group 3 (bulb vegetables), crop group 8 (fruiting vegetables), crop group 9 (cucurbit vegetables), crop group 10 (citrus), crop group 11 (pome fruits), crop group 12 (stone fruits), crop group 14 (tree nuts), crop group 16 (forage, fodder, and straw of cereal grains), crop group 17 (grass forage, fodder, and hay), crop group 18 (non-grass animal feeds), crop group 21 (edible fungi), crop group 23 (tropical and subtropical fruits, medium and large, smooth inedible peel). The petitioner believes no analytical method is needed because the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation. *Contact:* AD.

2. *PP 1F8918* and *PP 1F8928.* (EPA–HQ–OPP–2021–0632). FBSciences, Inc., 153 N Main St. Ste. 100, Collierville, TN 38017, requests to amend an exemption from the requirement of a tolerance in 40 CFR 180.1321 for residues of the plant growth regulator, nematicide, fungicide and insecticide complex polymeric polyhydroxy acids (CPPA) in or on all food commodities. The petitioner believes no analytical method is needed because the ingredient is currently exempt from the requirement of a tolerance for two of the four proposed uses. No toxic endpoints have been identified. *Contact:* BPPD.

B. New Tolerance Exemptions for Inerts (Except PIPS)

1. *PP IN–*11565. (EPA–HQ–OPP–2021–0642). Exponent, Inc., 1150 Connecticut Ave. NW, Suite 1100, Washington, DC 20036 on behalf of Tygrus, LLC (1132 E Big Beaver Road, Troy, MI 48083) requests to establish an exemption from the requirement of a tolerance for residues of calcium sulfate (CAS Reg. No. 7778–18–9) for use as an inert ingredient in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils under 40 CFR 180.940(a), limited to 100 parts per million (ppm). The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

C. New Tolerances for Non-Inerts

PP 1E8946. (EPA–HQ–OPP–2021–0729). Syngenta Crop Protection, LLC,

410 Swing Road, P.O. Box 18300, Greensboro, NC 27419, requests to establish import tolerances in 40 CFR part 180 for residues of the fungicide, Azoxystrobin (methyl (E)-2-{2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl}-3-methoxyacrylate) and the Z isomer of Azoxystrobin (methyl (Z)-2-{2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]pheny1}-3-methoxyacrylate), in or on mango at 8 ppm; papaya at 6 ppm; and palm, oil at 0.06 ppm. Gas chromatography with nitrogen-phosphorus detection (GC–NPD) or in mobile phase by high performance liquid chromatography with ultra-violet detection (HPLC–UV) is used to measure and evaluate the chemical, Azoxystrobin and its Z isomer. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: November 10, 2021.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2021–25417 Filed 11–22–21; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 86, No. 223
Tuesday, November 23, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–ST–21–0083]

Plant Variety Protection Office: Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of and revision to the currently approved information collection ''Application for Plant Variety Protection Certification and Objective Description of Variety.''

DATES: Comments on this notice must be received by January 24, 2022 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *www.regulations.gov.* Written comments may also be submitted to the Plant Variety Protection Office (PVPO), Science and Technology, Agricultural Marketing Service, USDA, 1400 Independence Avenue SW, Room 2915–S, Stop 0274, Washington, DC 20250 or by email to *AMS.PVPOForms@usda.gov.* All comments should reference the docket number AMS–ST–21–0083, the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, at *www.regulations.gov* and will be included in the record and made available to the public.

FOR FURTHER INFORMATION CONTACT: Mara Sanders, Plant Variety Protection Office, Science and Technology Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0274, Washington, DC 20250–0274; Telephone: (202) 720–0859, or Email: *Mara.Sanders@usda.gov* or *AMS.PVPOForms@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: ''Application for Plant Variety Protection Certification and Objective Description of Variety''.

OMB Number: 0581–0055.

Expiration Date of Approval: January 31, 2022.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Plant Variety Protection Act (PVPA) (7 U.S.C. 2321 *et seq.*) was established ''To encourage the development of novel varieties of sexually reproduced plants and make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promote progress in agriculture in the public interest.''

The PVPA is a voluntary user funded program which grants intellectual property rights protection to breeders of new, distinct, uniform, and stable seed reproduced, asexually reproduced, and tuber propagated plant varieties. To obtain these rights, the applicant must provide information which shows that the variety is eligible for protection and that it is indeed new, distinct, uniform, and stable as the law requires.

Application forms, descriptive forms, and ownership forms are furnished to applicants to identify the information which is required to be furnished by the applicant in order to legally issue a certificate of protection (ownership). The certificate is based on claims of the breeder and cannot be issued based on reports in publications not submitted by the applicant. Regulations implementing the PVPA appear at 7 CFR part 92.

Currently approved forms ST–470, Application for Plant Variety Protection Certificate, ST–470 A, Origin and Breeding History, ST–470 B, Statement of Distinctness, Form ST–470 series, Objective Description of Variety (Exhibit C), Form ST–470–E, Basis of Applicant's Ownership, are the basis by which the determination, by experts at PVPO, is made as to whether a new, distinct, uniform, and stable seed reproduced or tuber-propagated variety in fact exists and is entitled to protection. The ST 470 application form combines Exhibits A, B, and E into one form. The information received on applications, with certain exceptions, is required by law to remain confidential until the certificate is issued (7 U.S.C. 2426).

Section 10108 of the Agriculture Improvement Act of 2018 (Pub. L. 115–334) (2018 Farm Bill) amended the Plant Variety Protection Act of 1970, as amended (7 U.S.C. 2321–2582) (Act), by adding a definition for the term ''asexually reproduced'' as it pertains to plant propagation and adding authority to offer intellectual property protection to breeders of new varieties of plants developed through asexual reproduction.

OMB 0581–0322 ''Application for Plant Variety Protection Certification and Objective Description of Variety-Asexually Reproduced Varieties'' was approved by OMB February 4, 2021, and includes the collection of application forms, descriptive forms, and ownership forms for asexually reproduced varieties. The combination of collections 0581–0055 and 0581–0322 will simplify the data collection for the Plant Variety Protection Office.

In addition to the incorporation of the forms in OMB 0581–0322, there have been 48 new crops added, 22 reinstated from a previous approval, and 14 added via additional approvals of 0581–0055 since 2018.

The information collection requirements in this request are essential to carry out the intent of the PVPA, to provide applicants with certificates of protection, to provide the respondents the type of service they request, and to administer the program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Businesses or other for profit, not-for-profit institutions, and Federal Government.

Estimated Number of Respondents: 95.

Estimated Total Annual Responses: 1,950.5.

Estimated Number of Responses per Respondent: 20.5.

Estimated Total Annual Burden on Respondents: 2,045.9.

Comments are invited on: (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 including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to the person listed under **FOR FURTHER INFORMATION CONTACT** by or before the deadline. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2021–25470 Filed 11–22–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by December 23, 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.

Animal Plant and Health Inspection Service

Title: African Swine Fever; Importation of Live Dogs for Resale from Regions Where ASF. Exists or Is Reasonably Believed to Exist

OMB Control Number: 0579–0478.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if required to prevent the spread of any livestock or poultry pest or disease. The AHPA is contained in title X, subtitle E, sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002; 7 U.S.C. 8301, et. seq. The Animal and Plant Health Inspection Service (APHIS) Veterinary Services (VS) business unit is responsible for preventing foreign animal disease outbreaks in the United States, and monitoring, controlling, and eliminating a disease outbreak should one occur.

APHIS has determined that dogs imported from African swine fever (ASF)-affected countries for resale purposes, along with their bedding, represent a possible pathway for the introduction of disease. To block this pathway, APHIS has issued a Federal Order imposing several restrictions on the importation of dogs for resale from regions where ASF exists or is reasonably believed to exist. Importers will need to verify that they have met these restrictions by completing and submitting a Dog Import Record form, ASF VSDIR 1.

Need and Use of the Information: This form helps APHIS determine where dogs are coming from (to assess the risk of whether they could have been exposed to ASF), where they are going, and, most importantly, measures taken to ensure neither the dogs nor anything that came with them can spread ASF. Both parts of the VS Dog Import Record must be completed and submitted for each shipment of imported dog or dogs intended for resale.

The form also contains space for a detailed list of bathing confirmation for the individual dog or dogs imported, including the dogs' microchip numbers; name; age; gender; breed, color and markings; and the date of bathing. Each person bathing the dog or dogs must sign the form, as well as the importer.

Description of Respondents: Businesses or other for-profit.

Number of Respondents: 200.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 900.

Dated: November 18, 2021.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–25529 Filed 11–22–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0005]

Addition of Malaysia to the List of Regions Considered Affected With African Horse Sickness

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have added Malaysia to the list of regions that the Animal and Plant Health Inspection Service considers to be affected with African horse sickness (AHS). We have taken this action because of confirmation of AHS in Malaysia.

DATES: Malaysia was added to the Animal and Plant Health Inspection Service list of regions considered affected with African horse sickness on September 3, 2020.

FOR FURTHER INFORMATION CONTACT: Dr. Kari Coulson, Regionalization Evaluation Services, Veterinary Services, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606; (919) 480–9876; email: *AskRegionalization@usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 93 govern the importation of live animals into the United States. Within part 93, § 93.308 (referred to below as the regulations)

governs, among other things, the importation of horses, mules, zebras, and other equids from regions where African horse sickness (AHS) exists in order to prevent the introduction of AHS into the United States. AHS is a fatal viral equine disease that is not known to exist in the United States. A list of regions where AHS exists or is reasonably believed to exist is maintained on the Animal and Plant Health Inspection (APHIS) website at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/animal-health-status-of-regions/.* This list is referenced in § 93.308 of the regulations.

Section 93.308(a)(2)(ii) of the regulations states that APHIS will add a region to the list referenced in § 93.308(a)(2) upon determining AHS exists in the region, based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable.

On September 2, 2020, the veterinary authorities of Malaysia reported to the OIE confirmation of an AHS outbreak. In response to that report, on September 3, 2020, APHIS added Malaysia to the list of regions where AHS exists. This notice serves as an official record and public notification of that action.

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

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 18th day of November 2021.

Jack Shere,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–25588 Filed 11–22–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0070]

Notice of Request for Extension of Approval of an Information Collection; Standards for Privately Owned Quarantine Facilities for Ruminants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for privately owned quarantine facilities for ruminants.

DATES: We will consider all comments that we receive on or before January 24, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Enter APHIS–2021–0070 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2021–0070, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for privately owned quarantine facilities for ruminants, contact Dr. Alexandra MacKenzie, Senior Veterinary Medical Officer, Live Animal Imports (Ruminants, Swine, Semen, and Embryos), Strategy and Policy, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737; (301) 851–3300. For more information on the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Standards for Privately Owned Quarantine Facilities for Ruminants.

OMB Control Number: 0579–0232.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) authorizes the Secretary of Agriculture to, among other things, prohibit or restrict the importation and interstate movement of animals and animal products into the United States to prevent the introduction of animal diseases and pests.

The regulations in 9 CFR part 93 govern the importation into the United States of specified animals and animal products to help prevent the introduction of various animal diseases into the United States. The regulations in part 93 require, among other things, that certain animals, as a condition of entry, be quarantined upon arrival in the United States. The Animal and Plant Health Inspection Service operates animal quarantine facilities and also authorizes the use of quarantine facilities that are privately owned and operated for certain animal importations.

The regulations in subpart D of part 93 (9 CFR 93.400 through 93.442) pertain to the importation of ruminants. Ruminants include all animals that chew the cud, such as cattle, buffalo, sheep, goats, deer, antelopes, camels, llamas, and giraffes. Ruminants imported into the United States must be quarantined on arrival for at least 30 days, with certain exceptions. Domestic ruminants from Canada and Mexico are not subject to this quarantine.

The regulations for privately owned quarantine facilities for ruminants require the use of certain information collection activities, including an application for facility approval, a cooperative service (compliance) agreement explaining the conditions under which the facility must be operated, creation and maintenance of a daily log of persons entering and leaving the facility while quarantine is in process, request for variance, a manual of standard operating procedures, and maintenance of certain records covering quarantine operations.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.587 hours per response.

Respondents: Owners/operators of privately owned quarantine facilities for ruminants.

Estimated annual number of respondents: 5.

Estimated annual number of responses per respondent: 22.

Estimated annual number of responses: 109.

Estimated total annual burden on respondents: 64 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 28th day of October 2021.

Jack Shere,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–25565 Filed 11–22–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0042]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Permanent, Privately Owned Horse Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with regulations for permanent, privately owned horse quarantine facilities.

DATES: We will consider all comments that we receive on or before January 24, 2022.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov*. Enter APHIS–2021–0042 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2021–0042, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for permanent, privately owned horse quarantine facilities, contact Dr. Iwona Popkowski, Equine Import Specialist, Live Animal Imports, Strategy and Policy, Veterinary Services, 4700 River Road, Unit 39, Riverdale, MD 20737; (301) 851–3358. For more information on the information collection reporting process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Permanent, Privately Owned Horse Quarantine Facilities.

OMB Control Number: 0579–0313.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to prohibit or restrict the importation and interstate movement of animals and animal products to prevent the introduction into and dissemination within the United States of livestock diseases and pests. To carry out this mission, APHIS regulates the importation of animals and animal products into the United States based on the regulations in 9 CFR parts 92 through 98.

The regulations in part 93 require, among other things, that certain animals, as a condition of entry, be quarantined upon arrival in the United States. APHIS operates animal quarantine facilities and also authorizes the use of quarantine facilities that are privately owned and operated for certain animal importations.

The regulations in subpart C of part 93 pertain to the importation of horses and include requirements for privately owned quarantine facilities for horses. For permanent, privately owned quarantine facilities, these requirements entail certain information collection activities, including environmental certification, application for facility approval, service agreements, requests to APHIS concerning withdrawal of facility approval, notification to APHIS of facility closure, memoranda of understanding (compliance agreements), security instructions, alarm notification, notification of security breaches, lists of personnel, signed statements, authorized access affidavits, daily logs and recordkeeping, requests for variance, and standard operating procedures.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.684 hours per response.

Respondents: Applicants who apply for facility approval; owners and operators of permanent, privately owned horse quarantine facilities; facility employees; authorities who issue and complete environmental certifications; and employees of security companies.

Estimated annual number of respondents: 17.

Estimated annual number of responses per respondent: 14.

Estimated annual number of responses: 231.

Estimated total annual burden on respondents: 158 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 8th day of November 2021.

Jack Shere,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–25586 Filed 11–22–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities; Comment Request: USDA National Hunger Clearinghouse Database Form (FNS 543)

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is an extension of a currently approved information collection from organizations fighting hunger and poverty.

DATES: Written comments must be received on or before January 24, 2022.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Celeste Perkins, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Front Desk, Alexandria, VA 22314. Comments may be submitted to Celeste Perkins via email to *Celeste.Perkins@usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically. Comments will also be accepted through the Federal eRulemaking Portal.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday) at 1320 Braddock Place, Front Desk, Alexandria, Virginia 22314.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Celeste Perkins at 703–305–2012.

SUPPLEMENTARY INFORMATION:

Title: USDA National Hunger Clearinghouse Database Form.

Form Number: FNS–543.

OMB Number: 0584–0474.

Expiration Date: 02/28/2022.

Type of Request: Extension of Collection.

Abstract: Section 26(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769g(d)) (the Act), which was added to the Act by section 123 of Public Law 103–448 on November 2, 1994, mandated that FNS enter into a contract with a non-governmental organization to establish and maintain an information clearinghouse (named ''USDA National Hunger Clearinghouse'' or ''Clearinghouse'') for groups that assist low-income individuals or communities regarding nutrition assistance programs or other assistance. Section 26(d) of this Act was amended again by Public Law 113–79 on May 20, 2021 to extend funding for the Clearinghouse through fiscal year 2022 for $250,000. FNS awarded this contract to the hunger advocacy organization Hunger Free America on May 1, 2019.

The Clearinghouse includes a database of non-governmental, grassroots organizations in the areas of hunger and nutrition, along with a mailing list to communicate with these organizations. These organizations enter their information into the database, and Clearinghouse staff use that information to provide the public with information about where they can get food assistance. Surveys (FNS–543) will be completed online at *www.hungerfreeamerica.org*. Information from past collections will be used as an estimate for future data collection for fiscal year 2021. From this information collection, the following information was determined:

Affected Public: Respondent groups identified include (1) Food banks—Not for Profit, (2) Business or Other For-Profits, and (3) Other Not For Profit. Most of these groups are organizations providing nutrition assistance services to the public.

Estimated Number of Respondents: 600.

Estimated Number of Responses per Respondent: Each respondent is expected to only participate in one survey.

Estimated Total Annual Responses: 600.

Estimated Time per Response: 5 minutes (0.0833 hours).

Estimated Total Annual Burden on Respondents: 3,000 minutes (50 hours).

See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated number respondent	Responses annually per respondent	Total annual responses (col. bxc)	Estimated avg. number of hours per response	Estimated total hours (col. bxc)
Reporting Burden					
Food Banks (Not for Profit)	300	1	300	0.0833	24.99
Business and Other For Profit	100	1	100	0.0833	8.33
Other Not For Profit	200	1	200	0.0833	16.66
Total Reporting Burden	600		600		49.98

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2021–25558 Filed 11–22–21; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Construction Progress Reporting Surveys

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on August 27, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: Construction Progress Reporting Surveys.

OMB Control Number: 0607–0153.

Form Number(s): C–700, C–700(R), C–700(SL), C–700(F).

Type of Request: Regular submission, Request for an Extension, without change of a currently approved collection.

Number of Respondents: 22,000.

Average Hours per Response: Respondents will each complete 12 monthly reports on average. We estimate it will take 30 minutes to complete the survey the first month and 10 minutes each remaining month that the project is under construction.

Burden Hours: 51,333.

Needs and Uses: The Construction Progress Reporting Surveys (CPRS) collect information on the dollar value of construction put in place on non-residential building projects under construction by private companies or individuals, private multifamily residential buildings, and building projects under construction by federal and state and local governments.

Form C–700 is used to collect data on the construction of privately-owned nonresidential buildings and structures. Form C–700(R) is used to collect data on privately-owned residential building projects with two or more housing units. Form C–700(SL) is used to collect data on state and local government construction projects. Form C–700(F) is used to collect data on federal government construction projects.

The Census Bureau uses the information collected on these forms to publish estimates of the monthly dollar value of construction put in place. Statistics from the CPRS become part of the monthly ''Value of Construction Put in Place'' or ''Construction Spending'' series, a Principal Economic Indicator. Published estimates are used by a variety of private business and trade associations to estimate the demand for building materials and to schedule production, distribution, and sales efforts. They also provide various government agencies with a tool to evaluate economic policy. For example, Bureau of Economic Analysis staff use data to develop the construction components of gross private domestic investment in the gross domestic product. The Federal Reserve Board and the Department of the Treasury use the value put in place data to predict the gross domestic product, which is presented to the Board of Governors and has an impact on monetary policy.

Affected Public: Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 131 and 182.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0153.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–25517 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Management and Organizational Practices Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 29, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: Management and Organizational Practices Survey.

OMB Control Number: 0607–0963.

Form Number(s): MP–10002.

Type of Request: Regular submission, Request for a Reinstatement, with Change, of a Previously Approved Collection.

Number of Respondents: 51,000.

Average Hours per Response: 45 minutes.

Burden Hours: 38,250.

Needs and Uses: The 2021 Management and Organizational Practices Survey (MOPS) will be conducted as a joint project by the Census Bureau, the University of Chicago Booth School of Business, Stanford School of Humanities and Sciences, and the Stanford Institute for Human-Centered Artificial Intelligence. The MOPS will utilize the Annual Survey of Manufactures (ASM) sample and collect information on management and organizational practices at the establishment level. Data obtained from the survey will allow the Census Bureau to estimate a firm's stock of management and organizational assets, specifically the use of establishment performance data, such as production targets in decision-making and the prevalence of decentralized decision rights. The results will provide information on investments in management and organizational practices thus providing a better understanding of the benefits

from these investments when measured in terms of firm productivity or firm market value.

The MOPS has been conducted periodically since 2010 and provides a linkage to the Census Bureau's data sets on plant level outcomes. Since every establishment in the MOPS sample is also in the ASM, the results of MOPS 2015 were linked with certainty to annual performance data at the plant level, including outcomes on sales, shipments, payroll, employment, inventories, capital expenditure, and more for the period 2014–2018. There is no other source for the MOPS data collection.

Understanding the determinants of productivity growth is essential to understanding the dynamics of the U.S. economy. The MOPS provides information to assist in determining whether the large and persistent differences in productivity across establishments (even within the same industry) are partly driven by differences in management and organizational practices. In addition to increasing the understanding of the dynamics of the economy, MOPS data can provide insight to policymakers interested in productivity growth or other metrics of business performance into the current state of management and organizational practices in the U.S. manufacturing sector. This insight could inform economic forecasts or policies.

The MOPS provides information on differences in manufacturing management and organizational practices by region, industry, and firm size. These results can be used by U.S. manufacturing businesses to benchmark their own management and organizational practices relative to their peers and inform changes in those practices. The survey sponsors have used the published tables and methodology documentation to set up a self-scoring tool for benchmarking purposes. Similarly, interested businesses can use the published tables to examine how their implementation of specific practices compares to national rates of adoption or use published tables in conjunction with the methodology documentation to evaluate how their use of structured management practices compares to subsector, state, establishment size class, and establishment age class. Industry trade organizations may also wish to communicate this information to their members. For example, a printing industry publication communicated the results of the 2015 MOPS (*https://whattheythink.com/data/85108-printing-industry-defined-managemen/*), and economic development agencies in Wisconsin cited the state's ranking in the 2015 MOPS when announcing a program aimed at increasing manufacturing productivity in the state (*https://biztimes.com/new-initiative-aimed-at-addressing-manufacturing-productivity/*). Since the MOPS data are also connected with annual performance data, the MOPS results can directly aid policy discussions regarding what policymakers can do to assist U.S. manufacturing companies as they react to a changing economy.

The 2021 MOPS includes a new purchased services module on the establishment's use of its own employees, contractors, temporary staff, or leased workers for select business expenses. These data will help the Census Bureau, businesses, and policymakers understand the relationship between an important organizational decision—what activities are the responsibility of the business's own employees and what activities are contracted to other businesses—and business outcomes such as growth and survivorship when linked with the ASM, Economic Census, and Business Register.

For the 2021 MOPS, the Data and Decision Making module has been modified to remove some existing components and expanded to include questions focused on the frontier uses of data to inform artificial intelligence. As such, the module has been re-titled ''Data, Decision Making, and Artificial Intelligence.'' Understanding the characteristics of businesses that rely upon data in making decisions helps businesses and policymakers understand the role that data collection and analysis play in business outcomes. By producing statistics on the use of frontier technologies for decision making, the Census Bureau can help businesses and policymakers identify potential use cases for these technologies. In addition, the Census Bureau can better plan future collections and reduce respondent burden if it understands how businesses retain and analyze their own data.

Additionally, the 2021 MOPS includes three questions added to the background characteristics module inquiring about an establishment's use of an external Certified Public Accountant. Use of an external Certified Public Accountant affects how businesses retain and review their own data, which can have implications for management practices and can help the Census Bureau plan future collections and reduce respondent burden.

The 2021 MOPS simplified questions on the location of decision-making in multi-location firms in the organization module by combining them into a single table and removing write-in responses, removed some forecasting questions in the uncertainty module, removed two background characteristic questions, and removed all questions regarding a five-year recall period.

Affected Public: Business or other for-profit organizations.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U/S.C. Sections 131 and 182.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0963.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–25577 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–76–2021]

Application for Expansion Under Alternative Site Framework; Foreign-Trade Zone 79—Tampa, Florida

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of Tampa, grantee of FTZ 79, requesting authority to expand magnet Site 5 of the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on November 16, 2021.

The grantee proposes to expand magnet Site 5—Port Tampa Bay, to include additional terminal facilities/acreage located within the Port Tampa Bay seaport complex. Modified Site 5 will consist of 1,444 acres total and will encompass the following: Hookers Point

terminal complex (769 acres), 2002 Maritime Blvd., Tampa; East Port terminal complex (61 acres), 3409 Causeway Blvd., Tampa; Pendola Point terminal complex (195 acres), 4808 Pendola Point Rd., Tampa; Port Redwing/South Bay terminal complex (344 acres), 6059 Diana Almeida Rd., Gibonston; Port Sutton terminal complex (21 acres), 3420 Port Sutton Rd., Tampa; and, Port Ybor terminal complex (54 acres), 801 South 20th Street, Tampa. The application indicates that the proposed expanded site is located within the Tampa U.S. Customs and Border Protection port of entry.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is January 24, 2022. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to February 7, 2022.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* Additional information regarding FTZ 79 is available via the FTZ Board's website.

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov.*

Dated: November 17, 2021.

Camille R. Evans,

Acting Executive Secretary.

[FR Doc. 2021–25459 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–77–2021]

Notification of Proposed Production Activity; Lam Research Corporation; Foreign-Trade Zone (FTZ) 18—San Jose, California; (Wafer Fabrication Equipment, Subassemblies, and Related Parts); Fremont, Livermore, Newark, Tracy and Hayward, California

Lam Research Corporation (Lam) submitted a notification of proposed production activity to the FTZ Board (the Board) for its facilities in Fremont, Livermore, Newark, Tracy and Hayward, California within Subzone 18F. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on November 10, 2021.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.* The proposed finished products and materials/components would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed finished products include: Chemical/mechanical planarization and other wafer surface modification equipment; various tools and process modules (for the chemical vapor or physical vapor deposition, or plasma dry etch, of materials on a wafer; for the plasma etch of the bevel edge of a wafer to remove yield-limiting residues and defects of a wafers surface; for the stripping of photoresist material on a wafer; for the ultraviolet thermal processing of a wafer surface; for wafer cleaning between chip-processing steps to remove yield-limiting residues and defects of a wafer surface) for semi-conductor production; conductor material deposition process modules and machines for wafer packaging; transport modules; wafer transport robots; machines for the production of semiconductors, namely etch systems installation, maintenance, repair, retrofit, and upgrade kits; machines for manufacturing masks and assembling electronic circuits installation, maintenance, repair, retrofit, and upgrade kits; installation, maintenance, repair, retrofit, and upgrade kits (for semiconductor equipment and parts and assemblies of semiconductor equipment; chemical/mechanical planarization and other wafer surface modification equipment; transport modules; wafer transport robots); various tools and process modules (for the chemical vapor or physical vapor deposition, or plasma dry etch, of materials on a wafer; for the plasma etch of the bevel edge of a wafer to remove yield-limiting residues and defects of a wafer surface; for the stripping of photoresist material on a wafer; for the ultraviolet thermal processing of a wafer surface; for wafer cleaning between chip-processing steps to remove yield-limiting residues and defects of a wafer surface) for semi-conductor production installation, maintenance, repair, retrofit, and upgrade kits; and, conductor material deposition process modules and machines for wafer packaging installation, maintenance, repair, retrofit, and upgrade kits (duty rate is duty-free).

The proposed foreign-status materials and components include: Synthetic petroleum-based hydrocarbon greases and similar synthetic oils greases and similar synthetic oils; various sealants and adhesives (polymer-based sealants, glues, and pastes; polyvinyl chloride (PVC)-based sealants, glues, pastes, and cements; silicon-based sealants, glues, pastes, and cements; polyglycol dimethacrylate sealants, glues, pastes, and cements) used in the production and installation of semiconductor manufacturing equipment; thermal transfer print ribbon film; anti-static polyethylene bags used as packaging material; clear nylon heat sealed bags; various components used for clean room environments (disposable gloves made of nitrile synthetic rubber; tri-polymer blend non-disposable gloves; non-textile, non-silicon anti-static tissues and cleaning wipes with special surfactants); clear acetate face shields and protective caps; high-density polyethylene hard hats and protective caps; fused silica rods and pipes; linear acting engine and motor components (air cylinders; steel, aluminum, alumina ceramic, and/or plastic pins, pin lifters, and shims); polypropylene, polyetheretherketone steel, and/or polycarbonate valve covers; stainless steel, polyvinylidene difluoride (PVDF), and/or N-Formylmethionine valve adapters; polytetrafluoroethylene (PTFE), PVDF, polypropylene, PVC, plastic, and/or steel valve balls; aluminum, PVC, and/or steel valve panels and plates; aluminum, perfluoroelastomer polymer, and/or PTFE based Teflon™ composition valve doors; steel, aluminum, alumina ceramic, and/or plastic valve pins; fluorocarbon rubber, stainless steel, aluminum, morphous low modulus rubber, and/or perfluoroelastomer polymer bodies, gate, transport and loadlock valves, and valve parts specifically designed for semiconductor applications; weldments tubing of semiconductor manufacturing equipment tools; fluoroelastomer, aluminum, steel, plastic, and/or fluoropolymer elastomer and synthetic rubber compound rings, arms, cups, holders, plates, adapters, panels, pedestals, and other inner components

designed specifically for semiconductor manufacturing equipment tools; semiconductor manufacturing equipment sub-assemblies; structural elements that may be composed of other metals, plastic or aluminum enclosures or assemblies with threaded inserts, screws, dowel pins, springs, and connectors for housings, enclosures, covers, and skins for semiconductor manufacturing equipment; air and exhaust ducts, end effectors, media dispensers designed specifically for semiconductor manufacturing equipment; alkaline batteries; rod-type sheathed cartridge heaters used to heat gases or liquids in distribution piping for semiconductor manufacturing equipment; tube holders and mountings of polyvinylidene fluoride, PVDF, other metals, or plastic materials; incandescent lamps and bulbs; solid state devices consisting of a light-emitting diode (LED) and photo diode; cables for voltage; and, focal lenses used for factory inspections (duty rate ranges from duty-free to 14%). The request indicates that certain materials/components are subject to duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) or Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is January 3, 2022.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Juanita Chen at *juanita.chen@trade.gov.*

Dated: November 17, 2021.

Camille R. Evans,

Acting Executive Secretary.

[FR Doc. 2021–25458 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Procedures for Submitting Rebuttals and Surrebuttals Requests for Exclusions From and Objections to the Section 232 National Security Adjustments of Imports of Steel and Aluminum

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before January 24, 2022.

ADDRESSES: Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*). Please reference OMB Control Number 0694–0141 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

On March 8, 2018, the President issued Proclamations 9704 and 9705 concurring with the findings of the two reports and determining that adjusting imports through the imposition of duties on steel and aluminum is necessary so that imports of steel and aluminum will no longer threaten to impair the national security. The Proclamations also authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior executive branch officials as appropriate, to grant exclusions from the duties for domestic parties affected by the duties. This could take place if the Secretary determines the steel or aluminum for which the exclusion is requested is not produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or should be excluded based upon specific national security considerations. The President directed the Secretary to promulgate regulations as may be necessary to implement an exclusion process. The purpose of this information collection is to allow for submission of exclusions requests from the remedies instituted in presidential proclamations adjusting imports of steel into the United States and adjusting imports of aluminum into the United States.

This collection of information gives U.S. Companies the opportunity to submit rebuttals to objections received on posted exclusion requests and also allows U.S. companies the opportunity to submit surrebuttals for objections they submitted that receive rebuttals under the Section 232 exclusion process. Adding a rebuttal and surrebuttal process is an important step in further improving the exclusion request and objection process for requesting exclusions from the remedies instituted by the President. These voluntary rebuttals and surrebuttals will allow the U.S. Government to better evaluate whether an exclusion request should be granted based on the information provided in an exclusion request and taking into account any objections to a submitted exclusion request, rebuttals, and surrebuttals. Many commenters on the March 19 rule, referenced above, requested the Department make this type of a change to ensure that the process was fair and the Department had all of the relevant information when an objection to an exclusion request received a rebuttal or a surrebuttal was received.

II. Method of Collection

Electronic.

III. Data

OMB Control Number: 0694–0141.

Form Number(s): 0694–0141.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 41,128.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 41,128.

Estimated Total Annual Cost to Public: 0.

Respondent's Obligation: Voluntary.

Legal Authority: Section 232 of the Trade Expansion Act of 1962, Presidential Proclamations 9704 and 9705.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–25595 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–820]

Raw Honey from Ukraine: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that raw honey from Ukraine 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 March 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable November 23, 2021.

FOR FURTHER INFORMATION CONTACT: Jasun Moy, 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) 482–8194.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 18, 2021.[1] On August 26, 2021, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now November 17, 2021.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is raw honey from Ukraine. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.* Therefore, Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available with adverse inferences to determine the estimated weighted-average dumping margin for the non-participating mandatory respondents, *i.e.,* Honey Bee Trade Sp Zo O (Honey Bee), Kuyumcu Tarim Urunleri Ltd. (Kuyumcu), and LLC UDJV With FI Bezpeka Medu (Bezpeka). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 733(d)(1)(A)(ii) of the Act provides that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. Pursuant to section 735(c)(5)(A) of the Act, this rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any

[1] *See Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 86 FR 26897 (May 18, 2021) (*Initiation Notice*).

[2] *See Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 86 FR 47624 (August 26, 2021).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Raw Honey from Ukraine,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated an individual estimated weighted-average dumping margin for LLC GC Sodrujestvo (LLC Sodrujestvo) and Umoks GmbH (Umoks), LLC Sodrujestvo's affiliated exporter (collectively, Sodrujestvo)[6] that is not zero, *de minimis,* or based entirely on facts otherwise available. Additionally, Commerce preliminarily determined that the estimated weighted-average dumping margin for Bezpeka, Honey Bee, and Kuyumcu is based entirely under section 776 of the Act. Therefore, for purposes of determining the all-others rate, and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Sodrujestvo, which is not zero, *de minimis,* or determined entirely under section 776 of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
LLC GC Sodrujestvo/Umoks GmbH[7]	18.68
Honey Bee Trade Sp Zo O	32.45
Kuyumcu Tarim Urunleri Ltd	32.45
LLC UDJV With FI Bezpeka Medu	32.45
All Others	18.68

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), 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 preliminary 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.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID–19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[8] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[9]

Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 27, 2021, pursuant to 19 CFR 351.210(e), Sodrujestvo requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[10] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and

[6] Commerce preliminarily determines that LLC Sodrujestvo and Umoks are a single entity. For a complete discussion, *see* Memorandum, ''Preliminary Affiliation and Collapsing Memorandum for LLC GC Sodrujestvo,'' dated concurrently with this memorandum.

[7] Commerce preliminarily determines that LLC Sodrujestvo and Umoks are a single entity. *See* Preliminary Decision Memorandum.

[8] *See* 19 CFR 351.309; and 19 CFR 351.303 (for general filing requirements).

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

[10] *See* Sodrujestvo's Letter, ''Response for Postponement of Final Antidumping Determination,'' dated October 27, 2021.

(3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, then the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 17, 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 is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, *e.g.,* a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (*e.g.,* in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to this investigation is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 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 scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2021–25594 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–833]

Raw Honey 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

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that raw honey from the Socialist Republic of Vietnam (Vietnam) 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, 2020, through March 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable November 23, 2021.

FOR FURTHER INFORMATION CONTACT: Jonathan Hill or Paola Aleman Ordaz, 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) 482–3518 or (202) 482–4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce initiated this LTFV investigation on May 18, 2021.[1] On August 26, 2021, Commerce postponed the preliminary determination of this investigation and the revised deadline is now November 17, 2021.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is raw honey from Vietnam. For a full description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested parties submitted comments on the scope of this investigation.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Because Vietnam is a non-market economy, within the meaning of section 771(18) of the Act, Commerce has calculated normal value (NV) in accordance with section 773 of the Act.

For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[6] Commerce explained that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[7]

[1] *See Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 86 FR 26897 (May 18, 2021) (*Initiation Notice*).

[2] *See Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 86 FR 47624 (August 26, 2021).

[3] *See* Memorandum, ''Raw Honey from the Socialist Republic of Vietnam: Decision Memorandum for Preliminary Affirmative Determination of Sales at Less Than Fair Value,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See Initiation Notice,* 86 FR at 26901.

[7] *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

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer	Exporter	Estimated weighted-average dumping margin (percent)
Ban Me Thuot Honeybee Joint Stock Company	Ban Me Thuot Honeybee Joint Stock Company	413.99
Daklak Honeybee Joint Stock Company	Daklak Honeybee Joint Stock Company	410.93
Dak Nguyen Hong Exploitation of Honey Company Limited TA	Dak Nguyen Hong Exploitation of Honey Company Limited TA	412.49
Nhieu Loc Company Limited	Nhieu Loc Company Limited	412.49
Hoang Tri Honey Bee Company Limited	Hoang Tri Honey Bee Company Limited	412.49
Viet Thanh Food Technology Development Investment Company Limited.	Viet Thanh Food Technology Development Investment Company Limited.	412.49
Dongnai HoneyBee Corporation	Dongnai HoneyBee Corporation	412.49
Saigon Bees Co., Ltd	Saigon Bees Co., Ltd	412.49
Huong Rung Co., Ltd	Huong Rung Co., Ltd	412.49
Hai Phong Honeybee Company Limited	Hai Phong Honeybee Company Limited	412.49
Bao Nguyen Honeybee Co., Ltd	Bao Nguyen Honeybee Co., Ltd	412.49
Southern Honey Bee Company LTD	Southern Honey Bee Company LTD	412.49
Golden Bee Company Limited	Golden Bee Company Limited	412.49
Than Hao Bees Company Limited	Than Hao Bees Company Limited	412.49
Daisy Honey Bee Joint Stock Company	Daisy Honey Bee Joint Stock Company	412.49
Bee Honey Corporation of Ho Chi Minh City	Bee Honey Corporation of Ho Chi Minh City	412.49
Phong Son Limited Company	Phong Son Limited Company	412.49
Hoa Viet Honey Bee Co., Ltd	Hoa Viet Honey Bee Co., Ltd	412.49
Vietnam-wide Entity	Vietnam-wide Entity	412.49

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which NV exceeds U.S. price, as indicated in the table above as follows: (1) For the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnam producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Vietnam-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Vietnam producer/exporter combination (or the Vietnam-wide entity) that supplied that third-country exporter. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID–19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to take additional steps in lieu of on-site verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments on non-scope issues will be announced at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.[8] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of

Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

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

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

Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date and time of the hearing two days before the scheduled date of the hearing.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 9, 2021, pursuant to 19 CFR 351.210(e), the petitioners and Ban Me Thuot requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[10] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

[10] *See* Petitioners' Letter, ''Raw Honey from Argentina, Brazil, India, Ukraine, and Vietnam—Petitioners' Request for Postponement of the Final Determination,'' dated November 9, 2021; *see also* Ban Me Thuot's Letter, ''Raw Honey from the Socialist Republic of Vietnam—Request to Extend Final Determination,'' dated November 9, 2021.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports materially injure, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 17, 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 is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling, and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, *e.g.,* a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Exclude from the scope is any honey that is packaged for retail sale (*e.g.,* in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to this investigation is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 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 scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2021–25596 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–903]

Raw Honey from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that raw honey from India 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 March 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable November 23, 2021.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer or Benito Ballesteros, 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) 482–3860 or (202) 482–7425, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 18, 2021.[1] On August 26, 2021, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now November 17, 2021.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically

[1] *See Raw Honey From Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 86 FR 26897 (May 18, 2021) (*Initiation Notice*).

[2] *See Raw Honey From Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 86 FR 47624 (August 26, 2021).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Raw Honey from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is raw honey from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.* Therefore, Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Negative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances do not exist for Allied Natural Product (Allied), Ambrosia Natural Products India Private Limited (Ambrosia), or all other exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 733(d)(1)(A)(ii) of the Act provides that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. Pursuant to section 735(c)(5)(A) of the Act, this rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Allied and Ambrosia that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.[6]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Allied Natural Product	6.24
Ambrosia Natural Products India Private Limited	6.72
All Others	6.48

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), 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 preliminary 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.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID–19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly-ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, ''Calculation of All-Others Rate,'' dated concurrently with, and hereby adopted by, this notice.

briefs.[7] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 27, 2021, pursuant to 19 CFR 351.210(e), Allied requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[9] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 17, 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 is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, *e.g.,* a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (*e.g.,* in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to this investigation is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 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 scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2021–25593 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–274–808, A–821–831]

Urea Ammonium Nitrate Solutions From the Republic of Trinidad and Tobago and the Russian Federation: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

DATES: Applicable November 23, 2021.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian at (202) 482–6412 (the Republic of Trinidad and Tobago (Trinidad and Tobago)); or Krisha Hill at (202) 482–4037 or Drew Jackson at (202) 482–4406 (the Russian Federation (Russia)); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2021, the Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of urea ammonium nitrate solutions (UAN) from Trinidad and Tobago and Russia.[1] Currently, the preliminary determinations are due no later than December 7, 2021.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation

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

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

[9] *See* Allied's Letter, ''Request to Extend Final Determination,'' dated October 27, 2021.

[1] *See Urea Ammonium Nitrate Solutions from the Russian Federation and the Republic of Trinidad and Tobago: Initiation of Less-Than-Fair-Value Investigations,* 86 FR 40008 (July 26, 2021).

within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner [2] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On October 26, 2021, the petitioner submitted timely requests that Commerce postpone the preliminary determinations in the LTFV investigations of UAN from Trinidad and Tobago and Russia.[3] The petitioner requested postponement of these LTFV investigations so that Commerce could further develop the records and to allow interested parties to examine and comment on the records.[4]

For the reasons stated above, and because there are no compelling reasons to deny the requests, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations in the LTFV investigations of UAN from Trinidad and Tobago and Russia by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations in the LTFV investigations of UAN from Trinidad and Tobago and Russia no later than January 26, 2022. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations in these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

[2] The petitioner is CF Industries Nitrogen, LLC and its subsidiaries, Terra Nitrogen, Limited Partnership and Terra International (Oklahoma) LLC (collectively, the petitioner).

[3] *See* Petitioner's Letter, ''Urea Ammonium Nitrate Solutions from the Russian Federation (A–821–831): Petitioner's Request for Postponement of Preliminary Determination,'' dated October 26, 2021; *see also* Petitioner's Letter, ''Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago (A–274–808): Petitioner's Request for Postponement of Preliminary Determination,'' dated October 26, 2021.

[4] *Id.*

Notification to Interested Parties

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: November 16, 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. 2021–25457 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–823]

Raw Honey From Argentina: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that raw honey from Argentina is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2020, through March 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable November 23, 2021.

FOR FURTHER INFORMATION CONTACT: Eva Kim or Thomas Martin, 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) 482–8283 or (202) 482–3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 18, 2021.[1] On August 26, 2021, Commerce postponed the preliminary determination of this investigation and the deadline is now November 17, 2021.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is raw honey from Argentina. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested parties submitted comments on the scope of this investigation.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated constructed export prices in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. In addition, Commerce has relied on facts available with an adverse inference (AFA) in determining a weighted-average dumping margin for Industrias Haedo S.A., and Compañía Inversora Platense S.A, and partial AFA in calculating a weighted-average dumping margin for Asociación De Cooperativas Argentinas Cooperativa Limitada (ACA), under sections 776(a) and (b) of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

[1] *See Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 86 FR 26897 (May 18, 2021) (*Initiation Notice*).

[2] *See Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 86 FR 47624 (August 26, 2021).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Raw Honey from Argentina,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice*, 86 FR at 26897–8.

Preliminary Affirmative Determination of Critical Circumstances

On October 21, 2021, the petitioners [6] timely filed a critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of raw honey from Argentina.[7] In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances exist with respect to imports of raw honey from Argentina produced and exported by ACA, Industrias Haedo S.A., and Compañía Inversora Platense S.A.[8]. Furthermore, we preliminarily determine that critical circumstances exist with respect to imports of raw honey from Argentina produced and exported by all other producers and exporters.[9] For a full description of Commerce's preliminary critical circumstances determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall normally be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated individual estimated weighted-average dumping margins for ACA and NEXCO that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate using a simple average of the estimated weighted-average dumping margins calculated for ACA and NEXCO.[10]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Asociación De Cooperativas Argentinas Cooperativa Limitada	24.28
NEXCO S.A	7.84
Industrias Haedo S.A	49.44
Compañía Inversora Platense S.A	49.44
All Others	16.06

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), 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 preliminary 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.

Disclosure

Commerce intends to disclose to interested parties its calculations and analysis performed in connection with this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID–19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of such case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[11] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[12] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and

[6] The petitioners are the American Honey Producers Association and the Sioux Honey Association.

[7] *See* Petitioners' Letter, ''Less-Than-Fair-Value Investigation of Raw Honey from Argentina, Brazil, and India—Petitioners' Allegations of Critical Circumstances,'' dated October 21, 2021; *see also* Petitioner's Letter, ''Less-Than-Fair-Value Investigation of Raw Honey from Argentina, Brazil, and India—Petitioners' Response to Request for Information Pertaining to Allegations of Critical Circumstances,'' dated November 5, 2021.

[8] *See* Preliminary Decision Memorandum.

[9] *Id.*

[10] With more than one respondent under examination, Commerce normally calculates: (A) A weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly-ranged sales data was available, Commerce based the all-others rate on the publicly-ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, ''Less Than Fair Value Investigation of Raw Honey from Argentina: Preliminary Determination Calculation for the All-Others,'' dated November 19, 2021.

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

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

Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 9, 2021, pursuant to 19 CFR 351.210(e), ACA and NEXCO requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

[13] *See* ACA and NEXCO's Letter, ''Raw Honey from Argentina, Case No. A–357–823: Asociación de Cooperativas Argentinas C.L. and NEXCO S.A.'s Request to Postpone Final Determination,'' dated November 9, 2021.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its affirmative preliminary determination. If the final determination is affirmative, then the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c) and 19 CFR 351.210(g).

Dated: November 17, 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 is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, *e.g.,* a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (*e.g.,* in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to this investigation is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 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 scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2021–25597 Filed 11–22–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–857]

Raw Honey From Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that raw honey from Brazil 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 March 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable November 23, 2021.

FOR FURTHER INFORMATION CONTACT: Justin Neuman or Genevieve Coen, 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) 482–0486 or (202) 482–3251, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 18, 2021.[1] On August 26, 2021, Commerce postponed the preliminary determination of this investigation and the revised deadline is now November 17, 2021.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's

[1] *See Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 86 FR 26897 (May 18, 2021) (*Initiation Notice*).

[2] *See Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 86 FR 47624 (August 26, 2021).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Raw Honey from Brazil,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is raw honey from Brazil. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.* Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. In addition, Commerce has relied on partial facts available under section 776(a)(1) of the Act for Melbras Importadora E Exportadora Agroindustrial Ltda. (Melbras). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 733(d)(1)(A)(ii) of the Act provides that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. Pursuant to section 735(c)(5)(A) of the Act, this rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Melbras and Apiário Diamante Comercial Exportadora Ltda/Apiário Diamante Produção e Comercial de Mel Ltda (collectively, Supermel) that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.[6]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Melbras Importadora E Exportadora Agroindustrial Ltda	7.89
Apiário Diamante Comercial Exportadora Ltda/Apiário Diamante Produção e Comercial de Mel Ltda[7]	29.61
All Others	20.19

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), 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 preliminary 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.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID–19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly-ranged sales data were available, Commerce based the all-others rate on the publicly-ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, ''Calculation of All-Others Rate,'' dated concurrently with, and hereby adopted by, this notice.

[7] Commerce preliminarily determines that Apiário Diamante Comercial Exportadora Ltda and Apiário Diamante Produção e Comercial de Mel Ltda are affiliated and should be treated as a single entity. *See* Preliminary Decision Memorandum.

briefs.[8] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 10, 2021, pursuant to 19 CFR 351.210(e), Melbras and Supermel requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[10] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 17, 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 is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, *e.g.,* a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (*e.g.,* in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to this investigation is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 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 scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2021–25592 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–DS–P

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

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

[10] *See* Melbras' Letter, ''Request for Postponement of Final Determination,'' dated November 10, 2021; *see also* Supermel's Letter, ''Request for Postponement of Final Determination,'' dated November 10, 2021.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Analysis of Exoskeleton-Use for Enhancing Human Performance Data Collection

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on September 14, 2021, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Institute of Standards and Technology (NIST), Commerce.

Title: Analysis of Exoskeleton-Use for Enhancing Human Performance Data Collection.

OMB Control Number 0693–0083.

Form Number(s): None.

Type of Request: Regular, Revision of current information collection.

Number of Respondents: 240.

Average Hours per Response: 10 minutes.

Burden Hours: 40 hours.

Needs and Uses: NIST's Engineering Laboratory is developing methods to evaluate performance of exoskeletons in

two key areas (1) The fit and motion of the exoskeleton device with respect to the users' body and (2) The impact that using an exoskeleton has on the performance of users executing tasks that are representative of activities in industrial settings. The results of these experiments will inform future test method development at NIST, other organizations, and under the purview of the new American Society for Testing Materials (ASTM) Committee F48 on Exoskeletons and Exosuits.

Affected Public: Households and Individuals.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0693–0083.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–25583 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB602]

Marine Mammal Protection Act; Establishment of Time-Area Closures for Hawaiian Spinner Dolphins; Public Hearing

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

ACTION: Notice of public hearing.

SUMMARY: We, NMFS, will hold a public hearing related to our proposed rule to establish time-area closures for Hawaiian spinner dolphins (*Stenella longirostris longirostris*) under the Marine Mammal Protection Act (MMPA). The proposed rule to establish time-area closures for Hawaiian spinner dolphins published on September 28, 2021 (86 FR 53844), and provided for a public comment period to end on December 27, 2021. Comments must be received by December 27, 2021, as specified under **ADDRESSES**. Comments received after this date may not be accepted.

DATES: The public hearing will be held online on December 9, 2021 from 17:00 to 20:00 HST. Since the hearing will be held online, any member of the public can join by internet or phone regardless of location. Instructions for joining the hearings are provided under **ADDRESSES** below.

ADDRESSES: The public hearing will be conducted as Webex meeting. You may join the Webex meeting using a web browser, the Webex desktop app (app installation required), a mobile app on a phone (app installation required), or audio-only using just a phone call, as specified below.

To join the hearing, click on the link *https://noaanmfs-meets.webex.com/noaanmfs-meets/j.php?MTID=mce215a9ffa3f601324ffeca0ddcbc1b8* Password: ''dolphin''. If you do not have internet access, you may join by phone: US Toll +1–415–527–5035 Access code: 276 477 10691. You may register for the public hearing in advance by clicking on the link *https://docs.google.com/forms/d/e/1FAIpQLScvRZG_d_PTGKUsXi7s7cUmRndeu7rI2tfwn0uh8WMLooAW6Q/viewform?usp=sf_link.*

More information about the public hearing is provided under **SUPPLEMENTARY INFORMATION**. You may submit comments verbally at the public hearing, or in writing by any of the following means. Written comments must be received by December 27, 2021:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2021–0091 in the search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Mail: Kevin Brindock, Deputy Assistant Regional Administrator, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. 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. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Kevin Brindock, NMFS Pacific Islands Regional Office; 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818; telephone: 808–725–5146; email: *kevin.brindock@noaa.gov.*

SUPPLEMENTARY INFORMATION: On September 28, 2021, NMFS proposed a regulation under the MMPA to establish mandatory time-area closures of Hawaiian spinner dolphins' essential daytime habitats at five selected sites in the Main Hawaiian Islands. During designated times, unless subject to an exception as described in the proposed rule, these regulatory measures would prohibit any person or vessel, on or below the surface, to enter, cause to enter, solicit to enter, or remain within any of the five time-area closures, for the purpose of preventing take of Hawaiian spinner dolphins in areas identified as important essential daytime habitats for spinner dolphins. The proposed mandatory time-area closures would occur from 6 a.m. to 3 p.m. daily in areas of Kealakekua Bay, Hōnaunau Bay, Kauhakō Bay (Hoʻokena), and Makako Bay on Hawai'i Island, and La Perouse Bay on Maui.

The proposed rule and other materials prepared in support of this action are available at: *https://www.fisheries.noaa.gov/action/proposed-rule-establish-time-area-closures-hawaiian-spinner-dolphins-essential-habitats-main.* We are accepting public comments for the proposed rule through December 27, 2021. Public comments can be submitted as described under **ADDRESSES**.

Public Hearings

The public hearing will be conducted online as Webex meeting, as specified in **ADDRESSES** above. If you do not have internet access, you may join by phone at the numbers listed in **ADDRESSES** above. The hearing will begin with a brief presentation by NMFS that gives an overview of the proposed rule to

establish time-area closures at Hawaiian spinner dolphins' essential day time habitat. After the presentation but before public comments, there will be a question and answer session during which members of the public may ask NMFS staff questions about the proposed rule. Following the question and answer session, members of the public will have the opportunity to provide oral comments regarding proposed time-area closures. Oral comments may be limited to two minutes or less. Members of the public will also have the opportunity to submit written comments at the hearings. Written comments may also be submitted at any time during the relevant public comment period as described under **ADDRESSES**. All oral comments will be recorded (audio only), transcribed, and added to the public comment record for this proposed rule.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Kevin Brindock (telephone: 808–725–5146; email: *kevin.brindock@noaa.gov*) at least 10 business days prior to the meeting date.

Authority: 16 U.S.C. 1361 *et seq.*

Dated: November 18, 2021.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–25562 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Fee Deficiency Submissions

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. 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 August 25, 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: Fee Deficiency Submissions.

OMB Control Number: 0651–0070.

Form Numbers:

• *PTO/SB/460 (Fee Deficiency Payment Form).*

Type of Review: Extension and revision of a currently approved information collection.

Estimated Number of Respondents: 2,000 respondents per year.

Estimated Number of Responses: 3,002 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 2 hours to gather the necessary information, create the document, and submit the completed information to the USPTO.

Estimated Total Annual Respondent Burden Hours: 6,004 hours.

Estimated Total Annual Non-Hour Cost Burden: $248.

Needs and Uses: Under section 10(b) of the Leahy-Smith America Invents Act (''Act'') (*See* Pub. L. 112–29, 125 Stat. 283 (2011)), eligible small entities shall receive a 50 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The Act further provides that micro entities shall receive a 75 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents.

This information collection covers the submissions made by patent applicants and patentees to excuse small and micro entity fee payment errors, in accordance with the procedures set forth in 37 CFR 1.28(c) and 1.29(k). Specifically, 37 CFR 1.28(c) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the small entity amount. 37 CFR 1.29(k) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the micro entity amount.

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 0651–0070.

Further information can be obtained by:

• *Email: InformationCollection@uspto.gov.* Include ''0651–0070 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. 2021–25559 Filed 11–22–21; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0104: Clearing Exemption for Swaps Between Certain Affiliated Entities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to uncleared swaps between certain affiliated entities electing the exemption under Commission regulation 50.52 (Exemption for swaps between affiliates).

DATES: Comments must be submitted on or before January 24, 2022.

ADDRESSES: You may submit comments, identified by ''OMB Control No. 3038–0104'' by any of the following methods:

• The Agency's website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.

• *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

• *Hand Delivery/Courier:* Same as Mail above. Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Melissa A. D'Arcy, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418–5086; email: *mdarcy@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the existing collection of information listed below. 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.[1]

Title: Clearing Exemption for Swaps Between Certain Affiliated Entities (OMB Control No. 3038–0104). This is a request for an extension of a currently approved information collection.

Abstract: Section 2(h)(1)(A) of the Commodity Exchange Act requires certain entities to submit for clearing certain swaps if they are required to be cleared by the Commission. Commission regulation 50.52 permits certain affiliated entities to elect not to clear inter-affiliate swaps that otherwise would be required to be cleared, provided that they meet certain conditions. The rule further requires the reporting of certain information if the inter-affiliate exemption from clearing is elected. The Commission will use the information described in this collection and reported pursuant to Commission regulation 50.52 to monitor the use of the inter-affiliate exemption from the Commission's swap clearing requirement and to assess any potential market risks associated with such exemption.

With respect to the collection of information, the CFTC invites comments on:

• Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

• The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

• Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish for the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[2]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is revising its estimate of the burden for this collection for counterparties to swaps between certain affiliated entities that elect the inter-affiliate exemption under Commission regulation 50.52. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 200.

Estimated Average Burden Hours per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 200 hours.

Frequency of Collection: Annually; on occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

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

Dated: November 17, 2021.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2021–25483 Filed 11–22–21; 8:45 am]

BILLING CODE 6351–01–P

[1] The OMB control numbers for the CFTC regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981).

[2] 17 CFR 145.9.

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2021–HQ–0008]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Air Combat Command 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 January 24, 2022.

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: DFAC, J3, Joint Personnel Recovery Agency, 10244 Burbeck Rd., Ft Belvoir, VA 22060. POC: Mr. David Morey, 703–704–2447.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Isolated Personnel Report (ISOPREP) and Personnel Recovery Mission Software (PRMS) Web Application; DD Form 1833; OMB Control Number 0701–0166.

Needs and Uses: Information collected using the DD Form 1833 is necessary to positively identify, authenticate, support and recover isolated or missing DoD persons of interest. The ISOPREP collects controlled unclassified information in the form of full name and associates the name with sensitive personal identifiable information including date of birth, Social Security number, DoD Identification number, pictures and fingerprints. The ISOPREP also collects confidential information in the form of personal authentication statements and codes known only to the individual who completes the ISOPREP. All personnel completing an initial ISOPREP are required to utilize the PRMS web application. In rare instances where personnel do not have access to PRMS, a hardcopy DD Form 1833 can be completed. In the interest of protecting the force and returning personnel who support the DoD to their units, families and country, the information collected for the ISOPREP is a force requirement for DoD military and civilians serving overseas.

Affected Public: Individuals or households.

Annual Burden Hours: 716.

Number of Respondents: 2,864.

Responses per Respondent: 1.

Annual Responses: 2,864.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Dated: November 17, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–25584 Filed 11–22–21; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2021–0025; OMB Control Number 0704–0321]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Contract Financing

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed revision and extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through March 31, 2022. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by January 24, 2022.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0321, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0321 in the subject line of the message.

○ Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. David E. Johnson, 571–372–6115.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 232, Contract Financing, and the Clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions; OMB Control Number 0704–0321.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Number of Respondents: 149.

Responses per Respondent: Approximately 20.

Annual Responses: 2,928.

Average Burden per Response: 1.5 hours.

Annual Burden Hours: 4,392.

Frequency: On occasion.

Needs and Uses: Section 22 of the Arms Export Control Act (22 U.S.C. 2762) requires the U.S. Government to use foreign funds, rather than U.S. appropriated funds, to purchase military equipment for foreign governments. To comply with this requirement, the Government needs to know how much of each progress payment to charge each country. DFARS 232.502–4–70(a) prescribes use of the clause at DFARS 252.232–7002 in any contract that provides for progress payments and contains foreign military sales requirements. The clause at 252.232–7002, Progress Payments for Foreign Military Sales Acquisitions, requires each contractor whose contract includes foreign military sales (FMS) requirements to submit a separate progress payment request for each progress payment rate and to submit a supporting schedule that clearly distinguishes the contract's FMS requirements from U.S. requirements. The Government uses this information to determine how much of each country's funds to disburse to the contractor.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2021–25410 Filed 11–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0079]

Submission for OMB Review; Comment Request

AGENCY: The 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 December 23, 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: Problematic Sexual Behavior in Children and Youth Information System; OMB Control Number 0704–0620.

Type of Request: Extension.

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.

Needs and Uses: This information collection provides 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 (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.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: November 17, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–25573 Filed 11–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2021–OS–0117]

Proposed Collection; Comment Request

AGENCY: The 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 January 24, 2022.

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 OneSource Case Management System—Intake; OMB Control Number 0704–0528.

Needs and Uses: The Military OneSource program fulfills the requirement established in 10 U.S.C. 1781 ''Establishment of Online Resources to provide Information About Benefits and Services Available to Members of the Armed Forces and Their Families'', and establishes an internet Outreach website for the purpose of providing comprehensive information to members of the Armed Forces and their

families about the benefits and services available to them. The Military OneSource Business Operations Information System drives the technological capabilities that deliver the full ecosystem of Military OneSource web-based services and capabilities that supports service members and families throughout their military life.

Affected Public: Individuals or households.

Annual Burden Hours: 219,723 hours.

Number of Respondents: 219,723.

Responses per Respondent: 1.

Annual Responses: 219,723.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Dated: November 17, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–25576 Filed 11–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Amendment of Federal Advisory Committee Meeting Notice

AGENCY: Office of the Deputy Secretary of Defense, Department of Defense (DoD).

ACTION: Amendment of Federal Advisory Committee meeting notice.

SUMMARY: The DoD is publishing this notice to announce that the meeting agenda for the Defense Business Board's November 3–4, 2021 meeting, which was announced in the **Federal Register** on October 29, 2021, was amended.

DATES: Day 1—Closed to the public Wednesday, November 3, 2021 from 8:55 a.m. to 5:00 p.m. Eastern Standard Time. Day 2—Partially closed to the public Thursday, November 4, 2021 from 8:15 a.m. to 10:30 a.m. Eastern Standard Time. Open to the public Thursday, November 4, 2021 from 10:45 a.m. to 11:40 a.m. Eastern Standard Time. Partially closed to the public Thursday, November 4, 2021 from 2:00 p.m. to 4:10 p.m.

ADDRESSES: The open and closed portions of the meeting were in Room 4E869 in the Pentagon, Washington, DC. Due to the then-current guidance on combating the Coronavirus, the open portion was conducted by teleconference only.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Hill, Designated Federal Officer of the Board in writing at Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155; or by email at *jennifer.s.hill4.civ@mail.mil;* or by phone at 571–342–0070.

SUPPLEMENTARY INFORMATION: The meeting was held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C.), the Government in the Sunshine Act (5 U.S.C. 552b), and 41 CFR 102–3.140 and 102–3.150.

Due to circumstances beyond the control of the DoD and the Designated Federal Officer for the Defense Business Board, the Defense Business Board was unable to provide public notification, as required by 41 CFR 102–3.150(a), that the meeting agenda for the Defense Business Board's November 3–4, 2021 meeting, which was announced in the **Federal Register** on October 29, 2021, was being amended. Accordingly, the DoD Advisory Committee Management Officer, pursuant to 41 CFR 102–3.150(b), waived the 15-calendar day notification requirement.

Purpose of the Meeting: The mission of the Board is to examine and advise the Secretary of Defense on overall DoD management and governance. The Board provides independent advice reflecting an outside private sector perspective on proven and effective best business practices that can be applied to DoD.

Agenda: The Board meeting was closed to the public due to classification on November 3, 2021 from 8:55 a.m. until 5:00 p.m. with opening remarks by Jennifer Hill, the Designated Federal Officer. The Board then received remarks by the Board Chair, introductions of new Board members, and remarks by the Secretary of Defense and Deputy Secretary of Defense. The Board then received classified briefings from various senior DoD leaders. The Board reconvened in closed session on November 4, 2021 from 8:15 a.m. to 10:30 a.m. with opening remarks by the Designated Federal Officer. The Board then received classified briefings from various senior DoD leaders. The meeting moved into open session from 10:45 a.m. to 11:40 a.m. to receive a briefing from the DoD Office of Small Business Programs. The meeting then moved into closed session from 2:00 p.m. to 4:10 p.m. for classified discussion and closing remarks by the Board Chair and Designated Federal Officer. The final amended agenda is available on the Board's website at: *https://dbb.defense.gov/Meetings/Meeting-November-2021/.*

Meeting Accessibility: Pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. Appendix and 41 CFR 102–3.160(a)(b), the DoD determined that portions of the Board's meeting were closed to the public. In accordance with Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. Appendix and 41 CFR 102–3.155, it was determined that portions of the meeting of the Board included classified information and other matters covered by 5 U.S.C. 552b(c)(1) and that, accordingly, the following dates and times were closed to the public: November 3, 2021 from 8:55 a.m. to 5:00 p.m., and November 4, 2021 from 8:15 a.m. to 10:30 a.m. and from 2:00 p.m. to 4:10 p.m. Pursuant to Federal Advisory Committee Act and 41 CFR 102–3.140, portions of the meeting on November 4, 2021 from 10:45 a.m. to 11:40 a.m. were open to the public. Persons desiring to participate in the public session were required to register. Public attendance was by teleconference only.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations could have submitted written comments or statements to the Board in response to the stated agenda of the open meeting or in regard to the Board's mission in general. Written comments or statements were to be submitted to Ms. Jennifer Hill, the Designated Federal Officer, via electronic mail (the preferred mode of submission) at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must have included the author's name, title or affiliation, address, and daytime phone number. The Designated Federal Officer must have received written comments or statements being submitted in response to the agenda set forth in this notice at least seven (7) business days prior to the meeting to be considered by the Board. The Designated Federal Officer reviewed all timely submitted written comments or statements with the Board Chair, and ensured the comments were provided to all members of the Board before the meeting. Written comments or statements received after this date will be provided to the Board prior to its next scheduled meeting. Pursuant to 41 CFR 102–3.140d, the Board was not obligated to allow any member of the public to speak or otherwise address the Board during the meeting. Members of the public were permitted to make verbal comments during the meeting only at the time and in the manner described below. If a member of the public was interested in making a verbal comment at the open meeting, that individual must have submitted a request, with a brief statement of the

subject matter to be addressed by the comment, at least three (3) business days in advance to the Designated Federal Officer, via electronic mail (the preferred mode of submission) at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The Designated Federal Officer would have logged each request, in the order received, and in consultation with the Board Chair determined whether the subject matter of each comment was relevant to the Board's mission and/or the topics addressed in the public meeting. Members of the public who requested to make a comment and whose comments were deemed relevant under the process described above would have been invited to speak in the order in which the Designated Federal Officer received their requests. The Board Chair would have allotted a specific amount of time for comments. All submitted comments and statements were treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's website.

Dated: November 16, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–25468 Filed 11–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0068]

Submission for OMB Review; Comment Request

AGENCY: The 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 December 23, 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: SAPR/SHARP Survey; OMB Control Number 0704–0608.

Type of Request: Extension.

Number of Respondents: 4,400.

Responses per Respondent: 2.

Annual Responses: 8,800.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 2,200 hours.

Needs and Uses: NORC at the University of Chicago, in collaboration with the United States Naval Academy (USNA) Sexual Assault Prevention and Response (SAPR) staff and the United States Military Academy (USMA) sexual harassment/assault response and prevention (SHARP) staff, is conducting the SAPR/SHARP Surveys (a baseline survey and one follow-up survey) with USNA students (midshipmen) and USMA students (cadets) with funding support from the Sexual Assault Prevention and Response Office. The purpose of the overall study is to determine the effectiveness of the academy prevention programming in addressing sexual harassment and sexual assault. The survey assesses topics such as rape myth acceptance, descriptive behavioral norms at the respective academies, experiences of sexual harassment and sexual assault, alcohol-related sex expectancies, witnessing experiences that might call for bystander intervention to prevent sexual harassment and/or sexual assault, and personal responses when exposed to these situations. The surveys are voluntary. Data are aggregated by appropriate sociodemographic categories (sex, sexual orientation, race/ethnicity, and varsity athletic participation; sociodemographic responses will be recoded as binary indicators to prevent anyone from figuring out an individual participant's identity based on unique characteristics). The results of this survey will be used by the Service Academies to evaluate and update their prevention programming.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: November 17, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–25570 Filed 11–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0119]

Proposed Collection; Comment Request

AGENCY: Office of the General Counsel, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the General Counsel 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 January 24, 2022.

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 DoD Standards of Conduct Office, Office of the General Counsel, Department of Defense, 1600 Defense Pentagon, Washington, DC 20301–1600. POC: Mr. Jeff Green, 703–695–3422.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Office of the Secretary of Defense Confidential Conflict-of-Interest Statement for the Advisory Committee Members; SD Form 830; OMB Control Number 0704–0551.

Needs and Uses: The information requested on this form is required by Title I of the Ethics in Government Act of 1978 (5 U.S.C. app.), Executive Order 12674, and 5 CFR part 2634, subpart I, of the Office of Government Ethics regulations. Respondents are members of or potential members of the Office of the Secretary of Defense Advisory Committees. SD Form 830 will assist in identifying potential conflicts of interest due to personal financial interests or affiliations. The collection of requested information will satisfy a Federal regulatory requirement and assist the Department of Defense in complying with applicable Federal conflict of interest laws and regulations.

Affected Public: Individuals or households.

Annual Burden Hours: 125.

Number of Respondents: 125.

Responses per Respondent: 1.

Annual Responses: 125.

Average Burden per Response: 1 hour.

Frequency: Annually.

Dated: November 17, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–25582 Filed 11–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2021–OS–0118]

Proposed Collection; Comment Request

AGENCY: The Office of the Assistant to the Secretary of Defense for Public Affairs, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Media Activity (DMA) 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 January 24, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal e-Rulemaking 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 Media Activity, American Forces Network Operations, 6700 Taylor Avenue, Fort George G. Meade, MD 20755, POC: Mr. Erik Brazones, 443–422–0864.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: American Forces Network Connect and American Forces Network Now; OMB Control Number 0704–0547.

Needs and Uses: The information collection is necessary to obtain and audit the eligibility of DoD employees, DoD contractors, Department of State employees, military personnel (including retirees and active reservists) and their family members outside the United States, or its territories or possessions, to receive restricted American Forces Network programming services (*i.e.,* radio, television, and web streaming services). Data will also be collected to ensure the DMA provides its services in the most efficient and cost-effective manner.

Affected Public: Individuals or households.

Annual Burden Hours: 6,667.

Number of Respondents: 40,000.

Responses per Respondent: 1.

Annual Responses: 40,000.

Average Burden per Response: 10 minutes.

Frequency: Annually.

Dated: November 17, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–25581 Filed 11–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education (NACIE); Meeting

AGENCY: U.S. Department of Education.

ACTION: Notice of 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 NACIE open teleconference meeting.

DATES: The NACIE open virtual meeting will be held on December 13, 2021, from 1:00–4:00 p.m. (EST).

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, as amended (ESEA); its duties were expanded by Executive Order 14049. NACIE is established within the U.S. Department of Education to advise the Secretary of Education (Secretary), the Secretary of Interior and the Secretary of Labor 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 ESEA. In addition, NACIE advises the White House Initiative on American Indian and Alaska Native Education, in accordance with Section 3 of Executive Order 14049. 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) Subcommittee overview of FY 2021 Annual Report, (2) NACIE membership discussion and vote to approve the FY 2021 Annual Report, and (3) logistical planning regarding transmittal of FY 2021 Annual Report to Congress.

Instructions for Accessing the Meeting: Members of the public may access the NACIE meeting via listen-only phone or via *Zoom.gov* platform. Up to 100 lines will be available to attendees on a first come, first serve basis. The dial-in phone number for the meeting is 1–669–254–5252, meeting ID: 160 578 2222 and the web link to register to participate via *Zoom.gov* is *https://www.zoomgov.com/j/1605782222.*

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 December 8, 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: Section 6141 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended (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. 2021–25512 Filed 11–22–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–414–000]

AES Marketing and Trading, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of AES Marketing and Trading, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 7, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link.

Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: November 17, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–25545 Filed 11–22–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR22–5–000.

Applicants: Eagle Ford Midstream, LP.

Description: Submits tariff filing per 284.123(b)(2)+(g): Petition for NGPA Section 311 Rate Approval to be effective 11/12/2021.

Filed Date: 11/12/2021.

Accession Number: 20211112–5214.

Comments Due: 5 p.m. ET 12/3/21.

284.123(g) Protests Due: 5 p.m. ET 1/11/22.

Docket Numbers: RP22–324–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: § 4(d) Rate Filing: TPC 2021–11–16 Negotiated Rate Agreement to be effective 11/17/2021.

Filed Date: 11/16/21.

Accession Number: 20211116–5096.

Comment Date: 5 p.m. ET 11/29/21.

Docket Numbers: RP22–325–000.

Applicants: Williams Energy Resources LLC, Sequent Energy Management, L.P.

Description: Joint Petition for Temporary Waivers of Capacity Release Regulations, et al. of Sequent Energy Management, LP, et al.

Filed Date: 11/16/21.

Accession Number: 20211116–5196.

Comment Date: 5 p.m. ET 11/29/21.

Docket Numbers: RP22–326–000.

Applicants: Southern Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Fuel Tracker Filing November 2021 to be effective 1/1/2022.

Filed Date: 11/17/21.

Accession Number: 20211117–5043.

Comment Date: 5 p.m. ET 11/29/21.

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: November 17, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–25543 Filed 11–22–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–24–000.

Applicants: Meadow Lake Solar Park LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Meadow Lake Solar Park LLC.

Filed Date: 11/16/21.

Accession Number: 20211116–5195.

Comment Date: 5 p.m. ET 12/7/21.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–11–000.

Applicants: Salt Creek Solar, LLC v. *Southwest Power Pool, Inc.*

Description: Complaint of *Salt Creek Solar LLC* v. *Southwest Power Pool Inc.* Requesting Fast Track Processing.

Filed Date: 11/12/21.

Accession Number: 20211112–5370.

Comment Date: 5 p.m. ET 12/2/21.

Docket Numbers: EL22–12–000.

Applicants: Persimmon Creek Wind Farm 1, LLC.

Description: Petition for Declaratory Order of Persimmon Creek Wind Farm 1, LLC.

Filed Date: 11/12/21.

Accession Number: 20211112–5393.

Comment Date: 5 p.m. ET 12/13/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–170–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2021–11–17_SA 3194 Wolf Run Solar-Ameren Illinois Substitute 1st Rev GIA (J641) to be effective 10/6/2021.

Filed Date: 11/17/21.

Accession Number: 20211117–5134.

Comment Date: 5 p.m. ET 12/8/21.

Docket Numbers: ER22–416–000.

Applicants: Indra Power Business NJ, LLC.

Description: Baseline eTariff Filing: Tariffs and Agreements to be effective 1/16/2022.

Filed Date: 11/17/21.

Accession Number: 20211117–5000.

Comment Date: 5 p.m. ET 12/8/21.

Docket Numbers: ER22–417–000.

Applicants: Southwestern Electric Power Company.

Description: Compliance filing: Revised and Restated Minden PSA to be effective 4/24/2021.

Filed Date: 11/17/21.

Accession Number: 20211117–5070.

Comment Date: 5 p.m. ET 12/8/21.

Docket Numbers: ER22–418–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 205 filing of revisions to enhancements of CSR implementation to be effective 12/31/9998.

Filed Date: 11/17/21.

Accession Number: 20211117–5075.

Comment Date: 5 p.m. ET 12/8/21.

Docket Numbers: ER22–419–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA/CSA, Service Agreement Nos. 6220/6221; Queue No. AB2–037 to be effective 10/18/2021.

Filed Date: 11/17/21.

Accession Number: 20211117–5103.

Comment Date: 5 p.m. ET 12/8/21.

Docket Numbers: ER22–420–000.

Applicants: Wisconsin Public Service Corporation.

Description: § 205(d) Rate Filing: Filing of Reactive Revenue Requirement for Two Creeks to be effective 11/18/2021.

Filed Date: 11/17/21.
Accession Number: 20211117–5111.
Comment Date: 5 p.m. ET 12/8/21.
Docket Numbers: ER22–421–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Service Agreement No. 897 to be effective 1/18/2021.
Filed Date: 11/17/21.
Accession Number: 20211117–5165.
Comment Date: 5 p.m. ET 12/8/21.
Docket Numbers: ER22–422–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Service Agreement No. 898 to be effective 2/15/2021.
Filed Date: 11/17/21.
Accession Number: 20211117–5170.
Comment Date: 5 p.m. ET 12/8/21.

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: November 17, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–25546 Filed 11–22–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–416–000]

Indra Power Business NJ, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Indra Power Business NJ, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 7, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: November 17, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–25547 Filed 11–22–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2021–0800; FRL–9255–01–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Our Children's Earth Foundation* v. *Regan,* No. 20 Civ. 8232 (JPO). On October 2, 2020, Plaintiff Our Children's Earth Foundation filed a complaint in the United States District Court for the Southern District of New York. Plaintiff alleged that the Environmental Protection Agency (EPA or the Agency) failed to perform certain non-discretionary duties in accordance with the Act to timely respond to numerous state implementation plan (SIP) revisions submitted by the State of New York. The proposed consent decree would establish deadlines for EPA to act on certain submissions.

DATES: Written comments on the proposed consent decree must be received by December 23, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2021–0800, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to

provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there may be a delay in processing mail and faxes. Hand-deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: Elizabeth Pettit, Air and Radiation Law Office (7313K), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone (202) 566–2879; email address *pettit.elizabetha@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2021–0800) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed consent decree, and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would establish deadlines for EPA to take action pursuant to CAA section 110(k) on certain SIP submissions by the State of New York. First, on September 28, 2015, the State of New York made a SIP submission to EPA intended as a revision to the Proposed 2015 Ozone Infrastructure SIP. On September 2, 2021, EPA signed a final rule to approve in full the non-interstate transport provisions of the SIP (86 FR 49252), and Plaintiff agrees to dismiss its claim regarding this portion of the Proposed 2015 Ozone Infrastructure SIP submission. For the interstate portion of the Proposed 2015 Ozone Infrastructure SIP submission, the proposed consent decree would require EPA to take final action by April 30, 2022. If, by February 28, 2022, EPA signs for publication a proposal of full or partial disapproval and a proposed federal implementation plan (FIP) to cover those transport provisions, the EPA shall then have until December 15, 2022 to take final action.

Second, on December 18, 2013, New York made a SIP submission to EPA intended as a revision to the Part 220, Portland Cement Plants and Glass Plants—Reasonably Available Control Technology (RACT) Determinations SIP. The proposed consent decree would require EPA to take action on this submission by February 29, 2024.

Third, on August 30, 2010, New York made a SIP submission to EPA intended as a revision for the Single-Source SIP Revisions, RACT Determinations (2010) SIP. The proposed consent decree would require EPA to take action on this submission by February 29, 2024.

Fourth, on September 16, 2008, New York made a SIP submission to EPA intended as a revision for the Single-Source SIP Revisions, RACT Determinations (2008) SIP. The proposed consent decree would require EPA to take action on this submission by February 29, 2024.

Fifth, on December 12, 2017, New York made a SIP submission to EPA intended as a revision for the SIP Revisions Incorporating 6NYCRR Part 218, Emission Standards for Motor Vehicles and Motor Vehicle Engines. The proposed consent decree would require EPA to take action on this submission by February 29, 2024. However, if New York withdraws this SIP submission before February 29, 2024, EPA shall no longer be subject to this deadline for the withdrawn submission (or any withdrawn portion).

Sixth, on July 12, 2013, New York made a SIP submission to EPA intended as a revision for the Proposed Revision to State Plan for Large Municipal Waste Combustors SIP. The proposed consent decree would require EPA to take action on this submission by February 29, 2024.

Additionally, during the pendency of this litigation, in the ordinary course of its administrative action, EPA has taken final action on some of the SIP submissions originally at issue in the litigation.[1]

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2021–0800, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your

[1] See, for example, 86 FR 49482 (September 3, 2021).

comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2021–25514 Filed 11–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OW–2017–0369; FRL–9281–01–R10]

Proposed Determination To Restrict the Use of an Area and a Disposal Site; Pebble Deposit Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In light of the U.S. District Court for the District of Alaska's recent decision to remand and vacate the United States Environmental Protection Agency (EPA)'s 2019 decision to withdraw the Proposed Determination to Restrict the Use of an Area and a Disposal Site; Pebble Deposit Area, Southwest Alaska pursuant to the Clean Water Act (CWA), EPA Region 10 is providing notice that EPA has good cause to extend the time requirement to allow the EPA Region 10 Regional Administrator to consider available information, including information that has become available since EPA issued the 2014 Proposed Determination in order to determine appropriate next steps in the review process.

FOR FURTHER INFORMATION CONTACT: Visit *www.epa.gov/bristolbay* or contact Cami Grandinetti through the Bristol Bay-specific phone line, (206) 553–0040, or email address, *r10bristolbay@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How To Obtain a Copy of the Bristol Bay Watershed Assessment

The Bristol Bay Watershed Assessment is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.*

B. How To Obtain a Copy of the 2014 Proposed Determination

The July 2014 Proposed Determination is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.*

C. How To Obtain a Copy of the Settlement Agreement

The May 11, 2017 settlement agreement is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.*

D. How To Obtain a Copy of the Proposal to Withdraw the 2014 Proposed Determination

The July 2017 proposal to withdraw the 2014 Proposed Determination is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.* Information regarding the proposal to withdraw can also be found in the docket for this effort at *www.regulations.gov, see* docket ID No. EPA–R10–OW–2017–0369 or via the following website located at *https://www.regulations.gov/docket?D=EPA-R10-OW-2017-0369.*

E. How To Obtain a Copy of Notification of Suspension

The February 2018 notice announcing EPA's decision to suspend the proceeding to withdraw the 2014 Proposed Determination at that time is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.* Information regarding the suspension can also be found in the docket for this effort at *www.regulations.gov, see* docket ID No. EPA–R10–OW–2017–0369 or via the following website located at *https://www.regulations.gov/docket?D=EPA-R10-OW-2017-0369.*

F. How To Obtain a Copy of the Notice of Withdrawal of the 2014 Proposed Determination

The August 2019 notice of withdrawal of the 2014 Proposed Determination is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.* Information regarding the proposal to withdraw can also be found in the docket for this effort at *www.regulations.gov, see* docket ID No. EPA–R10–OW–2017–0369 or via the following website located at *https://www.regulations.gov/docket?D=EPA-R10-OW-2017-0369.*

II. Factual Background

A. Bristol Bay Watershed Assessment and 2014 Proposed Determination

In 2011, after EPA received petitions to use its CWA section 404(c) authority to protect Bristol Bay's salmon fishery, EPA initiated a three-year ecological risk assessment to determine the significance of the Bristol Bay watershed's ecological resources and to evaluate the potential impacts of large-scale mining on those resources. In January 2014, EPA finalized the peer-reviewed Bristol Bay Watershed Assessment (BBWA), which it prepared through an open and inclusive process that included two opportunities for public comment, eight public meetings, interagency coordination, and consultation with 13 federally recognized tribal governments.

On February 28, 2014, after careful consideration of available material, including information collected as part of the BBWA, other existing science and technical information, and information provided by stakeholders, EPA Region 10 notified the U.S. Army Corps of Engineers (Corps), the State of Alaska (State), and the Pebble Limited Partnership (PLP) that it had decided to proceed under its CWA section 404(c) regulations to review potential adverse environmental effects of discharges of dredged and fill material associated with mining the Pebble deposit in southwest Alaska. In accordance with its regulations at 40 CFR 231.3(a)(1), EPA Region 10 offered the Corps, the State, and PLP the opportunity to demonstrate to the satisfaction of the Region 10 Regional Administrator that no unacceptable adverse effects would occur as a result of such discharges.

On July 21, 2014, EPA Region 10 published in the **Federal Register** notice of its 2014 Proposed Determination to restrict the use of certain waters in the South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek watersheds (located within the larger Bristol Bay watershed) as disposal sites for the discharge of dredged or fill material associated with mining the Pebble deposit (79 FR 42314, July 21, 2014). EPA Region 10 held seven public hearings throughout southwest Alaska during the week of August 11, 2014 and received more than 670,000 public comments, more than 99% of which supported the 2014 Proposed Determination.

B. PLP's Litigation and Settlement Agreement

Before EPA could reach the next step in the CWA section 404(c) review process—to either withdraw the 2014 Proposed Determination or prepare a recommended determination pursuant to 40 CFR 231.5(a)—PLP filed multiple lawsuits against the Agency. On November 25, 2014, the U.S. District Court for the District of Alaska issued a preliminary injunction against EPA in one of those lawsuits that halted EPA Region 10's CWA section 404(c) review process until the case was resolved. Order Granting Preliminary Injunction at 1–2, *Pebble Limited Partnership* v. *EPA,* No. 3:14–cv–00171 (D. Alaska Nov. 25, 2014). On May 11, 2017, EPA and PLP settled that lawsuit—and all of PLP's outstanding lawsuits—and the court subsequently dissolved the injunction and dismissed the case with prejudice.

Under the terms of the settlement, EPA agreed to ''initiate a process to propose to withdraw the Proposed Determination.'' EPA also agreed not to forward a signed recommended determination to EPA Headquarters until May 11, 2021 or until EPA published a notice of the Corps' final environmental impact statement (EIS) on PLP's CWA section 404 permit application for the proposed Pebble mine, whichever came first. To take advantage of this period of forbearance, PLP was required to submit its CWA section 404 permit application to the Corps within 30 months of execution of the settlement agreement. For a link to a copy of the settlement agreement, *see* Section I of this document.

C. Proposal To Withdraw the 2014 Proposed Determination, ''Suspension,'' and Withdrawal

On July 19, 2017, in accordance with the terms of the settlement agreement, EPA Region 10 published in the **Federal Register** a notice of its proposal to withdraw the 2014 Proposed Determination (82 FR 33123, July 19, 2017). In its July 19, 2017 publication, EPA identified three reasons for its proposed withdrawal—that withdrawing the 2014 Proposed Determination would (1) provide PLP with additional time to submit a CWA section 404 permit application to the Corps; (2) remove any uncertainty, real or perceived, about PLP's ability to submit a permit application and have that permit application reviewed; and (3) allow the factual record regarding any forthcoming permit application to develop. EPA explained that ''[i]n light of the basis upon which EPA is considering withdrawal of the Proposed Determination, EPA is not soliciting comment on the proposed restrictions or on science or technical information underlying the Proposed Determination.'' (82 FR 33124, July 19, 2017)

EPA received more than one million public comments regarding its proposal to withdraw. Approximately 99% of commenters expressed opposition to the withdrawal of the 2014 Proposed Determination. The public comments, transcripts from the public hearings, and summaries of the tribal and ANCSA Corporation consultations can be found in the docket for this proceeding; *see* Section I of this document for information on how to access this docket.

On December 22, 2017, PLP submitted to the Corps a CWA section 404 permit application that proposed to develop a mine at the Pebble deposit. On January 5, 2018, the Corps issued a public notice that provided PLP's permit application to the public, stated that an EIS would be required as part of its permit review process consistent with the National Environmental Policy Act (NEPA), and invited relevant federal and state agencies, including EPA, to be cooperating agencies on the development of the EIS.

On January 26, 2018, EPA Region 10 announced a ''suspension'' of the proceeding to withdraw the 2014 Proposed Determination at that time. This action was published in the **Federal Register** on February 28, 2018 (83 FR 8668, February 28, 2018).

On August 30, 2019, after conferring with EPA's General Counsel,[1] EPA Region 10 published in the **Federal Register** its decision to withdraw the 2014 Proposed Determination, thereby concluding the withdrawal process that was initiated on July 19, 2017 (84 FR 45749, August 30, 2019). EPA identified that it was withdrawing the Proposed Determination because:

(1) New information had been generated since 2014, including information and preliminary conclusions in the Corps' Draft EIS, that EPA would need to consider before any potential future decision-making regarding the matter;

(2) The record would continue to develop throughout the permitting process; and

(3) EPA could and then had initiated the section 404(q) MOA process and it was appropriate to use that process to resolve issues before engaging in any potential future decision-making regarding the matter.

In its August 30, 2019 notice of withdrawal of the 2014 Proposed Determination, EPA stated that ''[a]s in EPA's prior notices, EPA is not basing its decision-making on technical consideration or judgments about whether the mine proposal will ultimately be found to meet the requirements of the 404(b)(1) Guidelines or results in 'unacceptable adverse effects' under CWA section 404(c).'' (84 FR 45756, August 30, 2019)

In November 2020, the Corps denied PLP's CWA section 404 permit application. The denial addresses only that specific permit application, and PLP filed an administrative appeal of the Corps' decision pursuant to the Corps' regulations at 33 CFR part 331.

D. Legal Challenge To Withdrawal of the 2014 Proposed Determination

In October 2019, twenty tribal, fishing, environmental, and conservation groups challenged EPA's withdrawal of the 2014 Proposed Determination in the U.S. District Court for the District of Alaska, asserting that EPA's withdrawal decision was not supported by the record and that EPA had failed to consider the science and technical information, including whether the proposed project would result in unacceptable adverse effects. The District Court dismissed the action, holding that EPA's decision to withdraw a proposed determination was unreviewable for lack of a meaningful legal standard governing the Agency's action.

On appeal, in June 2021, the Ninth Circuit reversed the District Court's holding that EPA's decision to withdraw a proposed determination was unreviewable, finding instead that EPA's regulation at 40 CFR 231.5(a) provides a standard for review. Specifically, the Ninth Circuit concluded that EPA is authorized to withdraw a proposed determination ''*only* if the discharge of materials would be unlikely to have an unacceptable adverse effect.'' *Trout Unlimited* v. *Pirzadeh,* 1 F.4th 738, 757 (9th Cir. June 17, 2021) (emphasis in original). The Ninth Circuit remanded the case to the District Court for further proceedings.

On September 28, 2021, EPA filed a motion in the District Court requesting

[1] In 1984, the EPA Administrator delegated the authority to make final determinations under CWA section 404(c) to EPA's national CWA section 404 program manager, who is the Assistant Administrator for Water. That general delegation remains in effect. On March 22, 2019, EPA Administrator Wheeler delegated to the General Counsel the authority to perform all functions and responsibilities retained by the Administrator or previously delegated to the Assistant Administrator for Water for EPA's section 404(c) action for the Pebble deposit area.

that the court vacate the Agency's decision to withdraw the 2014 Proposed Determination and remand the action to the Agency to reconsider its action. In its motion, EPA explained that, in making the withdrawal decision, the Agency had not addressed the ''unlikely to have an unacceptable adverse effect'' standard that the Ninth Circuit subsequently held must be met when EPA withdraws a proposed determination and that such an omission ''was serious and fundamental.'' The District Court granted EPA's motion on October 29, 2021.

III. Legal Background

A. CWA Section 404(c)

CWA section 404(a) allows the Corps to issue permits authorizing the discharge of dredged or fill material at specified disposal sites. Section 404(b) provides that ''[s]ubject to subsection (c) . . . , each such disposal site shall be specified for each such permit by the Secretary. . . .'' CWA Section 404(c) authorizes EPA to prohibit the specification of any defined area or deny or restrict the use of any defined area as a disposal site for the discharge of dredged or fill material into waters of the United States within the defined area ''whenever'' it determines that the discharge of such material into such area will have ''an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.'' 33 U.S.C. 1344(c).

B. CWA Section 404(c) Regulations

EPA's regulations at 40 CFR part 231 provide a four-step process for the Agency to follow in exercising its 404(c) authority.

Step 1: Initial Notification. If the EPA Regional Administrator has reason to believe, after evaluating available information, that an unacceptable adverse effect could result from the specification or use for specification of a defined area as a disposal site, the Regional Administrator may initiate the section 404(c) process by notifying the Corps, the applicant (if any), and the owner of record of the site that s/he intends to issue a public notice of the proposed determination to prohibit or withdraw the specification, or to deny, restrict or withdraw the use for specification, whichever the case may be, of any defined area as a disposal site. 40 CFR 231.3(a)(1).

Step 2: Proposed Determination. If within 15 days of receipt of the Regional Administrator's notice under Step 1, it has not been demonstrated to the satisfaction of the Regional Administrator that no unacceptable adverse effect(s) will occur or the Corps does not notify the Regional Administrator of its intent to take corrective action to prevent an unacceptable adverse effect satisfactory to the Regional Administrator, the Regional Administrator must publish a notice of the proposed determination in the **Federal Register**, soliciting public comment and offering an opportunity for public hearing. 40 CFR 231.3(a)(2); 40 CFR 231.3(b).

Step 3: Withdrawal of Proposed Determination or Preparation of Recommended Determination. Within 30 days after the conclusion of the public hearing (but not before the end of the comment period), or, if no hearing is held, within 15 days after the expiration of the comment period on the public notice of the proposed determination, the Regional Administrator must either withdraw the proposed determination or prepare a recommended determination. If the Regional Administrator prepares a recommended determination, the Regional Administrator must promptly forward the recommended determination and administrative record to the Assistant Administrator for Water. 40 CFR 231.5(a) and(b).

Step 4: Final Determination. Within 30 days of receipt of the recommendations and administrative record, the Assistant Administrator for Water shall initiate consultation with the Corps, the applicant (if any), and the owner of record of the site. Each of those parties shall have 15 days to notify the Assistant Administrator for Water of their intent to take corrective action to prevent unacceptable adverse effects, satisfactory to the Assistant Administrator for Water. Within 60 days of receipt of the recommendations and administrative record, the Assistant Administrator for Water shall make a final determination affirming, modifying, or rescinding the recommended determination.

EPA's regulations authorize it to extend the regulatory deadlines ''upon a showing of good cause.'' 40 CFR 231.8. ''Notice of any such extension shall be published in the **Federal Register** and, as appropriate, through other forms of notice.'' *Id.*

IV. Extension of Regulatory Time Requirements for Good Cause

The District Court's vacatur of the decision to withdraw the 2014 Proposed Determination reinstates the 2014 Proposed Determination and reinitiates the CWA section 404(c) review process. The next step in the CWA section 404(c) review process requires the Region 10 Regional Administrator to, within 30 days, decide whether to withdraw the 2014 Proposed Determination or prepare a recommended determination. *See* 40 CFR 231.5(a). EPA Region 10's 2014 Proposed Determination relied on EPA's authority under section 404(c) of the CWA; was issued in accordance with the regulations at 40 CFR part 231; and reflected EPA Region 10's robust consideration of the extensive science and technical information available to the Agency at the time. Since EPA issued the 2014 Proposed Determination, new information has become available, including the voluminous public comments EPA received on the 2014 Proposed Determination; technical information contained in PLP's CWA section 404 permit application and updated mine plan; analysis developed during the NEPA process and contained in Corps' Final EIS and its permit denial; as well as new and potentially relevant science and technical information produced through other contemporaneous efforts. EPA has concluded that it should consider this information in its decision-making. EPA has therefore determined that good cause exists under 40 CFR 231.8 to extend the thirty-day regulatory time requirement in 40 CFR 231.5(a). An extension through May 31, 2022 will allow the Region 10 Regional Administrator to consider available information in order to determine appropriate next steps, which may include revising the 2014 Proposed Determination.

Dated: November 17, 2021.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2021–25515 Filed 11–22–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 58790]

Deletion of Item From November 18, Open Meeting

The following item has been adopted by the Commission and deleted from the list of items scheduled for consideration at the Thursday, November 18 2021, Open Meeting. This item was previously listed in the Commission's Notice of Wednesday, November 10, 2021.

3	MEDIA	*Title:* Updating FM Radio Directional Antenna Verification (MB Docket No. 21–422). *Summary:* The Commission will consider a Notice of Proposed Rulemaking to allow applicants proposing directional FM antennas the option of verifying the directional antenna pattern through computer modeling.

* * * * *

The meeting will be webcast with open captioning at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Dated: November 18, 2021.

Marlene Dortch,

Secretary.

[FR Doc. 2021–25591 Filed 11–22–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreement to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreement are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012246–001.

Agreement Name: EUKOR/Mitsui O.S.K. Lines, Ltd. Space Charter Agreement.

Parties: EUKOR Car Carriers, Inc.; and Mitsui O.S.K. Lines, Ltd.

Filing Party: Rebecca Fenneman; Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The amendment would update EUKOR's address and remove all authority for the parties to jointly negotiate or procure terminal services in the United States.

Proposed Effective Date: 12/24/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/303.

Agreement No.: 201333–002.

Agreement Name: North Carolina-Virginia Port Terminal Cooperative Working Agreement.

Parties: North Carolina State Ports Authority; Virginia International Terminals, LLC; and Virginia Port Authority.

Filing Party: David Monroe; GKG Law, P.C.

Synopsis: The amendment extends the duration of the Agreement through December 31, 2022.

Proposed Effective Date: 12/25/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/27474.

Dated: November 18, 2021.

Rachel E. Dickon,

Secretary.

[FR Doc. 2021–25520 Filed 11–22–21; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Privacy Act of 1974; System of Records

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Federal Mediation and Conciliation Service (FMCS) proposes to amend and reissue a current system of records notice, titled FMCS–0005, Religious Accommodation System, with a change in title to Reasonable Accommodation System. The system will include information that FMCS collects and maintains for applicants for employment and federal employees who request and/or receive reasonable accommodations for medical or religious reasons. The notice amendment adds medical accommodations. It also includes administrative updates to refine details published under the summary, supplementary information, system name, authority for maintenance of the system, purpose of the system, categories of individuals covered by the system, categories of records in the system, record source categories, routine uses, policies and practices for storage of records, administrative safeguards, and record access procedures. These sections are amended to refine previously published information about the system of records. The addresses, for further information contact, system number, security classification, system location, system managers, policies and practices for retrieval of records, policies and practices for retention and disposal of records, contesting records, and notification procedures remain unchanged. This amended SORN deletes and supersedes the SORN published in **Federal Register** on October 27, 2021.

DATES: This system of records will be effective without further notice on December 23, 2021 unless otherwise revised pursuant to comments received. New routine uses will be effective on December 23, 2021. Comments must be received on or before December 23, 2021.

ADDRESSES: You may send comments, identified by FMCS–0005 by any of the following methods:

- *Mail:* Office of General Counsel, 250 E Street SW, Washington, DC 20427.
- *Email: ogc@fmcs.gov.* Include FMCS–0005 on the subject line of the message.
- *Fax:* (202) 606–5444.

FOR FURTHER INFORMATION CONTACT: Doug Jones, Director of Information Technology, at *djones@fmcs.gov* or 202–606–5483.

SUPPLEMENTARY INFORMATION: The notice amendment adds medical accommodations. It also includes administrative updates to refine details published under the summary, supplementary information, system name, authority for maintenance of the system, purpose of the system, categories of individuals covered by the system, categories of records in the system, record source categories, routine uses, policies and practices for storage of records, administrative safeguards, and record access procedures. These sections are amended to refine previously published information about the system of records. The addresses, for

further information contact, system number, security classification, system location, system managers, policies and practices for retrieval of records, policies and practices for retention and disposal of records, contesting records, and notification procedures remain unchanged.

In accordance with the Privacy Act of 1974, 5 U.S.C. 552(a), this system is needed for collecting, storing, and maintaining records on applicants for employment, employees, and other individuals who participate in FMCS programs or activities who request or receive reasonable accommodations from FMCS for religious or medical reasons.

Title V of the Rehabilitation Act of 1973, as amended, prohibits discrimination in services and employment based on disability, and Title VII of the Civil Rights Act of 1974 prohibits discrimination, including based on religion. These prohibitions on discrimination require Federal agencies to provide reasonable accommodations to individuals with disabilities and those with sincerely held religious beliefs unless doing so would impose an undue hardship. In some instances, individuals may request modifications to their workspace, schedule, duties, or other requirements for documented medical reasons that may not qualify as a disability, such as a temporary medical condition, but may necessitate an appropriate modification to workplace policies and practices. FMCS may address those requests pursuant to the general authority of the Director contained in Title 29 of the United States Code.

Reasonable accommodations may include, but are not limited to: Making existing facilities readily accessible to individuals with disabilities; restructuring jobs, modifying work schedules or places of work, and providing flexible scheduling for medical appointments or religious observance; acquiring or modifying equipment or examinations or training materials; providing qualified readers and interpreters, personal assistants, service animals; granting permission to wear religious dress, hairstyles, or facial hair or to observe a religious prohibition against wearing certain garments; considering requests for medical and religious exemptions to specific workplace requirements; and making other modifications to workplace policies and practices.

FMCS processes requests for reasonable accommodations from employees and applicants for employment, respectively, who require an accommodation due to a medical or religious reason; and processes requests based on documented medical reasons that may not qualify as a disability but that necessitate an appropriate modification to workplace policies and practices. The request, documentation provided in support of the request, any evaluation conducted internally, or by a third party under contract to FMCS, the decision regarding whether to grant or deny a request, and the details and conditions of the reasonable accommodation are all included in this system of records.

SYSTEM NAME AND NUMBER:

FMCS–0005 Reasonable Accommodation System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Mediation and Conciliation Service, Office of General Counsel (OGC), 250 E Street SW, Washington, DC 20427.

SYSTEM MANAGER(S):

Angie Titcombe, Director of Human Resources, and Natalie Samuels, Benefits and Retirement Specialist. Doug Jones, Director of Information Technology, will not access content in the internal folder, will only troubleshoot any technical issues regarding electronic files. Send mail to Federal Mediation and Conciliation Service, 250 E Street Southwest, Washington, DC 20427.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 172, *et seq.;* Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, *et seq.;* 42 U.S.C. 12101; The Rehabilitation Act of 1973, 29 U.S.C. 701, 791, 794; E.O. 13164, as amended by E.O. 13478; E.O. 13548; E.O. 14043; 29 CFR part 1605; 29 CFR part 1614; 29 CFR part 1615; 29 CFR part 1630.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to provide a system for collecting, processing, and maintaining religious and medical accommodation requests on applicants for employment, employees, and other individuals who participate in FMCS programs or activities who request or receive reasonable accommodations or other appropriate modifications from FMCS for medical or religious reasons; to process, evaluate, and make decisions on individual requests; details of request, including final determinations, and any supporting documentation; and to track and report the processing of such requests in FMCS to comply with applicable requirements in law and policy.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered in the system of records includes both current and former Federal employees who have requested religious and medical accommodations, applicants for employment, and other individuals who participate in FMCS programs or activities who request or receive reasonable accommodations or other appropriate modifications from FMCS for medical or religious reasons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain the following:

- Requester's name;
- Requester's status (applicant or employee);
- Requester's contact information (addresses, phone numbers, and email addresses);
- Date of the request;
- Employee's position title, grade, series, step;
- Description of religious belief and how it will impact the ability to comply with agency requirements and perform official duties;
- Description of the medical condition or disability and any medical documentation provided in support of the request;
- Supplemental medical records or medical certification documents in support of the request or determination;
- Description of the accommodation being requested;
- Description of previous requests for accommodation;
- Whether the request was granted or denied, and if denied the reason for the denial;
- Documentation of how the request was made;
- Documentation of any extenuating circumstances that prevent FMCS from meeting relevant timeframes;
- The sources of technical assistance consulted in trying to identify a possible reasonable accommodation;
- Any reports or evaluations prepared in determining whether to grant or deny the request; and
- Any other information collected or developed in connection with the request for a reasonable accommodation.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

1. The Federal employee, applicant, or other individual submitting an accommodation form.

2. FMCS Human Resources officials who provide confirmation approval or denial of requests.

3. Supervisors who provide information regarding how the requests would impact agency operations.

4. Medical providers or professionals who evaluate the request or who provide supplemental or supporting documentation.

5. Religious or spiritual advisors or institutions who evaluate the request or who provide supplemental or supporting documentation.

Additional record source categories could include documents pertaining to the employee's religion and religious practices, and medical requests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FMCS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(a) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule regulation or order where FMCS becomes aware of an indication of a violation or potential violation of civil or criminal laws or regulations.

(b) To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

(c) To disclose information to the National Archives and Records Administration (NARA) or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

(d) To disclose information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other assignment for the Federal Government when necessary to accompany an agency function related to this system of records.

(e) To officials of labor organizations recognized under 5 U.S.C. Chapter 71 upon receipt of a formal request and in accordance with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

(f) To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

(g) To disclose information when FMCS determines that the records are relevant to a proceeding before a court, grand jury, or administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(h) To disclose information to another Federal agency, to a court, or to a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding. Such disclosure is permitted only when it is relevant and necessary to the litigation or proceeding.

(i) To any agency, organization, or person for the purposes of performing audit or oversight operations related to the operation of this system of records as authorized by law, but only information necessary and relevant to such audit or oversight function.

(j) To disclose information to a spiritual leader, religious scholar, medical professional, or medical provider when necessary to obtain information relevant to the request.

(k) To another Federal agency, including but not limited to the Equal Employment Opportunity Commission and the Office of Special Counsel to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation.

(l) To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator, or other duly authorized official engages in investigation or settlement of a grievance, complaint, or appeal filed by an individual who requested a reasonable accommodation or other appropriate modification.

(m) To a Federal agency, FMCS personnel, or entity authorized to procure assistive technologies and services in response to a request for reasonable accommodation.

(n) To FMCS clients needing to accommodate FMCS employees performing official duties.

(o) To first aid and safety personnel if the individual's medical condition requires emergency treatment.

(p) To another Federal agency pursuant to a written agreement with FMCS to provide services (such as medical evaluations), when necessary, in support of reasonable accommodation decisions.

(q) To appropriate agencies, entities, and persons when (1) FMCS suspects or has confirmed that there has been a breach of the system of records, (2) FMCS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMCS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FMCS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(r) To another Federal agency or Federal entity, when FMCS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained in hard copy and electronic form in locations only accessible to authorized personnel. Electronic records are stored on the agency's internal servers with restricted access to authorized Human Resources staff and designated deciding officials as determined by agency policy. Hard copy records are stored in a locked cabinet accessible to authorized Human Resources staff and designated deciding officials as determined by agency policy.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name or other programmatic identifier assigned to an individual in the electronic database and paper filing system.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records are retained and disposed of in accordance with General Records Schedule 2.3, issued by the National

Archives and Records Administration. Records are updated as needed, retained for three years after separation and/or for the entirety of the employee's active employment, and destroyed by shredding or deleting.

ADMINSTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are located in a locked file storage area or stored electronically in locations only accessible to authorized personnel requiring agency security credentials. Access is restricted, and accessible to limited Human Resources officials, and/or individuals in a need-to-know capacity. FMCS buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

If an employee would like access to their Religious or Medical Accommodation Form, please send a request with the specific information needed to the resource mailbox at *FMCSMedicalInfo@fmcs.gov.* A copy of the requested information will be provided via email in an encrypted file.

CONTESTING RECORDS PROCEDURES:

See 29 CFR 1410.6, Requests for correction or amendment of records, on how to contest the content of any records. Privacy Act requests to amend or correct records may be submitted to the Privacy Office at *privacy@fmcs.gov,* FMCS 250 E Street SW, Washington, DC 20427. Also, see *https://www.fmcs.gov/privacy-policy/.*

NOTIFICATION PROCEDURES:

See 29 CFR 1410.3(a), Individual access requests.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This amended SORN deletes and supersedes the SORN published in **Federal Register** on October 27, 2021, at 86 FR 59389.

Dated: November 17, 2021.

Sarah Cudahy,

General Counsel.

[FR Doc. 2021–25488 Filed 11–22–21; 8:45 am]

BILLING CODE 6732–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend, without revision, the Quarterly Savings and Loan Holding Company Report (FR 2320; OMB No. 7100–0345).

DATES: Comments must be submitted on or before January 24, 2022.

ADDRESSES: You may submit comments, identified by FR 2320, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Quarterly Savings and Loan Holding Company Report.

Agency form number: FR 2320.

OMB control number: 7100–0345.

Frequency: Quarterly.

Respondents: Savings and loan holding companies (SLHCs).

Estimated number of respondents: 5.

Estimated average hours per response: 2.5.

Estimated annual burden hours: 50.

General description of report: The FR 2320 collects select parent only and consolidated balance sheet and income statement financial data and organizational structure data from SLHCs exempt from filing other Federal Reserve regulatory reports. Specifically, the FR 2320 collects data on the assets, liabilities, equity, and income of the organization. In addition, the FR 2320 collects information about and changes to the organization's subsidiaries, management, capital structure, and operations.

Legal authorization and confidentiality: The FR 2320 is authorized by section 10(b)(2) of the Home Owners' Loan Act (HOLA), which states that ''each [SLHC] and each subsidiary thereof, other than a savings association, shall file with the Board, such reports as may be required by the Board.'' [1] Section 10(b)(2) of HOLA also states that ''each report shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Board may require.'' [2]

The FR 2320 is mandatory. Generally, in the case of tiered SLHCs that are exempt SLHCs, only the top-tier SLHC must file the FR 2320 for the consolidated SLHC organization. However, in certain cases, a lower-tier SLHC may be required to file the FR 2320 instead of the top-tier SLHC if it is determined by the district Federal Reserve Bank that the lower-tier SLHC more closely reflects the risk profile, assets, and liabilities of the subsidiary savings association(s). In addition, lower-tier SLHCs may voluntarily file the FR 2320 or may be required to file in addition to the top-tier SLHC if it is determined that such a filing is necessary to accurately assess the impact that the activities or financial condition of the lower-tier SLHC has on its subsidiary savings association(s).

The information collected in response to line items 24, 25, and 26 is expected to be nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent, and thus may be kept confidential by the Board pursuant to exemption 4 of the Freedom of Information Act (FOIA).[3] Although the remainder of the FR 2320 is generally made available to the public upon request, a reporting SLHC may request confidential treatment for responses to other items pursuant to exemption 4 of the FOIA if those responses contain nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent.[4]

Board of Governors of the Federal Reserve System, November 17, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–25506 Filed 11–22–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Semiannual Report of Derivatives Activity (FR 2436; OMB No. 7100–0286).

DATES: Comments must be submitted on or before January 24, 2022.

ADDRESSES: You may submit comments, identified by FR 2436, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

[1] 12 U.S.C. 1467a(b)(2).

[2] *Id.*

[3] 5 U.S.C. 552(b)(4).

[4] *Id.*

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Semiannual Report of Derivatives Activity.

Agency form number: FR 2436.

OMB control number: 100–0286.

Frequency: Semiannually.

Respondents: U.S. dealers of over-the-counter (OTC) derivatives.

Estimated number of respondents: 8.

Estimated average hours per response: 236.

Estimated annual burden hours: 3,776.

General description of report: The FR 2436 collects derivatives market statistics from the eight largest U.S. dealers of OTC derivatives. Data are collected on the notional amounts and gross fair values of the volumes outstanding of broad categories of foreign exchange, interest rate, equity, commodity-linked, and credit default swap OTC derivatives contracts across a range of underlying currencies, interest rates, and equity markets.

The FR 2436 is the U.S. portion of a global data collection conducted by central banks. The Bank for International Settlements (BIS), of which the Board is a member, compiles aggregate national data from each central bank to produce and publish global market statistics. The BIS survey has two parts: A Derivatives Outstanding survey and a Turnover (volume of transactions) survey. The FR 2436 fulfills the Derivatives Outstanding portion and complements the triennial Central Bank Survey of Foreign Exchange and Derivatives Market Activity (FR 3036; OMB No. 7100–0285), which collects data on derivatives turnover for the Turnover portion of the survey.

Legal authorization and confidentiality: The FR 2436 is authorized pursuant to sections 2A and 12A of the Federal Reserve Act (FRA). Section 2A of the FRA requires that the Board and the Federal Open Market Committee (FOMC) maintain long-run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates.[1] Under section 12A of the FRA, the FOMC is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks. Those transactions must be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.[2] The Board and the FOMC use the information obtained from the FR 2436 to help fulfill these obligations. The FR 2436 is voluntary.

Aggregated FR 2436 data is compiled and forwarded to the BIS, which publishes global market statistics that are aggregates of national data from the Federal Reserve and other central banks. To the extent individual firm information collected on the FR 2436 constitutes nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent, it may be kept confidential under exemption 4 of the Freedom of Information Act, which exempts ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.'' [3] If it should be determined that any information collected on the FR 2436 must be released, other than in the aggregate in ways that will not reveal the amounts reported by any one institution, respondents will be notified.

Consultation outside the agency: The Board and the Federal Reserve Bank of New York consult periodically with the BIS to remain consistent with international guidelines for collecting these data; currently no changes are needed.

Board of Governors of the Federal Reserve System, November 17, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–25505 Filed 11–22–21; 8:45 am]

BILLING CODE 6210–01–P

[1] 12 U.S.C. 225a.

[2] 12 U.S.C. 263.

[3] 5 U.S.C. 552(b)(4).

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 8, 2021.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *The Carolyn E. Farr Trust, Harrisville, West Virginia, Scott A. Windom, as trustee, and Rodney C. Windom, all of Cairo, West Virginia; William A. Farr, West Union, West Virginia; John C. Farr, Woodinville, Washington; Paul D. Farr, Little Hocking, Ohio; and Lee Ann Farr, Frankfort, West Virginia;* as a group acting in concert to retain voting shares

of Tri-County Bancorp, Inc., and thereby indirectly retain voting shares of West Union Bank, both of West Union, West Virginia.

B. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *James P. Liggett, Vancouver Washington; Scott P. Liggett, Islamorada, Florida; and Lee B. Liggett, Phippsburg, Maine;* to form the Liggett Family Group, a group acting in concert, to acquire voting shares of First National Utica Company, and thereby indirectly acquire voting shares of First Bank of Utica, both of Utica, Nebraska.

Board of Governors of the Federal Reserve System, November 18, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–25569 Filed 11–22–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Procurement Solicitation Package (FR 1400; OMB No. 7100–0180).

DATES: Comments must be submitted on or before January 24, 2022.

ADDRESSES: You may submit comments, identified by FR 1400, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collections

Report title: Supplier Registration System.

Agency form number: FR 1400A.

OMB control number: 7100–0180.

Frequency: On occasion.

Respondents: Businesses and individuals.

Estimated number of respondents: 250.

Estimated average hours per response: 1.

Estimated annual burden hours: 250.

General description of report: The Board is continuously seeking suppliers who are interested in doing business with the Board through various outreach events, minority/diversity conferences, meetings, and events targeted to either a specific industry classification of suppliers or an upcoming acquisition. Suppliers are encouraged during these efforts to register in the Board's Supplier Registration System (FR 1400A). A supplier searching the internet can also find the registration system via the Board's public website and elect to

register.[1] The Supplier Registration System collects pertinent information on their firm and the capabilities they can offer to the Board. While completion of the registration process does not guarantee future opportunities with the Board, it does bring a supplier's capabilities to the attention of procurement staff whose role is to match supplier capabilities with specific acquisition activities when contracting opportunities arise.

Report title: Solicitation Package.
Agency form number: FR 1400B.
OMB control number: 7100–0180.
Frequency: On occasion.
Respondents: Businesses and individuals.
Estimated number of respondents: 300.
Estimated average hours per response: 81.
Estimated annual burden hours: 24,300.
General description of report: In announcing an acquisition, Board staff contacts suppliers registered in the Board's system via electronic mail or by telephone, and provides the documents and applicable attachments included in the Solicitation Package (FR 1400B). The FR 1400B includes:

- A cover letter,
- A Solicitation, Offer, and Award Form (Attachment A) which outlines pertinent dates for the supplier as well as requires the supplier to input contact information and a summary of proposed pricing,
- A Supplier Information Form (Attachment N) that requires supplier contact information, demographic, and payment information so that the supplier can be properly established in the contract writing system and receive payment upon the receipt of a proper and valid invoice,
- A description, provided by the Board, of the goods or services desired,
- A statement of how the Board will evaluate the prospective suppliers,
- A statement of how the Board will evaluate the proposal,
- Solicitation instructions (how to prepare and submit the proposal, including all deadlines),
- Contract terms (work standards, inspections, work delays, work change orders, payment, taxes, and compliance with small business and labor laws), and
- Representations and certifications suppliers must make in order to participate in the solicitation.

The Solicitation Package may also include the Past Performance Data Sheet and Past Performance Questionnaire (Attachment I) if past performance is an evaluation factor. This questionnaire requests information on up to three previous contracts that are recent and relevant to the solicitation, such as a description of the work, the period of performance when the work was completed, the agency for which the work was performed, and an estimated total dollar amount of the effort.

Report title: Supplier Risk Management Offeror Questionnaire.
Agency form number: FR 1400C.
OMB control number: 7100–0180.
Frequency: On occasion.
Respondents: Businesses and individuals.
Estimated number of respondents: 60.
Estimated average hours per response: 4.
Estimated annual burden hours: 240.
General description of report: For solicitations that require the supplier to process, store, or transmit data from the Board, suppliers must complete the Supplier Risk Management Offeror Questionnaire (FR 1400C). This questionnaire requires suppliers to specify the security controls surrounding the supplier's security protocols and proposed application, if applicable, that will be used to process, store, or transmit the data.[2]

Report title: Subcontracting Report.
Agency form number: FR 1400D.
OMB control number: 7100–0180.
Frequency: On occasion.
Respondents: Businesses and individuals.
Estimated number of respondents: 20.
Estimated average hours per response: 1.
Estimated annual burden hours: 40.
General description of report: For solicitations that involve contracts that have subcontracting opportunities and are expected to exceed $100,000, or $300,000 for construction solicitations, non-covered company [3] suppliers must submit a subcontracting plan in the supplier's own format. The subcontracting plan provides information on the nature of subcontracted activities, including the percentage of subcontracted work, and identity of subcontractors, including the subcontractors' size and ownership status, the company will use if awarded the effort. If a supplier is awarded a contract following a Subcontracting Solicitation, the supplier must provide semiannual Subcontracting Reports (FR 1400D) to the Board to document compliance with section 342(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[4]

Legal authorization and confidentiality: The filing requirements under the FR 1400 are authorized by sections 10 and 11 of the Federal Reserve Act (FRA) [5] and section 342(c) of the Dodd-Frank Act.[6] Registering in the Supplier Registration System (FR 1400A) is voluntary. The remaining portions of the FR 1400 (FR 1400B, FR 1400C, and FR 1400D) are required to obtain a benefit for prospective suppliers to the Board.

A prospective supplier may request confidential treatment of information submitted as part of its Procurement Solicitation Package under exemption 4 of the Freedom of Information Act (FOIA), which protects commercial or financial information that is both customarily and actually treated as private.[7] In addition, a prospective supplier may request confidential treatment of information pursuant to exemption 6 of the FOIA, which protects personal information, the disclosure of which would ''constitute a clearly unwarranted invasion of

[1] *https://www.federalreserve.gov/secure/vendorregistration/.*

[2] Security controls are defined and prioritized based on the Federal Information Security Modernization Act of 2014 (FISMA) and the National Institute of Standards and Technology (NIST) Special Publication 800–53 (Security Controls and Assessment Procedures for Federal Information Systems and Organizations).

[3] A ''covered company'' is a firm qualified as a small business concern under the Small Business Act (15 U.S.C. 632) and regulations thereunder, including (1) business concerns that meet the size eligibility standards set forth in 13 C.F.R 121; (2) small business concerns owned and controlled by service-disabled veterans as defined by 15 U.S.C. 632(q); (3) qualified HUBZone small business concerns pursuant to 15 U.S.C. 632(p) and 13 C.F.R 126; (4) socially and economically disadvantaged small business concerns as defined by 15 U.S.C. 637 and certified as such under 13 CFR 125; and (5) small business concerns owned and controlled by women as defined by 15 U.S.C. 632(n).

[4] 12 U.S.C. 5452(e) requires the Board to submit an annual report to Congress regarding the total amounts paid by the agency to contractors since the previous report, the successes achieved and challenges faced by the agency in operating minority and women outreach programs, the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses, and any other information, findings, conclusions, and recommendations for legislative or agency action.

[5] Section 10(3) and section 11 of the FRA authorize the Board to manage its buildings and staff. 12 U.S.C. 243 and 248(1). Section 10(4) of the FRA authorizes the Board to determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid. 12. U.S.C. 244.

[6] 12 U.S.C. 5452(c) (requiring the Board to develop and implement standards and procedures for the review and evaluation of contract proposals and for hiring service providers that include a component that gives consideration to the diversity of a prospective supplier and the fair inclusion of women and minorities in the workforce of such supplier and any subcontractor).

[7] 5 U.S.C. 552(b)(4).

privacy.'' [8] Determinations of confidentiality based on exemption 4 or exemption 6 of the FOIA would be made on a case-by-case basis.

Board of Governors of the Federal Reserve System, November 17, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–25502 Filed 11–22–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Written Security Program for State Member Banks (FR 4004, OMB No. 7100–0112).

DATES: Comments must be submitted on or before January 24, 2022.

ADDRESSES: You may submit comments, identified by FR 4004, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Written Security Program for State Member Banks.

Agency form number: FR 4004.

OMB control number: 7100–0112.

Frequency: On occasion.

Respondents: State member banks.

Estimated number of respondents: 14.

Estimated average hours per response: 1.

Estimated annual burden hours: 14.

General description of report: This information collection arises from a recordkeeping requirement contained in section 208.61 of the Board's Regulation H, Membership of State Banking Institutions in the Federal Reserve System (12 CFR 208), which requires each state member bank to develop and maintain a written security program for the bank's main office and branches within 180 days of becoming a member of the Federal Reserve System.

Legal authorization and confidentiality: Section 3 of the Bank Protection Act of 1968 authorizes the FR 4004 recordkeeping requirement.[1] The FR 4004 is mandatory.

Entities subject to the FR 4004 recordkeeping requirement generally are not required to provide such information to the Board. If the Board obtained information retained pursuant to the FR 4004 as part of an examination or supervision of a financial institution,

[8] 5 U.S.C. 552(b)(6).

[1] 12 U.S.C. 1882(a) (requiring federal banking agencies, including the Board, to issue rules establishing minimum standards for banks with respect to the installation, maintenance, and operation of security devices and procedures to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts).

it may be considered confidential under exemption 8 of the Freedom of Information Act (FOIA).[2] Information provided under the FR 4004 may also be kept confidential under FOIA exemption 4 as confidential commercial or financial information that is both customarily and actually treated as private.[3]

Consultation outside the agency: The Board consulted with the Office of the Comptroller of the Currency (OCC), which has a similar regulation requiring a written security program for OCC-supervised entities, with respect to this proposal.

Board of Governors of the Federal Reserve System, November 17, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–25507 Filed 11–22–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Central Bank Survey of Foreign Exchange and Derivatives Market Activity (FR 3036; OMB No. 7100–0285).

DATES: Comments must be submitted on or January 24, 2022.

ADDRESSES: You may submit comments, identified by FR 3036, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Report title: Central Bank Survey of Foreign Exchange and Derivatives Market Activity.

Agency form number: FR 3036.

OMB control number: 7100–0285.

Frequency: Triennially.

Respondents: Commercial banks, brokers and dealers, and U.S. offices of foreign banking offices with dealing operations in the U.S.

Estimated number of respondents: 21.

Estimated average hours per response: 65.

Estimated annual burden hours: 1,365.

General description of report: The Board is a member of the Bank for International Settlements (BIS), which compiles aggregate national data from each central bank to produce and publish global market statistics. The FR 3036 is a component of the U.S. portion of a global data collection (the BIS survey) that is conducted by central banks once every three years and captures information relating to the volume of foreign exchange (FX) transactions. Currently, more than 50

[2] 5 U.S.C. 552(b)(8).

[3] 5 U.S.C. 552(b)(4).

central banks plan to conduct the BIS survey in 2022. Aggregated data from the FR 3036 is compiled and forwarded to the BIS, which uses the data to produce and publish these statistics.

Proposed revisions: The proposal would revise the maturity bands on the FR 3036 by replacing the existing ''seven days or less'' category with two categories: ''One day'' and ''over one day and up to seven days.'' This change would align with current industry standards which, based on pre-emptive consultation with a sample of reporting dealers, are already included in the back-end systems of respondents. Revisions to the maturity bands were originally proposed to the BIS by data users seeking greater insight into how overnight trades impact FX turnover and are expected to be broadly adopted by nearly all participating central banks for the 2022 survey.

The proposal would add a new item for ''of which back-to-back trades'' under the total for spot instruments, and the new items ''of which back-to-back trades'' and ''of which compression trades'' for several instrument totals: Outright forwards (Table A2), FX swaps (Table A2), currency swaps (Table A5), over-the-counter (OTC) options (Table A5), FX contracts (Table A5), other products (Table A5 and Table B2), forward rate agreements (Table B1), overnight indexed swaps (Table B1), other swaps (Table B1), total OTC options (Table B2), and total interest rate contracts (Table B2). The proposed changes would provide insight into an important facet of the FX market that was omitted from prior surveys, and would be particularly valuable to data users given that both transaction types have been cited by reporting dealers to comprise an increasing share of market turnover. These proposed line items were circulated to a selection of reporting dealers and, based on feedback received, have been modified to ensure a more limited impact on respondent burden.

The Board also proposes a more significant addition in the form of a new Settlement of FX Transactions schedule (Table A7, Settlement of Foreign Exchange Transactions) to collect information on FX settlement, including a breakdown by counterparty sector, currency pair, and settlement method. The new schedule would enable the Board and other supervisory authorities to more accurately and regularly monitor FX settlement risk—an area of growing importance for financial regulators given that the BIS estimates that nearly $9 trillion of FX market payments are at risk on a given day. While some countries collected a limited set of data on FX settlement during the 2019 survey, it is the broad view of global regulatory authorities that more granular data is needed to effectively monitor risks to financial stability that may arise from FX settlement.

Legal authorization and confidentiality: The FR 3036 is authorized pursuant to sections 2A and 12A of the Federal Reserve Act (FRA). Section 2A of the FRA requires that the Board and the Federal Open Market Committee (FOMC) maintain long-run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates.[1] Under section 12A of the FRA, the FOMC is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks. Those transactions must be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.[2] The Board and the FOMC use the information obtained from the FR 3036 to help fulfill these obligations. The FR 3036 is voluntary.

Individual firm information collected on the FR 3036 is considered confidential to the extent it constitutes nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent. Therefore, this information may be kept confidential under exemption 4 of the Freedom of Information Act, which exempts ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.'' [3] If it should be determined that any information collected on the FR 3036 must be released, other than in the aggregate in ways that will not reveal the amounts reported by any one institution, respondents will be notified. Aggregated FR 3036 data is compiled and forwarded to the BIS, which publishes global market statistics that are aggregates of national data from the Federal Reserve and other central banks.

Board of Governors of the Federal Reserve System, November 17, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–25504 Filed 11–22–21; 8:45 am]

BILLING CODE 6210–01–P

[1] 12 U.S.C. 225a.

[2] 12 U.S.C. 263.

[3] 5 U.S.C. 552(b)(4).

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation NN (FR NN; OMB No. 7100–0353).

DATES: Comments must be submitted on or before January 24, 2022.

ADDRESSES: You may submit comments, identified by FR NN, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory

Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation NN.

Agency form number: FR NN.

OMB control number: 7100–0353.

Frequency: As needed.

Respondents: State member banks, uninsured state-licensed branches of foreign banks, financial holding companies, bank holding companies, savings and loan holding companies, agreement corporations, and Edge Act corporations that engage in retail foreign exchange transactions (collectively, banking institutions).

Estimated number of respondents: Reporting, section 240.4: 1; recordkeeping, sections 240.7, 240.9(b)(2), and 240.13(a): 2; disclosure, sections 240.5(a), 240.6, 240.10, 240.13(c)–(d), 240.15, and 240.16(a) and (b): 2.

Estimated average hours per response: Reporting, section 240.4: 16; recordkeeping, sections 240.7, 240.9(b)(2), and 240.13(a): 183; disclosure, sections 240.5(a), 240.6, 240.10, 240.13(c)–(d), 240.15, and 240.16(a) and (b): 787.

Estimated annual burden hours: Reporting, section 240.4: 16; recordkeeping, sections 240.7, 240.9(b)(2), and 240.13(a): 366; disclosure, sections 240.5(a), 240.6, 240.10, 240.13(c)–(d), 240.15, and 240.16(a) and (b): 1,574.

General description of report: Section 742(c)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended section 2(c)(2) of the Commodity Exchange Act (CEA) to prohibit persons supervised by certain Federal regulatory agencies, including the Board, from entering into, or offering to enter into, certain types of foreign exchange transactions, except pursuant to a rule or regulation promulgated by the relevant supervising agency. The Board's Regulation NN (12 CFR part 240) authorizes banking institutions supervised by the Board to conduct retail foreign exchange transactions and establishes certain reporting, recordkeeping, and disclosure requirements for banking institutions that choose to conduct such transactions.

Legal authorization and confidentiality: The reporting, recordkeeping, and disclosure requirements in Regulation NN are authorized pursuant to section 2(c)(2)(E) of the CEA,[1] which prohibits a United States financial institution and its related persons under the supervision of a Federal regulatory agency, such as the Board, from offering or entering into certain types of foreign exchange transactions with retail customers except pursuant to a rule or regulation prescribed by the appropriate Federal regulatory agency allowing the transaction under such terms and conditions as the Federal regulatory agency shall prescribe.[2] Regulation NN's reporting, recordkeeping, and disclosure requirements are mandatory for banking institutions that engage in retail foreign exchange transactions.

The reporting requirement under section 240.4 of Regulation NN requires a banking institution to provide a prior written notice to the Board that includes information concerning customer due diligence; the policies and procedures for haircuts to be applied to noncash margin; information concerning new product approvals; and information on addressing conflicts of interest. This information is likely to constitute nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent, and thus may be kept confidential by the Board pursuant to exemption 4 of the Freedom of Information Act (FOIA).[3] In addition, the prior written notice must also include a resolution of the banking institution's board of directors certifying that the institution has written policies, procedures, and risk measurement and management systems and controls in place to ensure retail foreign exchange transactions are conducted in a safe and sound manner and in compliance with Regulation NN. Generally, this resolution by the board of directors would not be accorded confidential

[1] 7 U.S.C. 2(c)(2)(E).

[2] Additionally, the Board also has the authority to require reports from state member banks under section 11 of the Federal Reserve Act (FRA), 12 U.S.C. 248; from branches of foreign banks under sections 9 and 13 of the International Banking Act of 1978, 12 U.S.C. 3106a and 3108; from bank holding companies under section 5(b) and (c) of the Bank Holding Company Act of 1956, 12 U.S.C. 1844(b) and (c); from savings and loan holding companies under section 10 of the Home Owners' Loan Act, 12 U.S.C. 1467a(b) and (g); from Edge Act corporations under section 25A(17) of the FRA, 12 U.S.C. 625; and from agreement corporations under section 25 of the FRA, 12 U.S.C. 601–604a.

[3] 5 U.S.C. 552(b)(4).

treatment. If confidential treatment is requested by a banking institution, the Board will review the request to determine if confidential treatment is appropriate.

The records and disclosures required by Regulation NN generally are not submitted to the Federal Reserve. Accordingly, confidentiality issues generally do not arise under the FOIA. In the event such records or disclosures are obtained by the Federal Reserve through the examination or enforcement process, such information may be kept confidential under exemption 8 of the FOIA,[4] which protects information contained in or related to an examination of a financial institution.

Board of Governors of the Federal Reserve System, November 17, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–25503 Filed 11–22–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with the CFPB's Regulation B (FR B; OMB No. 7100–0201).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Recordkeeping and Disclosure Requirements Associated with the CFPB's Regulation B.

Agency form number: FR B.

OMB control number: 7100–0201.

Frequency: On occasion; annually.

Respondents: The Board accounts for the paperwork burden imposed under the Equal Credit Opportunity Act (ECOA), as implemented by the Consumer Financial Protection Bureau (CFPB)'s Regulation B, for the following institutions (except those entities supervised by the CFPB): State member banks; subsidiaries of state member banks; subsidiaries of bank holding companies; U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks); commercial lending companies owned or controlled by foreign banks; and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a; 611–631).

Estimated number of respondents: Record retention for applications, actions, prescreened solicitations, self-testing, and self-correction, 851; Information for monitoring purposes (recordkeeping), 851; Notifications, Furnishing of credit information, Information for monitoring purposes (disclosure), and Rules on providing appraisals and other valuations, 851; Self-testing: Incentives for self-testing, 187; Incentives for self-correction, 47; and Rules concerning requests for information, disclosure for optional self-test, 187.

Estimated average hours per response: Record retention for applications, actions, prescreened solicitations, self-testing, and self-correction, 0.004; Information for monitoring purposes (recordkeeping), 0.017; Notifications, Furnishing of credit information, and Information for monitoring purposes (disclosure), 0.004; Rules on providing appraisals and other valuations, 0.008; Self-testing: Incentives for self-testing, 0.004; Incentives for self-correction, 0.016; and Rules concerning requests for information, disclosure for optional self-test, 0.004.

Estimated annual burden hours: Record retention for applications, actions, prescreened solicitations, self-testing, and self-correction, 27,344; Information for monitoring purposes (recordkeeping), Notifications, 27,344; Furnishing of credit information, 4,844; Information for monitoring purposes (disclosure), 5,998; Rules on providing appraisals and other valuations, Self-testing: Incentives for self-testing, 1; Incentives for self-correction, 1; and Rules concerning requests for information, disclosure for optional self-test, 1.

General description of report: The ECOA prohibits discrimination in any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. To aid in implementation of this prohibition, the statute and Regulation B subject creditors to various mandatory disclosure requirements, notification provisions informing applicants of action taken on the credit application, provision of appraisal reports in connection with mortgages, credit history reporting, monitoring rules, and recordkeeping requirements. These requirements are triggered by specific events, and disclosures must be provided within the time periods established by the statute and regulation.

Legal authorization and confidentiality: The ECOA authorizes the CFPB to issue regulations to carry out the statute's purposes.[1] The ECOA also directs the CFPB to promulgate regulations requiring covered entities to maintain records evidencing compliance with the statute for at least one year.[2] These regulations impose disclosure and recordkeeping requirements on Board-supervised entities. Compliance with the recordkeeping and disclosure requirements of the CFPB's Regulation B is mandatory.

The disclosures, records, policies, and procedures required by Regulation B are not required to be submitted to the Board. This information would generally only be obtained if Federal Reserve examiners retained a copy as part of an examination or supervision of

[4] 5 U.S.C. 552(b)(8).

[1] 15 U.S.C. 1691b(a).

[2] 12 U.S.C. 1691b(d).

a bank, in which case the information may be treated as confidential under exemption 8 of the Freedom of Information Act (FOIA).[3] In addition, information obtained by the Federal Reserve examiners may be kept confidential under exemption 4 of the FOIA as confidential commercial or financial information that is both customarily and actually treated as private [4] or under exemption 6 to the extent that the disclosure of information would ''constitute a clearly unwarranted invasion of personal privacy.'' [5]

Current actions: On July 19, 2021, the Board published a notice in the **Federal Register** (86 FR 38091) requesting public comment for 60 days on the extension, without revision, of the Recordkeeping and Disclosure Requirements Associated with the CFPB's Regulation B. The comment period for this notice expired September 17, 2021. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, November 17, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–25501 Filed 11–22–21; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0014; Docket No. 2021–0001; Sequence No. 14]

Information Collection; Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123

AGENCY: Federal Acquisition Service, General Services Administration (GSA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding the Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123.

DATES: *Submit comments on or before:* January 24, 2022.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0014, Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0014, Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123''. on your attached document. If your comment cannot be submitted using *regulations.gov*, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite Information Collection 3090–0014, Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123'', in all correspondence related to this collection. Comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three business days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Willett, Property Disposal Specialist, GSA Office of Personal Property Management, at telephone 703–605–2873 or via email to *christopher.willett@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Transfer Order-Surplus Personal Property and Continuation Sheet, Standard form (SF) 123, is used by a State Agency for Surplus Property (SASP) to donate Federal surplus personal property to public agencies, nonprofit educational or public health activities, programs for the elderly, service educational activities, and public airports. The SF 123 serves as the transfer instrument and includes item descriptions, transportation instructions, nondiscrimination assurances, and approval signatures.

B. Annual Reporting Burden

Respondents (electronic): 30,890.
Respondents (manual): 312.
Total Number of Respondents: 31,202.
Total Hours per Response (electronic at .017 Hours Per Response): 525.13.
Total Hours per Response (manual at .13 Hours Per Response): 40.56.
Total Burden Hours: 565.69.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0014, Transfer Order-Surplus Personal Property and Continuation Sheet, Standard Form (SF) 123, in all correspondence.

Beth Anne Killoran,

Deputy Chief Information Officer.

[FR Doc. 2021–25574 Filed 11–22–21; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0112; Docket No. 2021–0001; Sequence No. 13]

Information Collection; Federal Management Regulation; State Agency Monthly Donation Report of Surplus Property, GSA Form 3040

AGENCY: Federal Acquisition Service, General Services Administration (GSA).

ACTION: Notice of request for public comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding State Agency Monthly Donation Report of Surplus Property, GSA Form 3040.

DATES: Submit comments on or before January 24, 2022.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Information Collection 3090–0112. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0112; State Agency

[3] 5 U.S.C. 552(b)(8).
[4] 5 U.S.C. 552(b)(4).
[5] 5 U.S.C. 552(b)(6).

Monthly Donation Report of Surplus Personal Property'' under the heading ''Enter Keyword or ID'' and select ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0112, State Agency Monthly Donation Report of Surplus Personal Property''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0112, State Agency Monthly Donation Report of Surplus Personal Property'' on your attached document.

Instructions: Comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three business days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Christopher Willett, Property Disposal Specialist, GSA Office of Personal Property Management, at telephone 703–605–2873 or via email to *christopher.willett@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

This report complies with 41 CFR 102–37.360, which requires a State Agency for Surplus Property (SASP) to submit annual reports of personal property donated to public agencies for use in carrying out such purposes as conservation, economic development, education, parks and recreation, public health, and public safety.

B. Annual Reporting Burden

Respondents: 56.

Responses per Respondent: 4.

Total Responses: 224.

Hours per Response: 1.5.

Total Burden Hours: 336.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining copies of proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.*

Beth Anne Killoran,

Deputy Chief Information Officer.

[FR Doc. 2021–25571 Filed 11–22–21; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9901–N]

Ground Ambulance and Patient Billing Advisory Committee

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The No Surprises Act, enacted as part of the Consolidated Appropriations Act, 2021, requires the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury (the Secretaries) to establish and convene an advisory committee for the purpose of reviewing options to improve the disclosure of charges and fees for ground ambulance services, better inform consumers of insurance options for such services, and protect consumers from balance billing. This notice announces the establishment of the Advisory Committee on Ground Ambulance and Patient Billing (the GAPB Advisory Committee) and solicits nominations for members to be appointed by the Secretaries.

DATES: Nominations for membership will be considered if they are received by December 13, 2021.

ADDRESSES: Nominations and requests for copies of the charter for the Advisory Committee on Ground Ambulance and Patient Billing may be submitted to the addresses specified below. All nominations will be shared among the Departments. Please do not submit duplicates. Nominations or requests for copies of the GAPB Advisory Committee Charter must be submitted in one of the following two ways:

1. *Electronically.* You may submit nominations or charter requests by email to *GAPBAdvisoryCommittee@cms.hhs.gov.*

2. *By regular mail.* You may mail nominations or charter requests to the following address: Attention: Shaheen Halim, Ph.D., J.D., Center for Consumer Information & Insurance Oversight, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop WB–22–75, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the nomination period.

FOR FURTHER INFORMATION CONTACT: Rogelyn D. McLean, Centers for Medicare & Medicaid Services, HHS, at (301) 492–4229.

Press inquiries may be submitted by phone to (202) 690–6145 or by email to *press@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 117(a) of the No Surprises Act, enacted as part of the Consolidated Appropriations Act, 2021, div. BB, tit. I, Public Law 116–260 (Dec. 27, 2020), requires the Secretaries to establish and convene an advisory committee for the purpose of reviewing options to improve the disclosure of charges and fees for ground ambulance services, better inform consumers of insurance options for such services, and protect consumers from balance billing. The GAPB Advisory Committee is governed by the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463 (Oct. 6, 1972), as amended, 5 U.S.C. App. 2.

II. Charter, General Responsibilities, and Composition of the Advisory Committee on Ground Ambulance and Patient Billing

A. Charter Information and General Responsibilities

On November 16, 2021, the Secretaries of Health and Human Services, Labor, and the Treasury finalized the charter establishing the GAPB Advisory Committee. The GAPB Advisory Committee will advise the Secretaries on options to improve the disclosure of charges and fees for ground ambulance services, better inform consumers of insurance options for such services, and protect consumers from balance billing.

The GAPB Advisory Committee must submit a report to the Secretaries, the Committees on Education and Labor, Energy and Commerce, and Ways and Means of the House of Representatives, and the Committees on Finance and Health, Education, Labor, and Pensions, that includes recommendations with respect to the disclosure of charges and fees for ground ambulance services and insurance coverage, consumer protection and enforcement authorities of the Departments of Health and Human Services, Labor, and the Treasury and State authorities, and the prevention of balance billing to consumers. The recommendations shall

address, at a minimum, options, best practices, and identified standards to prevent instances of balance billing; steps that can be taken by State legislatures, State insurance regulators, State attorneys general, and other State officials as appropriate, consistent with current legal authorities regarding consumer protection; and legislative options for Congress to prevent balance billing.

The GAPB Advisory Committee must submit this report no later than 180 days after the date of its first meeting.

A copy of the charter for the Advisory Committee may be obtained by submitting a written request to the address specified in the **ADDRESSES** section of this notice.

B. Composition of the Advisory Committee on Ground Ambulance and Patient Billing

The GAPB Advisory Committee shall consist of the following:

(i) The Secretary of Labor, or the Secretary's designee;

(ii) the Secretary of Health and Human Services, or the Secretary's designee;

(iii) the Secretary of the Treasury, or the Secretary's designee;

(iv) One representative, to be appointed jointly by the Secretaries, for each of the following:

(I) Each relevant Federal agency, as determined by the Secretaries;

(II) State insurance regulators;

(III) Health insurance providers;

(IV) Patient advocacy groups;

(V) Consumer advocacy groups;

(VI) State and local governments;

(VII) Physician specializing in emergency, trauma, cardiac, or stroke;

(VIII) State Emergency Medical Services Officials; and

(IX) Emergency medical technicians, paramedics, and other emergency medical services personnel.

(v) Three representatives, to be appointed jointly by the Secretaries, to represent the various segments of the ground ambulance industry.

(vi) Up to an additional 2 representatives otherwise not described in paragraphs (i) through (v), as determined necessary and appropriate by Secretaries.

III. Submissions of Nominations

The Secretaries are requesting nominations for membership on the GAPB Advisory Committee. The Secretaries are also requesting nominations for a member to serve as the chairperson of the GAPB Advisory Committee. The Secretaries will consider qualified individuals who are self-nominated or are nominated by organizations representing affected stakeholders when selecting those representatives. The Secretaries will make every effort to appoint members to serve on the GAPB Advisory Committee from among those candidates determined to have the technical expertise required to meet specific statutory categories and Departmental needs, and in a manner to ensure an appropriate balance of membership. Selection of committee membership will be consistent with achieving the greatest impact, scope, and credibility among diverse stakeholders. The diversity in such membership includes, but is not limited to, race, gender, disability, sexual orientation, and gender identity.

The Secretaries reserve discretion to appoint members who were not nominated in response to this notice to serve on the GAPB Advisory Committee if necessary to meet specific statutory categories and Departmental needs in a manner to ensure an appropriate balance of membership.

Any interested person may nominate one or more qualified individuals (self-nominations will also be accepted). Each nomination must include the following information:

1. A letter of nomination that contains contact information for both the nominator and nominee (if not the same).

2. A statement from the nominee that he or she is willing to serve on the GAPB Advisory Committee for its duration and an explanation of interest in serving on the GAPB Advisory Committee. The nominee should also indicate which category or categories he or she is willing to represent. (For self-nominations, this information may be included in the nomination letter.)

3. A curriculum vitae that indicates the nominee's educational experience, as well as relevant professional experience.

4. Two letters of reference that support the nominee's qualifications for participation on the GAPB Advisory Committee. (For nominations other than self-nominations, a nomination letter that includes information supporting the nominee's qualifications may be counted as one of the letters of reference.)

To ensure that a nomination is considered, the Departments must receive all of the nomination information specified in section III of this notice by December 13, 2021. Nominations should be emailed or mailed to the appropriate address specified in the **ADDRESSES** section of this notice.

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**.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2021–25560 Filed 11–19–21; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0405]

Maytee Lledo: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) permanently debarring Maytee Lledo from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Ms. Lledo was convicted of a felony under Federal law for conduct that relates to the development or approval, including the process for development or approval, of any drug product under the FD&C Act. Ms. Lledo was given notice of the proposed permanent debarment and an opportunity to request a hearing to show why she should not be debarred within the timeframe prescribed by regulation. Ms. Lledo has not responded to the notice. Ms. Lledo's failure to respond and request a hearing within the prescribed timeframe constitutes a waiver of her right to a hearing concerning this action.

DATES: This order is applicable November 23, 2021.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(A) of the FD&C Act (21 U.S.C. 335a(a)(2)(A)) requires debarment of an individual from providing services in any capacity to a person that has an approved or pending drug product application if FDA finds that the individual has been convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of any drug product under the FD&C Act. On April 16, 2021, in the U.S. District Court for the Southern District of Florida, Miami Division, a judgment of conviction was entered against Ms. Maytee Lledo, after her plea of guilty to one count of Conspiracy to Commit Wire Fraud in violation of 18 U.S.C. 1349, a felony offense under Federal law.

The factual basis for this conviction is as follows: As contained in the Information, entered into the docket on August 31, 2020, and the Factual Proffer in Support of Ms. Lledo's guilty plea, entered into the docket on February 5, 2021, both from her case, Ms. Lledo was a receptionist at Sacred Heart Medical Office P.A., a private medical practice, in Florida. That medical practice primarily served a pediatric population. From about September 2013 through June 2016, Ms. Lledo and others conspired to unlawfully enrich themselves by making materially false representations about clinical trials, fabricating data and the participation of subjects in those clinical trials, concealing from FDA, sponsors, and contract research organizations the fact that the data and participation of subjects had been fabricated, and inducing sponsors and contract research organizations to pay money for Ms. Lledo and her co-conspirators' own benefit. Specifically, one of Ms. Lledo's co-conspirators entered into a contract with a Contract Research Organization (CRO) retained by a drug manufacturer (Sponsor) to hire clinical investigators and to manage clinical trials. Ms. Lledo's co-conspirator entered into a contract with the CRO to conduct a study at Unlimited Medical Research site in return for payment. The study was for an investigational drug intended to treat pediatric asthma in children between the ages of 4 and 11 years. Her co-conspirators were responsible for complying with the study protocol, including administering study drug to subjects in the study and preparing written records, known as case histories, which documented the participation of subjects in the study.

Ms. Lledo participated in a scheme to defraud the Sponsor by fabricating the data and participation of subjects in the clinical trial in a variety of ways. Ms. Lledo and her co-conspirators falsified medical records to portray persons as legitimate study subjects when they were not. In addition, her co-conspirators made it appear as though pediatric subjects made scheduled visits to Unlimited Medical Research when they had not; made it appear as though subjects had taken the study drug as required when they had not; and made it appear that the study subjects had received checks as payment when they had not. In addition, study subjects were required to make daily phone calls to an ''e-diary'' system and report their daily drug usage and experience with the study drug. As part of the conspiracy, Ms. Lledo placed thousands of telephone calls to the e-diary system, using falsely obtained PIN numbers to access the system, for purposes of reporting fabricated data on behalf of purportedly legitimate study subjects. Ms. Lledo entered this fabricated information in the e-diary system for at least 11 study subjects.

Based on this conviction, FDA sent Ms. Lledo by certified mail on July 27, 2021, a notice proposing to permanently debar her from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(a)(2)(A) of the FD&C Act, that Ms. Lledo was convicted, as set forth in section 306(l)(1) of the FD&C Act, of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product under the FD&C Act. The proposal also offered Ms. Lledo an opportunity to request a hearing, providing her 30 days from the date of receipt of the letter in which to file the request, and advised her that failure to file a timely request for a hearing would constitute an election not to use the opportunity for a hearing and a waiver of any contentions concerning this action. Ms. Lledo received the proposal on August 2, 2021. She did not request a hearing within the timeframe prescribed by regulation and has, therefore, waived her opportunity for a hearing and any contentions concerning her debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(a)(2)(A) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Ms. Lledo has been convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product under the FD&C Act.

As a result of the foregoing finding, Ms. Lledo is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application, effective (see **DATES**) (see sections 306(a)(2)(A) and (c)(2)(A)(ii) of the FD&C Act). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses in any capacity the services of Ms. Lledo during her debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Ms. Lledo provides services in any capacity to a person with an approved or pending drug product application during her period of debarment she will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug application from Ms. Lledo during her period of debarment, other than in connection with an audit under section 306 of the FD&C Act (section 306(c)(1)(B) of the FD&C Act). Note that, for purposes of sections 306 and 307 of the FD&C Act, a ''drug product'' is defined as a drug subject to regulation under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382) or under section 351 of the Public Health Service Act (42 U.S.C. 262) (section 201(dd) of the FD&C Act (21 U.S.C. 321(dd))).

Any application by Ms. Lledo for special termination of debarment under section 306(d)(4) of the FD&C Act should be identified with Docket No. FDA–2021–N–0405 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: November 17, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–25589 Filed 11–22–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on October 1, 2021, through October 31, 2021. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (*Petitioner's Name* v. *Secretary of HHS*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Diana Espinosa,

Acting Administrator.

List of Petitions Filed

1. Violetta Yamini, Washington, District of Columbia, Court of Federal Claims No: 21–1939V
2. Virginia Kindberg, Cincinnati, Ohio, Court of Federal Claims No: 21–1940V
3. Anna Magagna, Ridgewood, New York, Court of Federal Claims No: 21–1943V
4. Linda Speelman, Lino Lakes, Minnesota, Court of Federal Claims No: 21–1944V
5. Elisha M. Price, Corbin, Kentucky, Court of Federal Claims No: 21–1945V
6. Alison Cooke, Norfolk, Virginia, Court of Federal Claims No: 21–1946V
7. Dean Hutchens, Yuma, Arizona, Court of Federal Claims No: 21–1947V
8. Michael Staffaroni,Trumbull, Connecticut, Court of Federal Claims No: 21–1951V
9. Omana Abraham, Boston, Massachusetts, Court of Federal Claims No: 21–1952V
10. Stephen Smith, Trevose, Pennsylvania, Court of Federal Claims No: 21–1953V
11. Richard Muto, Boston, Massachusetts, Court of Federal Claims No: 21–1954V
12. Ryan Carroll, Columbus, Ohio, Court of Federal Claims No: 21–1955V
13. Mikayla Elam, Chicago, Illinois, Court of Federal Claims No: 21–1956V
14. Daniel Wolfe, Bennington, Vermont, Court of Federal Claims No: 21–1957V
15. Sean Edward Mooney, Brentwood, Tennessee, Court of Federal Claims No: 21–1958V
16. Matthew Fogarty and Ashley Fogarty on behalf of A. F., Limerick, Pennsylvania, Court of Federal Claims No: 21–1959V
17. Eric Monte and Kimberly Monte on behalf of D. M., Spring, Texas, Court of Federal Claims No: 21–1960V
18. Julie Shiver, Luverne, Alabama, Court of Federal Claims No: 21–1961V
19. Corletta LaGrange, Indianapolis, Indiana, Court of Federal Claims No: 21–1962V
20. Megan Shipman, O'Fallon, Missouri, Court of Federal Claims No: 21–1963V
21. Gregory Orduno, San Luis Obispo, California, Court of Federal Claims No: 21–1964V
22. Katherine Huntoon, Plano, Texas, Court of Federal Claims No: 21–1965V
23. Marilyn Odessky, Montour Falls, New York, Court of Federal Claims No: 21–1967V
24. Raeanne Richter, Minneapolis, Minnesota, Court of Federal Claims No: 21–1969V
25. Jane Baker, Allenwood, Pennsylvania, Court of Federal Claims No: 21–1971V
26. Phil Soussan, Las Vegas, Nevada, Court of Federal Claims No: 21–1972V
27. Ruth Elverum, Des Moines, Iowa, Court

of Federal Claims No: 21–1973V
28. Aletia Bennett, Kingston, Washington, Court of Federal Claims No: 21–1975V
29. Frederick Sofen, Westland, Michigan, Court of Federal Claims No: 21–1976V
30. Michael Relucio, San Diego, California, Court of Federal Claims No: 21–1977V
31. Dale J. Gabor, Brecksville, Ohio, Court of Federal Claims No: 21–1979V
32. Tiffany Reitz, Clermont, Florida, Court of Federal Claims No: 21–1980V
33. David Lee Richard, Wytheville, Virginia, Court of Federal Claims No: 21–1981V
34. James Montgomery, Boston, Massachusetts, Court of Federal Claims No: 21–1983V
35. Jennifer Tutton, Granbury, Texas, Court of Federal Claims No: 21–1985V
36. Michael D. McDaniel, San Diego, California, Court of Federal Claims No: 21–1986V
37. Karyn Mason-Chavez, Scranton, Pennsylvania, Court of Federal Claims No: 21–1989V
38. Arlene F. Priest, Columbia, Missouri, Court of Federal Claims No: 21–1990V
39. Carla Schreiber on behalf of G. K. S., Texas City, Texas, Court of Federal Claims No: 21–1992V
40. Sherry L. Falsetta, Detroit, Michigan, Court of Federal Claims No: 21–1996V
41. Robert Jacobs, Clearwater, Florida, Court of Federal Claims No: 21–1997V
42. Peggy Tully, Ithaca, New York, Court of Federal Claims No: 21–1998V
43. Mary Young, Vandalia, Ohio, Court of Federal Claims No: 21–1999V
44. James Lew Thayer, Redmond, Washington, Court of Federal Claims No: 21–2000V
45. Martin Smith, De Land, Florida, Court of Federal Claims No: 21–2003V
46. Corissa Prescott, York, Pennsylvania, Court of Federal Claims No: 21–2005V
47. Alan Lien, Janesville, Wisconsin, Court of Federal Claims No: 21–2006V
48. Cindy Gaughan, Nashville, Tennessee, Court of Federal Claims No: 21–2007V
49. Beata Nacsa on behalf of A. C., Fairfield, Iowa, Court of Federal Claims No: 21–2008V
50. Carrie Berry, Bloomfield, Iowa, Court of Federal Claims No: 21–2009V
51. Cheryl Rolf on behalf of M. R., Phoenix, Arizona, Court of Federal Claims No: 21–2010V
52. Doris Ames, Spokane, Washington, Court of Federal Claims No: 21–2011V
53. Maryah Bethel, Canon City, Colorado, Court of Federal Claims No: 21–2013V
54. Teresa Knowles, Chehalis, Washington, Court of Federal Claims No: 21–2014V
55. Scott Quenneville, Boston, Massachusetts, Court of Federal Claims No: 21–2015V
56. Theresa Crowell on behalf of Estate of Ernestine Irene Allen, Deceased, Ontario, California, Court of Federal Claims No: 21–2017V
57. Rafael Garcia, San Antonio, Texas, Court of Federal Claims No: 21–2018V
58. Israel Tuchman on behalf of Estate of Ziva Tuchman, Deceased, Ocean Beach, New York, Court of Federal Claims No: 21–2019V
59. Kelley Patterson, Grand Rapids, Michigan, Court of Federal Claims No: 21–2020V
60. Tedros Wondimu, Quincy, Massachusetts, Court of Federal Claims No: 21–2022V
61. Ray Pierce, Rancho Mirage, California, Court of Federal Claims No: 21–2023V
62. Stacy Danforth, Geneva, Ohio, Court of Federal Claims No: 21–2025V
63. Jian Feng Yu, San Francisco, California, Court of Federal Claims No: 21–2026V
64. Drusilla Pearson, Tucson, Arizona, Court of Federal Claims No: 21–2027V
65. Jose Wilson Rojas Guzman, Chowchilla, California, Court of Federal Claims No: 21–2030V
66. Rachel Iospa on behalf of A. I., Staten Island, New York, Court of Federal Claims No: 21–2031V
67. Jerilyn Greenhaw, San Marcos, Texas, Court of Federal Claims No: 21–2032V
68. Wanda Anthony, Henderson, Nevada, Court of Federal Claims No: 21–2033V
69. Isam Suleiman on behalf of Shadeah Suleiman, Sugar Hill, Georgia, Court of Federal Claims No: 21–2034V
70. Julia McNally, Meriden, Connecticut, Court of Federal Claims No: 21–2037V
71. Summer Kulis, Westerville, Ohio, Court of Federal Claims No: 21–2038V
72. Michael Cohen, Anaheim, California, Court of Federal Claims No: 21–2039V
73. Zhuoyi Qiu, San Gabriel, California, Court of Federal Claims No: 21–2040V
74. Morgan Beal, Chicago, Illinois, Court of Federal Claims No: 21–2041V
75. Stephen Wickert, Canton, Illinois, Court of Federal Claims No: 21–2042V
76. Deborah Belker-Frechette, Chanhassen, Minnesota, Court of Federal Claims No: 21–2043V
77. Margaret Achanzar, Hamilton, New Jersey, Court of Federal Claims No: 21–2044V
78. Melanie Cliver, Burlington, New Jersey, Court of Federal Claims No: 21–2045V
79. Stephen Hickner, MD, Ann Arbor, Michigan, Court of Federal Claims No: 21–2046V
80. Sharon Diane Covert on behalf of the Estate Jack Covert, Deceased, Altoona, Pennsylvania, Court of Federal Claims No: 21–2047V
81. Julian San Pedro, New York, New York, Court of Federal Claims No: 21–2048V
82. Raizy Halberstam and Chaim Halberstam on behalf of R. M. H., Monsey, New York, Court of Federal Claims No: 21–2051V
83. Amy Moses on behalf of E. M., Farmington Hills, Michigan, Court of Federal Claims No: 21–2052V
84. Elizabeth Bedson, Peachtree City, Georgia, Court of Federal Claims No: 21–2053V
85. Michelle Edgerson-Briggs, Hammond, Louisiana, Court of Federal Claims No: 21–2054V
86. Julian Garcia, Carrollton, Texas, Court of Federal Claims No: 21–2056V
87. Michael P. Ohlsen, Great Falls, Montana, Court of Federal Claims No: 21–2058V
88. William Mallard, Fairfield Glade, Tennessee, Court of Federal Claims No: 21–2059V
89. Robert Stevens Condie, Dublin, California, Court of Federal Claims No: 21–2061V
90. Michele Trala, West Seneca, New York, Court of Federal Claims No: 21–2062V
91. Rebecca Mouyos, Mebane, North Carolina, Court of Federal Claims No: 21–2063V
92. Latiffa Sharpe, Keller, Texas, Court of Federal Claims No: 21–2064V
93. Altoya Felder-Deas, Sumter, South Carolina, Court of Federal Claims No: 21–2065V
94. Saundra Day, Dallas, Texas, Court of Federal Claims No: 21–2068V
95. Madonna Oliveria, Pineville, Louisiana, Court of Federal Claims No: 21–2070V
96. Kaitlyn King, Phoenix, Arizona, Court of Federal Claims No: 21–2071V
97. Carol Beck, Wauwatosa, Wisconsin, Court of Federal Claims No: 21–2072V
98. Kelsey Dobbs on behalf of S. S., Oklahoma City, Oklahoma, Court of Federal Claims No: 21–2073V
99. Wayne Waggener, Stedman, North Carolina, Court of Federal Claims No: 21–2074V
100. Joseph Scott VanCuren, Boston, Massachusetts, Court of Federal Claims No: 21–2075V
101. Randal S. Blank, M.D., Ph.D., Richmond, Virginia, Court of Federal Claims No: 21–2077V
102. Timothy Garrett, Gilbert, South Carolina, Court of Federal Claims No: 21–2078V
103. Gregory Fluharty, San Antonio, Texas, Court of Federal Claims No: 21–2080V
104. Katia Del Rio-Tsonis, Miamisburg, Ohio, Court of Federal Claims No: 21–2082V
105. Chester Tennyson, Boston, Massachusetts, Court of Federal Claims No: 21–2084V
106. Tiffin Johnson, Durango, Colorado, Court of Federal Claims No: 21–2085V
107. Morgan Fritz, Berea, Kentucky, Court of Federal Claims No: 21–2086V
108. Sandra Wood, St. Petersburg, Florida, Court of Federal Claims No: 21–2088V
109. John George, Dallas, Texas, Court of Federal Claims No: 21–2089V
110. Craig Davis, Greenfield, Wisconsin, Court of Federal Claims No: 21–2090V
111. Julie Eichner, Tarpon Springs, Florida, Court of Federal Claims No: 21–2091V
112. Roy Day, Vancouver, Washington, Court of Federal Claims No: 21–2092V
113. Alan E. Coker, Sudbury, Massachusetts, Court of Federal Claims No: 21–2093V
114. Richard Dean Haugan, Bainbridge Island, Washington, Court of Federal Claims No: 21–2095V
115. Kyle Kelly, North Brunswick, New Jersey, Court of Federal Claims No: 21–2096V
116. Dana Granville, Platteville, Wisconsin, Court of Federal Claims No: 21–2098V
117. Leonardo Alcala Huerta and Justyce Alcala on behalf of E. R. A., Yakima, Washington, Court of Federal Claims No: 21–2100V
118. Jency McClain and Whitney Brooks McClain on behalf of M. M., Phoenix, Arizona, Court of Federal Claims No: 21–2101V
119. James Brown, Richmond, Virginia, Court of Federal Claims No: 21–2102V

120. Natosha Dye on behalf of K. A., Chicago, Illinois, Court of Federal Claims No: 21–2103V
121. Alyona Foertsch, San Mateo, California, Court of Federal Claims No: 21–2105V
122. Michael Rosso on behalf of E. R., Robbinsville Township, New Jersey, Court of Federal Claims No: 21–2107V
123. Jerome Jao, San Diego, California, Court of Federal Claims No: 21–2109V
124. Meghan Waters, Lexington, Kentucky, Court of Federal Claims No: 21–2110V
125. Luz Aurora Vargas de Echavarria, Redlands, California, Court of Federal Claims No: 21–2111V
126. Michael Farrell, Roxbury, Connecticut, Court of Federal Claims No: 21–2112V
127. Marsha Kessler-Bradshaw, Indianapolis, Indiana, Court of Federal Claims No: 21–2114V

[FR Doc. 2021–25508 Filed 11–22–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Solicitation of Nominations for Membership To Serve on the National Advisory Council on Nurse Education and Practice

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Request for nominations.

SUMMARY: HRSA is seeking nominations of qualified candidates for consideration for appointment as members of the National Advisory Council on Nurse Education and Practice (NACNEP) or Advisory Council. NACNEP provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other matters of significance concerning the activities under Title VIII of the Public Health Service (PHS) Act, as amended. NACNEP also prepares and submits an annual report to the Secretary and Congress describing its activities, including NACNEP's findings and recommendations concerning activities under Title VIII, as required by the PHS Act. HRSA is seeking nominations of qualified candidates to fill positions on NACNEP as they become available.

Authority: NACNEP is authorized by section 851 of the PHS Act (42 U.S.C. 297t), as amended. The Federal Advisory Committee Act of 1972 (5 U.S.C. App.), as amended, which sets forth standards for the formation and use of advisory committees, shall apply to the Advisory Council under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.

DATES: Written nominations for membership on NACNEP will be accepted on a continuous basis.

ADDRESSES: Nomination packages may be submitted electronically by email to *BHWAdvisoryCouncil@hrsa.gov.* Nomination packages may also be submitted by mail addressed to Advisory Council Operations, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15W10, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Camillus Ezeike, Ph.D., JD, LLM, RN, PMP, RAC, Designated Federal Officer, NACNEP, by phone at (301) 443–2866, or by email at *BHWNACNEP@hrsa.gov.* A copy of the NACNEP charter and a list of the current membership may be obtained by accessing the NACNEP website at *https://www.hrsa.gov/advisory-committees/nursing/index.html.*

SUPPLEMENTARY INFORMATION: NACNEP advises and makes recommendations to the Secretary and Congress on policy matters arising in the administration of Title VIII of the PHS, including the range of issues relating to the nurse workforce, nursing education, and nursing practice improvement, as a means of enhancing the health of the public through the development of the nurse workforce. NACNEP meets at least twice each calendar year, or may meet more frequently at the discretion of the Designated Federal Officer in consultation with the Chair.

Nominations: HRSA is requesting nominations for voting members to serve as Special Government Employees (SGEs) on NACNEP to fill open positions. The Secretary appoints NACNEP members with the expertise needed to fulfill the duties of the Advisory Council. The membership requirements are set forth at section 851(b) of Title VIII of the PHS Act, as amended.

Nominees sought are individuals representing leading authorities in the various fields of nursing, higher and secondary education, and associate degree schools of nursing; representatives of advanced education nursing groups (such as nurse practitioners, nurse midwives, clinical nurse specialists, and nurse anesthetists); hospitals and other institutions and organizations which provide nursing services; practicing professional nurses; the general public; and full-time students enrolled in schools of nursing. In making such appointments, the Secretary shall ensure a fair balance between the nursing specialties, a broad geographic representation of members, and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved. As required by PHS Act section 851(b)(3), the Secretary shall ensure the adequate representation of minorities, including: Hispanics/Latinos, African Americans, American Indians/Alaska Natives, and Asian Americans and Pacific Islanders. HRSA is particularly interested in seeking nominations from individuals who can represent these and other minority or underrepresented groups in the nursing profession, including but not limited to: Male nursing students and professionals; persons with disabilities; and lesbian, gay, bisexual, transgender, and queer persons.

The majority of the NACNEP members shall be nurses. Interested applicants may self-nominate or be nominated by another individual or organization.

Individuals selected for appointment to the Advisory Council will be invited to serve a term of 4 years. Members appointed as SGEs receive a stipend and reimbursement for per diem and travel expenses incurred for attending NACNEP meetings and/or conducting other business on behalf of the NACNEP, as authorized by 5 U.S.C. 5703 for persons employed intermittently in government service.

The following information must be included in the package of materials submitted for each individual nominated for consideration: (1) A letter of nomination from an employer, a colleague, or a professional organization stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.,* what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of NACNEP, and the nominee's field(s) of expertise); (2) A letter of interest from the nominee stating the reasons they would like to serve on NACNEP; (3) A biographical sketch of the nominee, a copy of their curriculum vitae, and their contact information (address, daytime telephone number, and email address); and (4) The name, address, daytime telephone number, and email address at which the nominator can be contacted. Nomination packages may be submitted directly by the individual being nominated or by the person/organization recommending the candidate.

HHS endeavors to ensure that the membership of NACNEP is fairly balanced in terms of points of view represented and that individuals from a broad representation of geographic

areas, gender, and ethnic and minority groups, as well as individuals with disabilities, are considered for membership. Appointments shall be made without discrimination on the basis of age, ethnicity, gender, sexual orientation, or cultural, religious, or socioeconomic status.

Individuals who are selected to be considered for appointment will be required to provide detailed information regarding their financial holdings, consultancies, and research grants or contracts. Disclosure of this information is required in order for HRSA ethics officials to determine whether there is a potential conflict of interest between the SGE's public duties as a member of the NACNEP and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations, and to identify any required remedial action needed to address the potential conflict.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–25516 Filed 11–22–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI T32 Institutional Training Grants II.

Date: December 14, 2021.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892 (Virtual Meeting),

Contact Person: Ashley Fortress, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Eye Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892, (301) 451–2020, *ashley.fortress@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: November 17, 2021.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–25465 Filed 11–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Clinical Trials.

Date: December 3, 2021.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–21–023 Short-Term Research Experience Program to Unlock Potential (STEP-UP).

Date: December 17, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Video Meeting).

Contact Person: John F. Connaughton, Ph.D., Chief, Scientific Review Branch, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7007, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 17, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–25518 Filed 11–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Coordinating Center for SCLC Consortium.

Date: December 10, 2021.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W530, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shamala K. Srinivas, Ph.D., Associate Director, Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W530, Rockville, Maryland, 240–276–6442, *ss537t@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention

Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 18, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–25553 Filed 11–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council, November 23, 2021, 11:30 a.m. to November 23, 2021, 12:30 p.m., National Institutes of Health, 6707, Two Democracy Plaza, Bethesda, MD 20892, which was published in the **Federal Register** on November 12, 2021, 62834.

Agenda Item Added: Concept Clearance, 12:00 p.m.–12:30 p.m. The meeting is open to the public.

Dated: November 17, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–25519 Filed 11–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Research Utilizing the PLCO Biospecimens.

Date: December 16, 2021.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W124, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Eun Ah Cho, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W124, Rockville, Maryland 20850, 240–276–6342, *choe@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Transition Career Development Award (K22) and Institutional Training and Education (NCI–F).

Date: January 18, 2022.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850, 240–276–6368, *Stoicaa2@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review I.

Date: February 8–9, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: John Paul Cairns, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 301–461–0303, *paul.cairns@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review IV.

Date: February 15, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W508, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Wlodek Lopaczynski, M.D., Ph.D., Assistant Director, Office of the Director, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W508, Rockville, Maryland 20850, 240–276–6340, *lopacw@mail.nih.gov*.

Name of Committee: National Cancer Institute Initial Review Group; Transition to Independence Study Section (I).

Date: February 16–17, 2022.

Time: 11:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Delia Tang, M.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850, 240–276–6456, *tangd@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Canine Cancer Immunotherapy Network (U01 and U24).

Date: February 17, 2022.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W110, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Caterina Bianco, M.D., Ph.D., Chief, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Rockville, Maryland 20850, 240–276–6459, *biancoc@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review II.

Date: February 22–23, 2022.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W116, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Klaus B. Piontek, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Rockville, Maryland 20850, 240–276–5413, *klaus.piontek@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review III.

Date: February 23–24, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–276–5085, *tandlea@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) Review I.

Date: February 23–24, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W618, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W618, Rockville, Maryland 20850, 240–276–6611, *mukesh.kumar3@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) Review II.

Date: February 24–25, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W634, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Michael E. Lindquist, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W634, Rockville, Maryland 20850, 240–276–5735, *mike.lindquist@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) Review III.

Date: March 9–10, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W120, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W120, Rockville, Maryland 20850, 240–276–6457, *mh101v@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 18, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–25556 Filed 11–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Customs Broker Permit User Fee Payment for 2022

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document provides notice to customs brokers that the annual user fee that is assessed for each permit held by a broker, whether it may be an individual, partnership, association, or corporation, is due by January 31, 2022. Pursuant to fee adjustments required by the Fixing America's Surface Transportation Act (FAST ACT) and U.S. Customs and Border Protection (CBP) regulations, the annual user fee payable for calendar year 2022 will be $153.19.

DATES: Payment of the 2022 Customs Broker Permit User Fee is due by January 31, 2022.

FOR FURTHER INFORMATION CONTACT: Melba Hubbard, Broker Management Branch, Office of Trade, (202) 325–6986, or *melba.hubbard@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 111.96 of title 19 of the Code of Federal Regulations (19 CFR 111.96(c)), U.S. Customs and Border Protection (CBP) assesses an annual user fee for each customs broker district and national permit held by an individual, partnership, association, or corporation. CBP regulations provide that this fee is payable for each calendar year in each broker district where the broker was issued a permit to do business by the due date. *See* 19 CFR 24.22(h) and (i)(9). Broker districts are defined in the General Notice entitled, ''Geographic Boundaries of Customs Brokerage, Cartage and Lighterage Districts,'' published in the **Federal Register** on March 15, 2000 (65 FR 14011), and corrected, with minor changes, on March 23, 2000 (65 FR 15686) and on April 6, 2000 (65 FR 18151).

Sections 24.22 and 24.23 of title 19 of the CFR (19 CFR 24.22 and 24.23) provide for and describe the procedures that implement the requirements of the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94, December 4, 2015). Specifically, paragraph (k) in section 24.22 (19 CFR 24.22(k)) sets forth the methodology to determine the change in inflation as well as the factor by which the fees and limitations will be adjusted, if necessary. The customs broker permit user fee is set forth in Appendix A of part 24. (19 CFR 24.22 Appendix A.) On July 29, 2021, CBP published a **Federal Register** notice, CBP Dec. 21–12, which among other things, announced that the annual customs broker permit user fee would increase to $153.19 for calendar year 2022. *See* 86 FR 40864.

As required by 19 CFR 111.96 and 24.22, CBP must provide notice in the **Federal Register** no later than 60 days before the date that the payment is due for each broker permit. This document notifies customs brokers that for calendar year 2022, the due date for payment of the user fee is January 31, 2022.

AnnMarie R. Highsmith,

Executive Assistant Commissioner, Office of Trade.

[FR Doc. 2021–25536 Filed 11–22–21; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0029]

Application for Foreign-Trade Zone Admission and/or Status Designation, and Application for Foreign-Trade Zone Activity Permit

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than January 24, 2022) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0029 in the subject line and the agency name. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov.*

Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, telephone number 202–325–0056, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (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, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions 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, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application for Foreign-Trade Zone Admission and/or Status Designation, and Application for Foreign-Trade Zone Activity Permit.

OMB Number: 1651–0029.

Form Number: 214, 214A, 214B, 214C, and 216.

Current Actions: Extension without change.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: Foreign trade zones (FTZs) are geographical enclaves located within the geographical limits of the United States but for tariff purposes are considered to be outside the United States. Imported merchandise may be brought into FTZs for storage, manipulation, manufacture, or other processing and subsequent removal for exportation, consumption in the United States, or destruction. A company bringing goods into an FTZ has a choice of zone status (privileged/non-privileged foreign, domestic, or zone-restricted), which affects the way such goods are treated by Customs and Border Protection (CBP) and treated for tariff purposes upon entry into the customs territory of the United States.

CBP Forms 214, 214A, 214B, and 214C, which make up the *Application for Foreign-Trade Zone Admission and/or Status Designation,* are used by companies that bring merchandise, except in certain circumstances including, but not limited to, domestic status merchandise, into an FTZ to register the admission of such merchandise into FTZs and to apply for the appropriate zone status. Form 214A is not filled out separately by respondents; it is simply a copy of Form 214 that CBP gives to the Census Bureau. Form 214B is a continuation sheet for Form 214 that respondents use when they need more room to add line items to the form. Form 214C is a continuation sheet for Form 214A that respondents use when they need more room to add line items to the form.

CBP Form 216, *Foreign-Trade Zone Activity Permit,* is used by companies to request approval to manipulate, manufacture, exhibit, or destroy merchandise in an FTZ.

These FTZ forms are authorized by 19 U.S.C. 81 and provided for by 19 CFR 146.22, 146.32, 146.35, 146.36, 146.37, 146.39, 146.40, 146.41, 146.44, 146.52, 146.53, and 146.66. These forms are accessible at: *http://www.cbp.gov/newsroom/publications/forms.*

This collection of information applies to the importing and trade community who are familiar with import procedures and with CBP regulations.

Type of Information Collection: Form 214.

Estimated Number of Respondents: 6,749.

Estimated Number of Annual Responses per Respondent: 25.

Estimated Number of Total Annual Responses: 168,725.

Estimated Time per Response: 15 minutes (0.25 hours).

Estimated Total Annual Burden Hours: 42,181.

Type of Information Collection: Form 216.

Estimated Number of Respondents: 2,500.

Estimated Number of Annual Responses per Respondent: 10.

Estimated Number of Total Annual Responses: 25,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,167.

Dated: November 18, 2021.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2021–25554 Filed 11–22–21; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6268–N–02]

Notice of Regulatory Waiver Requests Granted for the Second Quarter of Calendar Year 2021

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on April 1, 2021 and ending on June 30, 2021.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW, Room 10282, Washington, DC 20410–0500, telephone 202–708–5300 (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.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person

whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the second quarter of calendar year 2021.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from April 1, 2021 through June 30, 2021. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the second quarter of calendar year 2021) before the next report is published (the third quarter of calendar year 2021), HUD will include any additional waivers granted for the second quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Damon Smith,

General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development April 1, 2021 Through June 30, 2021

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development
II. Regulatory waivers granted by the Office of Housing

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 91.105(b)(4), (c)(2), and (k); 24 CFR 91.115(b)(4), (c)(2), and (i); and 24 CFR 91.401.

Project/Activity: Any HUD Community Planning and Development (CPD) grantee in the preparation of their FY 2021 Consolidated Plan or Annual Action Plan and FY 2021 Plan substantial amendments, through August 16, 2021.

Nature of Requirement: The regulations at 24 CFR 91.105(b)(4), (c)(2) and (k); 24 CFR 91.115(b)(4), (c)(2), and (i); and 24 CFR 91.401 require a 30-day public comment period in the development of a consolidated plan and prior to the implementation of a substantial amendment.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: May 12, 2021.

Reason Waived: There was an error in the announced FY 2021 CDBG formula allocations, causing all CDBG grants, except Insular Area grants, to be less than what should have been allocated by formula. This error was corrected, and updated CDBG FY 2021 allocations were posted and transmitted to grantees. To expedite grantees' ability to incorporate the increase in funding caused by the FY 2021 allocation error, HUD waived the regulations at 24 CFR 91.105(b)(4), (c)(2) and (k); 24 CFR 91.115(b)(4), (c)(2), and (i); and 24 CFR 91.401 and reduced the public comment period for grantees preparing FY 2021 plans and amendments from 30 days to no less than three days.

Contact: James E. Höemann, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–5716.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: The New Hampshire Housing Finance Agency requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by the local public housing agency (PHA) for three HOME-assisted projects—Arthur H. Nickless Jr. Housing for the Elderly, Conway Pines II, and Friars Court I.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions (PJs) to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: April 15, 2021.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of

Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 402–4606.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements,

Project/Activity: The Cities of Los Angeles and Salinas and Los Angeles County, California requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by the local public housing agency (PHA) for three HOME-assisted projects—Haciendas Phase III, Firestone Phoenix, and Winnetka Senior Apartments.

Nature of requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: April 30, 2021.

Reason Waived: The HOME requirements for establishing utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 402–4606.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: The State of California, San Luis Obispo County, and the City of Irvine California requested a waiver of 24 CFR 92.252(d)(1) to allow use of the utility allowance established by the local public housing agency (PHA) for three HOME-assisted projects—Sango Court, Oak Park 3, and Salemo Apartments.

Nature of requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 1, 2021.

Reason Waived: The HOME requirements for establishing utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, U.S. Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 402–4606.

• *Regulation:* 24 CFR 92.500(d)(2)(i)(C) Program Expenditure Deadline.

Project/Activity: The City of Baton Rouge, Louisiana requested a waiver of 24 CFR 92.500(d)(2)(i)(C) to waive the requirement to expend its annual allocation of HOME funds within five years for Fiscal Year (FY) 2014.

Nature of Requirement: The regulation at 24 CFR 92.500(d)(2)(i)(C) requires participating jurisdictions to expend its annual allocation of HOME funds within five years after HUD notifies the PJ that it has executed the jurisdiction's HOME Investment Partnerships Agreement. Any HOME funds unexpended by the PJ's five-year expenditure deadline are required to be deobligated by HUD.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: April 20, 2021.

Reason Waived: On August 14, 2016, President Barack Obama issued a major disaster declaration for the State of Louisiana as the result of severe storms and flooding. Construction timelines increased due to the number and severity of damaged housing stock. The Department has determined that a waiver of the City's FY 2014 HOME expenditure requirement is justified based on the construction delays caused by the severe storms and flooding.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 402–4606.

• *Regulation:* 24 CFR 92.2, 24 CFR 93.2, 24 CFR 92.504(d)(1)(i), and 24 CFR 93.404(d)(1) Project Completion and Inspection Requirements.

Project/Activity: The Minnesota Housing Finance Agency (MHFA) requested waivers of 24 CFR 92.2, 24 CFR 93.2, 24 CFR 92.504(d)(1)(i), and 24 CFR 93.404(d)(1) to waive the HOME Program and Housing Trust Fund regulations defining ''project completion'' at 24 CFR 92.2 and 93.2 and requiring onsite inspections at project completion at 24 CFR 92.504(d)(1)(i) and 93.404(d)(1) for three projects—White Oaks Estates (HOME and HTF), Dublin Apartments (HOME), and Park 7 Apartments (HTF).

Nature of Requirement: The regulations at 24 CFR 92.2 and 92.3 require that the project meet the HOME or HTF property standards requirements, as applicable, to meet the definition of ''project completion.'' In addition, the regulation at 24 CFR 92.504(d)(1)(i) requires participating jurisdictions to inspect each HOME-assisted project at project completion to determine that the project meets the property standards of 24 CFR 92.251. The regulation at 24 CFR 93.404(d)(1) requires that HTF grantees perform onsite inspections of each HTF-assisted project at project completion to determine that the housing meets the property standards of 24 CFR 93.301.

Granted By: James Arthur Jemison II, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 9, 2021.

Reason Waived: The MHFA Commissioner issued an order on December 9, 2020, suspending all site visits involving physical inspections by MHFA staff within any part of occupied properties. The Commissioner's order responded to the COVID–19 pandemic and implemented Governor Tim Walz's Emergency Executive Order 20–99, which required work from home whenever possible and strongly discouraged any business or personal travel. In its waiver request, MHFA indicated it will conduct the delayed onsite inspections within 90 days of the resumption of staff ability to complete onsite inspections.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 402–4606.

• *Regulations:* 24 CFR 574.310(b)(2).

Project/Activity: Property Standards for HOPWA.

Nature of Requirement: This section of the HOPWA regulations provides minimum housing quality standards that apply to all housing for which HOPWA funds are used for acquisition, rehabilitation, conversion, lease, or repair; new construction of single room occupancy dwellings and community residences; project or tenant-based rental assistance; or operating costs under 24 CFR 574.300(b)(3), (4), (5), or (8).

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: On March 31, 2020 HUD waived the physical inspection requirement for tenant-based rental assistance at 24 CFR 574.310(b) for one year. On May 22, 2020 HUD waived the physical inspection requirement for acquisition, rehabilitation, conversion, lease, or repair; new construction of single room occupancy dwellings and community residences; project or tenant-based rental assistance; or operating costs for one year. On March 31, 2021, HUD again waived this requirement for all applicable housing types until June 30, 2021. HUD determined that while many social distancing measures that were making it difficult to conduct unit inspections are being lifted, it continues to be important to move people quickly into their own housing to enable social distancing and prevent the spread of COVID–19. Additionally, HUD recognized that grantees and project sponsors needed time to prepare staff to physically inspect units for HQS. Therefore, HUD extended the waiver until September 30, 2021.

Applicability: This waiver is in effect until September 30, 2021 for grantees and project sponsors that can meet the following criteria:

1. The grantee or project sponsor can visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and

2. The grantee or project sponsor has written policies to physically reinspect the units not previously physically inspected by December 31, 2021.

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.320(a)(2).

Project/Activity: FMR Rent Standard for HOPWA Rental Assistance.

Nature of Requirement: Grantees must establish rent standards for their rental assistance programs based on FMR (Fair Market Rent) or the HUD-approved community-wide exception rent for unit size.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived the FMR rent standard requirement for tenant-based rental assistance for one year on March 31, 2020. On May 22, 2020 HUD waived this requirement for one year for all rental assistance types. On March 31, 2021, HUD again waived this requirement for all rental assistance types until June 30, 2021. HUD determined that extending this waiver of the FMR rent standard limit, while still requiring that the unit be rent reasonable in accordance with § 574.320(a)(3), will assist grantees and project sponsors in locating additional units to house low-income people living with HIV in tight rental markets and reduce the spread and harm of COVID–19.

Applicability: The FMR requirement continues to be waived until December 31, 2021. Grantees and project sponsors must still ensure the reasonableness of rent charged for a unit in accordance with § 574.320(a)(3).

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.330(a)(1).

Project/Activity: Time Limits for Short-Term Supported Housing.

Nature of Requirement: A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six-month period. Short-Term Rent, Mortgage, and Utility (STRMU) payments to prevent the homelessness of the tenant or mortgagor of a dwelling may not be provided for costs accruing over a period of more than 21 weeks in any 52-week period.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived this requirement on May 22, 2020 to prevent homelessness or discharge to unstable housing situations for households residing in short-term housing facilities or units assisted with STRMU if permanent housing could not be achieved within the time limits specified in the regulation. HUD again waived this requirement on March 31, 2021 until June 30, 2021. Because grantees and project sponsors continue to report that households require longer periods of assistance due to financial and health-related hardships stemming from the COVID–19 pandemic, HUD Extended this waiver until December 31, 2021, to help prevent households from becoming homeless due to the economic impacts of COVID–19.

Applicability: This waiver is made available for all HOPWA grants except those covered by Notice CPD–20–05, which provides special flexibility as authorized by the CARES Act for grants funded under the CARES Act and for the portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID–19 pandemic as described in section V. of Notice CPD–20–05.

On an individual household basis, grantees or project sponsors may assist eligible households for a period that exceeds the time limits specified in the regulations. A short-term supported housing facility may provide residence to any individual for a period of up to 120 days in a six-month period. STRMU payments to prevent the homelessness of the tenant or mortgagor of a dwelling may be provided for costs accruing up to 52 weeks in a 52-week period.

This waiver is in effect until December 31, 2021 for grantees and project sponsors that can meet the following criteria:

1. The grantee or project sponsor documents that a good faith effort has been made on an individual household basis to assist the household to achieve permanent housing within the time limits specified in the regulations but that financial needs and/or health and safety concerns have prevented the household from doing so; and

2. The grantee or project sponsor has written policies and procedures outlining efforts to regularly reassess the needs of assisted households as well as processes for granting extensions based on documented financial needs and/or health and safety concerns.

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulations:* 24 CFR 574.530.

Project/Activity: Source Documentation for Income and HIV Status Determinations.

Nature of Requirement: Each grantee must maintain records to document compliance with HOPWA requirements, which includes determining the eligibility of a family to receive HOPWA assistance.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived the requirement for source documentation of income and HIV status on March 31, 2020 for grantees that require written certification of the household seeking assistance of their HIV status and income, and agree to obtain source documentation of HIV status and income eligibility within 3 months of public health officials determining no additional special measures are necessary to prevent the spread of COVID–19. HUD recognized that while public health measures were lifting in many areas of the country, grantees were reporting that obtaining documentation still takes longer than usual because of reduced staffing and hours of agencies and providers that can provide the documentation during COVID–19. Additionally, HUD recognized that grantees needed time to prepare staff and to re-adjust policies and procedures to obtain source income of HIV status and income. Therefore, HUD is continuing this waiver flexibility and is establishing an end date of September 30, 2021.

Applicability: This waiver is in effect for grantees who require written certification of the household seeking assistance of their HIV status and income and agree to obtain source documentation of HIV status and income eligibility by September 30, 2021.

Contact: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–5916. *amy.l.palilonis@hud.gov.*

• *Regulation:* 24 CFR 578.103(a)(7)(iv).

Project/Activity: 24 CFR 578.103(a)(7) requires the recipient or subrecipient to keep records of the program participant's income and the back-up documentation they relied on to determine income. The regulation establishes an order of preference for the type of documentation that recipients can rely upon. Only if source documents and third-party verification are unobtainable is a written certification from the program participant acceptable documentation of income. HUD is waiving ''To the extent that source documents and third-party verification are unobtainable'' in 578.103(a)(7)(iv).

Nature of Requirement: Where a program participant pays rent or an occupancy charge in accordance with 24 CFR 578.77, 24 CFR 578.103(a)(7) requires recipients and subrecipients to keep on file an income evaluation form specified by HUD along with one of the following types of back-up documentation: (1) Source documents for the assets held by the program participant and income received before the date of the evaluation; (2) to the extent that source documents are unobtainable, a written statement by the relevant third party or the written certification of the recipient's or subrecipient's intake staff of the relevant third party's oral verification of the income the program participant received over the most recent period; or (3) to the extent that source documents and third-party verification are unobtainable, the program participant's own written certification of income that the program participant is

reasonably expected to receive over the 3-month period following the evaluation.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: On September 30, 2020, HUD waived the requirement to attempt to document that third-party verification of income was unobtainable in order for recipients and subrecipients to permit a program participant's own self-certification of income until December 31, 2020 because that documentation may be difficult to obtain as a result of COVID–19 pandemic and housing program participants quickly was important to prevent the spread of COVID–19. On December 30, 2020, HUD extended this waiver to March 31, 2021. On March 31, 2021, HUD extended this waiver to June 30, 2021. It continues to be important to move people into their own housing quickly to enable social distancing and prevent the spread of COVID–19. Additionally, recipients need time to prepare staff and to re-adjust policies and procedures to obtain third-party documentation of income as a first order of priority. Therefore, HUD is waiving the requirement that source documents and third-party documentation be unobtainable in order for recipients or subrecipients to rely on a program participant's own certification of their income.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.403(c).

Project/Activity: HUD granted a waiver of 24 CFR 576.403(c) in Notice CPD–21–05: Waiver and Alternative Requirements for the Emergency Solutions Grants (ESG) Program Under the CARES Act (April 14, 2021). HUD waived 24 CFR 576.403(c) for recipients who choose to serve individuals and families made eligible for RRH assistance in Section III.1 of CPD Notice 21–05 to the extent necessary to permit the ESG recipient or subrecipient to provide rental assistance and housing relocation and stabilization services without first inspecting the unit so long as:

a. The recipient or subrecipient maintains documentation showing the prior rental assistance provider determined that the housing meets: i. The habitability standards established at 24 CFR 576.403(c); or ii. Housing Quality Standards (HQS) established at 24 CFR 982.401; or

b. The recipient or subrecipient provides no more than 90 days of RRH assistance to the program participant; or

c. The recipient or subrecipient conducts an inspection within the first 90 days and determines the housing meets the habitability standards established at 24 CFR 576.403(c) or the HQS established at 24 CFR 982.401.

Nature of Requirement: Recipients or subrecipients cannot use ESG funds to help program participants remain in or move into housing that does not meet minimum habitability standards provided at 24 CFR 576.403(c).

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: April 14, 2021.

Reason Waived: The habitability standards established at 24 CFR 576.403(c) are meant to ensure that program participants are residing in housing that is safe and sanitary. Accepting the housing inspection reports of previous rental assistance providers as evidence and allowing up to 90 days to conduct initial inspections to determine the housing is safe and sanitary will allow recipients and subrecipients to provide rental assistance and housing relocation and stabilization services to households that qualify for RRH 6 assistance in Section III.1 of CPD Notice 21–05 without a gap between their prior assistance and ESG funded RRH assistance while still ensuring their housing is safe and sanitary. This will help maintain positive relationships with landlords while helping program participants maintain housing during the public health crisis and subsequent economic downturn. This will reduce the spread and harm of COVID–19 by enabling affected households to continue to socially distance, isolate, or quarantine in their housing.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.75(b)(1).

Project/Activity: This waiver of the requirement in 24 CFR 578.75(b)(1) that the recipient or subrecipient physically inspect each unit to assure that the unit meets HQS before providing assistance on behalf of a program participant is in effect until September 30, 2021 for recipients and subrecipients that are able to meet the following criteria:

a. The owner certifies that they have no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question; and

b. The recipient or subrecipient has written policies to physically inspect the units not previously physically inspected by December 31, 2021.

Nature of Requirement: Recipients are required to physically inspect any unit supported with leasing or rental assistance funds to assure that the unit meets the housing quality standards (HQS) before any assistance will be provided on behalf of a program participant.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: On March 31, 2020, HUD waived the physical inspection requirement at 24 CFR 578.75(b)(1) for 6-months so long as recipients or subrecipients were able to visually inspect the unit using technology to ensure the unit met HQS before any assistance was provided and recipients or subrecipients had written policies in place to physically reinspect the unit within 3 months after the health officials determined special measures to prevent the spread of COVID–19 are no longer necessary. On September 30, 2020, HUD waived the physical inspection requirement at 24 CFR 578.75(b)(1) until December 31, 2020, which HUD then extended until March 31, 2021, so long as recipients and subrecipients could meet certain criteria outlined in the waiver. HUD again extended the waiver on March 31, 2021 until June 30, 2021, so long as recipients and subrecipients could meet the criteria outlined in the waiver. It continues to be important to move people quickly into their own housing to enable social distancing and prevent the spread of COVID–19. Additionally, recipients need time to prepare staff to inspect (and re-inspect as discussed below) units for HQS. Therefore, HUD is waiving the initial inspection requirement at 24 CFR 578.75(b)(1) as further specified below to allow recipients to move people from the streets and shelters into housing more quickly, which enables social distancing, and helps prevent the spread of COVID–19.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.75(c) and 24 CFR 982.401(d)(2)(ii) as required by 24 CFR 578.75(b).

Project/Activity: The requirement that each unit assisted with CoC Program funds or YHDP funds have at least one bedroom or living/sleeping room for each two persons is waived for recipients providing Permanent Housing-Rapid Re-housing assistance for leases and occupancy agreements executed by recipients and subrecipients between the date of HUD's memorandum and December 31, 2021. Assisted units with leases of occupancy agreements signed during the waiver period may have more than two persons for each bedroom or living/sleeping room until the later of (1) the end of the initial term of the lease or occupancy agreement; or (2) December 31, 2021. As a reminder, recipients are still required to follow State and local occupancy laws.

Nature of Requirement: 24 CFR 578.75(c), suitable dwelling size, and 24 CFR 982.401(d)(2)(ii) as required by 24 CFR 578.75(b), Housing Quality Standards, requires units funded with CoC Program funds to have at least one bedroom or living/sleeping room for each two persons.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: On September 30, 2020, HUD waived the requirements at 24 CFR 982.401(d)(2)(ii) and 24 CFR 578.75(c) to allow households experiencing homelessness to obtain permanent housing that is affordable and that they assess is adequate. HUD extended these flexibilities on December 30, 2020 to the later of (1) the end of the initial term of the lease or occupancy agreement; or (2) March 31, 2021. HUD again extended these flexibilities on March 31, 2021, to the later of (1) the end of the initial term of the lease or occupancy agreement; or

(2) June 30, 2021. Recipients continue to report that households experiencing homelessness remain unable to afford the limited supply of affordable housing in many jurisdictions across the country and this has been made even more challenging due to the economic impact of COVID–19. HUD is waiving the requirements at 24 CFR 982.401(d)(2)(ii) and 24 CFR 578.75(c) as further specified below to reduce the spread of COVID–19 by allowing households to move into housing instead of staying in congregate shelter. Consistent with the *Executive Order on Fighting the Spread of COVID–19 by Providing Assistance to Renters and Homeowners,* grantees should balance use of this waiver with the recommendations of public health officials to limit community spread and reduce risks to high-risk populations. For example, a large unit with rooms than can be partitioned for privacy and distancing, or the waiver can be applied for units that will house only one family household.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.33(c).

Project/Activity: The requirement that the renewal grant amount be based on the budget line items in the final year of the grant being renewed is further waived for all projects that amend their grant agreements to move funds between budget line items in a project in response to the COVID–19 pandemic between the date of HUD's memorandum and December 31, 2021. Recipients may then apply in the next FY CoC Program funding cycle based on the budget line items in the grants before they were amended.

Nature of Requirement: 24 CFR 578.33(c) requires that budget line item amounts a recipient is awarded for renewal in the CoC Program Competition will be based on the amounts in the final year of the prior funding period of the project.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021

Reason Waived: HUD originally waived this requirement for grant agreement amendments signed between March 31, 2020 and October 1, 2020 to allow recipients to move funds between budget line items in a project in response to the COVID–19 pandemic and still apply for renewal in the next FY CoC Program funding cycle based on the budget line items in the grants before they were amended. HUD again waived this requirement for all grant agreements signed from October 1, 2020 until December 31, 2020. HUD again waived this requirement for all grants signed between December 30, 2020 and March 31, 2021. HUD again waived this requirement for all grant agreements signed from March 31, 2021 until June 30, 2021. Recipients continue to report needing to shift budget line items to respond to the COVID–19 pandemic (*e.g.,* providing different supportive services necessitated by the pandemic and the economic impacts created by the pandemic or serving fewer people because the layout of the housing does not meet local social distancing recommendations) without changing the original design of the project when it is not operating in a public health crisis and can resume normal operations.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.37(a)(1)(ii)(F).

Project/Activity: The requirement in 24 CFR 578.37(a)(1)(ii)(F) that projects require program participants to meet with case managers not less than once per month is waived for all permanent housing- rapid re-housing projects until September 30, 2021.

Nature of Requirement: The CoC Program interim rule at 24 CFR 578.37(a)(1)(ii)(F) requires program participants to meet with a case manager not less than once per month to assist them in ensuring long-term housing stability. The project is exempt from this requirement already if the Violence Against Women Act of 1994 or Family Violence Prevention and Services Act prohibits the recipient carrying out the project from making its shelter or housing conditional on the participant's acceptance of services.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived this requirement for 2-months on March 31, 2020. On May 22, 2020 HUD again waived this requirement for an additional 3 months and on September 30, 2020 HUD once again waived this requirement until December 31, 2020. On December 30, 2020, HUD again waived this requirement until March 31, 2021. On March 31, 2021, HUD again waived this requirement until June 30, 2021. While many social distancing measures that were making it difficult to conduct the monthly case management are being lifted, recipients need time to prepare staff to provide monthly case management in accordance with the regulatory requirement. Waiving the monthly case management requirement as specified below will allow recipients time to shift back to providing case management on a monthly basis instead of on an as-needed basis.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.49(b)(2).

Project/Activity: The CoC Program regulation at 24 CFR 578.49(b)(2) prohibits a recipient from using grant funds for leasing to pay above FMR when leasing individual units, even if the rent is reasonable when compared to other similar, unassisted units.

Nature of Requirement: The FMR restriction continues to be waived for any lease executed by a recipient or subrecipient to provide transitional or permanent supportive housing until December 31, 2021. The affected recipient or subrecipient must still ensure that rent paid for individual units that are leased with leasing dollars meet the rent reasonableness standard in 24 CFR 578.49(b)(2).

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived this requirement for 6-months on March 31, 2020. On September 30, 2020 HUD again waived this requirement until December 31, 2020. On December 30, 2020, HUD again waived this requirement until March 31, 2021. On March 31, 2021, HUD again waived this requirement until June 30, 2021. Extending this waiver of the limit on using grant leasing funds to pay above FMR for individual units, but not greater than reasonable rent, will assist recipients in locating additional units to house individuals and families experiencing homelessness in tight rental markets and reduce the spread and harm of COVID–19.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.3, definition of permanent housing, 24 CFR 578.51(l)(1).

Project/Activity: The one-year lease requirement is waived for leases executed between the date of HUD's memorandum and December 31, 2021, so long as the initial term of all leases is at least one month.

Nature of Requirement: The CoC Program regulation at 24 CFR 578.3, definition of permanent housing, and 24 CFR 578.51(l)(1) requires program participants residing in permanent housing to be the tenant on a lease for a term of one year that is renewable and terminable for cause.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived this requirement for 6-months on March 31, 2020, again until December 31, 2020 on September 30, 2020, again until March 31, 2021 on December 30, 2020, and again on March 31, 2021 until June 30, 2021 to help recipients more quickly identify permanent housing for individuals and families experiencing homelessness, which is helpful in preventing the spread of COVID–19. Extending this waiver is necessary because recipients report challenges in identifying housing for program participants in tight rental markets due to the economic impact of COVID–19. Additionally, helping program participants move into housing quickly will continue to decrease the risk of people experiencing homelessness of contracting COVID–19 even after special measures are no longer necessary to prevent the spread of COVID–19.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room

7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.53(e)(8)(ii)(B) and 578.53(d).

Project/Activity: The limitation on eligible housing search and counseling activities is waived so that CoC Program funds may be used for up to 6 months of a program participant's utility arrears and up to 6 months of a program participant's rent arrears, when those arrears make it difficult to obtain housing. This waiver is in effect until December 31, 2021.

Nature of Requirement: 24 CFR 578.53(e)(8) allows recipients and subrecipients to use CoC funds to pay for housing search and counseling services to help eligible program participants locate, obtain, and retain suitable housing. For program participants whose debt problems make it difficult to obtain housing, 24 CFR 578.53(e)(8)(ii)(B) makes eligible the costs of credit counseling, accessing a free personal credit report, and resolving personal credit issues. However, payment of rental or utility arrears is not included as an eligible cost. 24 CFR 578.53(d) limits eligible supportive service costs to those explicitly listed in 24 CFR 578.53(e), which is a more limited list than is eligible under the McKinney-Vento Act.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived this requirement for 1-year on March 31, 2020 and, on March 31, 2021 extended the waiver until June 30, 2021, to allow recipients and subrecipients to pay up to 6 months of rental arrears and 6 months of utility arrears to remove barriers to obtaining housing quickly and help reduce the spread and harm of COVID–19. Extending this waiver is necessary to remove barriers that would prevent program participants from finding housing quickly, particularly as more people find themselves with rental arrears due to COVID–19.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.75(b)(2).

Project/Activity: HUD originally waived the requirement for 1-year on March 31, 2020 to help recipients and subrecipients prevent the spread of COVID–19. On March 31, 2021, HUD extended the waiver until June 30, 2021. The requirement at 24 CFR 578.75(b)(2) is waived until September 30, 2021.

Nature of Requirement: 24 CFR 578.75(b)(2) requires that recipients or subrecipients are required to inspect all units supported by leasing or rental assistance funding under the CoC and YHDP Programs at least annually during the grant period to ensure the units continue to meet HQS.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: While many social distancing measures that were making it difficult to re-inspect a unit for HQS are being lifted, recipients need time to prepare staff to re-inspect (and inspect as discussed above) units for HQS. Therefore, HUD is extending the waiver as described below.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.3, definition of ''homeless'' (1)(iii).

Project/Activity: An individual may qualify as homeless under paragraph (1)(iii) of the ''homeless'' definition in 24 CFR 578.3 so long as he or she is exiting an institution where they resided for 120 days or less and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. This waiver is in effect until December 31, 2021.

Nature of Requirement: An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution are considered homeless per 24 CFR 578.3, definition of ''homeless.''

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived this requirement on September 30, 2020, until March 31, 2021 to keep housing options open for individuals who otherwise would have been homeless but were reporting longer stays in institutions as a result of COVID–19 (*e.g.,* longer time in jail due to a postponed court dates due to courts closings or courts operating at reduced capacity and longer hospital stays when infected with COVID–19). HUD again waived this requirement on March 31, 2021 until June 30, 2021. Allowing someone who was residing in an emergency shelter or place not meant for human habitation prior to entering the institution to maintain their homeless status while residing in an institution for longer than 90 days is necessary to prevent the spread of and respond to COVID–19 by expanding housing options for people who were experiencing homelessness and institutionalized for longer than traditionally required due to COVID–19. Recipients continue to report potential program participants are staying in institutions for longer periods of time due to COVID–19; therefore, HUD is extending this waiver to allow someone who was residing in an emergency shelter or place not meant for human habitation prior to entering the institution to maintain their homeless status while residing in an institution for longer than 90 days.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.37(a)(1)(ii), 24 CFR 578.37(a)(1)(ii)(C), and 24 CFR 578.51(a)(1)(i).

Project/Activity: The 24-month rental assistance restriction is waived for program participants in permanent housing rapid re-housing project who will have reached 24 months of rental assistance until December 31, 2021. Program participants who have reached 24 months of rental assistance during this time and who will not be able to afford their rent without additional rental assistance will be eligible to receive rental assistance until December 31, 2021.

Nature of Requirement: The CoC Program regulation at 24 CFR 578.37(a)(1)(ii) and 24 CFR 578.51(a)(1)(i) defines medium-term rental assistance as 3 to 24 months and 24 CFR 578.37(a)(1)(ii) and 24 CFR 578.37(a)(1)(ii)(C) limits rental assistance in rapid re-housing projects to medium-term rental assistance, or no more than 24 months.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: HUD originally waived this requirement on May 22, 2020 until 3 months after a state or local public health official has determined special measures are no longer necessary to prevent the spread of COVID–19. Recipients continue to report program participants are experiencing difficulty affording rent even after receiving 24 months of rental assistance. Therefore, HUD is continuing to offer this waiver flexibility, but is establishing an end date of December 31, 2021. Waiving the limit on using rental assistance in rapid re-housing projects to pay more than 24 months will ensure that individuals and families currently receiving rapid re-housing assistance do not lose their assistance, and consequently their housing, during the COVID–19 public health crisis and the subsequent economic downturn This will reduce the number of people who become homeless again due to the economic impact of COVID–19.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B).

Project/Activity: 24 CFR 578.103(a) requires recipient to maintain records providing evidence they met program requirements and 24 CFR 578.103(a)(4)(i)(B) establishes the requirements for documenting disability for individuals and families that meet the ''chronically homeless'' definition in 24 CFR 578.3. Acceptable evidence of disability includes intake-staff recorded observations of disability no later than 45 days from the date of application for assistance, which is confirmed and accompanied by evidence in paragraphs 24 CFR 578.103(a)(4)(i)(B)(1), (2), (3), or (5). HUD is waiving the requirement to obtain additional evidence to confirm staff-recorded observations of disability.

Nature of Requirement: A recipient providing PSH must serve individuals and

families where one member of the household has a qualifying disability (for dedicated projects and DedicatedPLUS projects that individual must be the head of household). Further, the recipient must document a qualifying disability of one of the household members. When documentation of disability is the intake worker's observation, the regulation requires the recipient to obtain additional confirming evidence within 45 days.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 30, 2021.

Reason Waived: On March 31, 2020 HUD waived the requirement to obtain additional evidence within 45 days and instead allowed recipients up to 6-months from the date of application for assistance to confirm intake staff-recorded observations of disability with other evidence because recipients were reporting difficulty obtaining third-party documentation of disability in the middle of a pandemic, impacting their ability to house potential program participants quickly. On September 30, 2020, HUD waived, in its entirety, the requirement to obtain additional evidence to verify intake staff-recorded observations of disability until public health officials determine no additional special measures are necessary to prevent the spread of COVID–19. While public health measures are lifting in many areas of the country, recipients are reporting that obtaining documentation still takes longer than usual as a result of reduced staffing and hours of agencies and providers that can provide the documentation during COVID–19. Therefore, HUD is continuing this waiver flexibility and is establishing an end date of December 31, 2021.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* Section 415(a)(4) and (5) of the McKinney-Vento Homeless Assistance Act and 24 CFR 576.104.

Project/Activity: HUD granted a waiver of Section 415(a)(4) and (5) of the McKinney-Vento Homeless Assistance Act and 24 CFR 576.104 in Notice CPD–21–05: Waiver and Alternative Requirements for the Emergency Solutions Grants (ESG) Program Under the CARES Act (April 14, 2021). HUD established alternative requirements and waived Section 415(a)(4) and (5) of the McKinney-Vento Homeless Assistance Act and 24 CFR 576.104 to the extent necessary to provide that:

a. In addition to individuals and families who meet the existing requirements in 24 CFR 576.104, a recipient may expand the scope of eligible RRH beneficiaries to include individuals and families who meet ALL of the following criteria:

i. Qualified as ''homeless'' as defined in 24 CFR 576.2 immediately before moving into their current housing;

ii. Have been residing in housing with time-limited rental assistance provided under a homeless assistance program (which means assistance limited to or reserved, either federally or locally, for people who are ''homeless'' as defined in 24 CFR 576.2) other than the ESG program (*e.g.,* time-limited rental assistance that was funded under the Supportive Services for Veteran Families Program or the Coronavirus Relief Fund and provided only to people who qualified as ''homeless'' as defined in 24 CFR 576.2);

iii. Would not have any overlap in rental assistance between the non-ESG program and the ESG program, due to exhaustion or expiration of the non-ESG assistance or program funds;

iv. Would not have a gap of more than one month (or equivalent amount of days) between the end of the non-ESG rental assistance and the beginning of their ESG RRH rental assistance; and

v. Do not have the resources or support networks (beyond an eviction moratorium) (*e.g.,* family, friends or other social networks) needed to retain their existing housing without ESG assistance;

b. Recipients that expand the scope of RRH beneficiaries as provided above must amend their consolidated plans as provided by 24 CFR 91.505 and 576.200(b), except that the recipient is not required to comply with any consultation or citizen participation requirements (as provided by the CARES Act), provided that the recipient publishes its plan to include these newly eligible RRH beneficiaries, at a minimum, on the internet at the appropriate Government website or through other electronic media.

c. If individual or family meets the new RRH criteria above but is already an ESG RRH program participant (because they have been receiving services under 24 CFR 576.105), the individual or family may be provided ESG-funded rental assistance without being treated as a new applicant or program participant for purposes of HUD's coordinated assessment, written standards, HMIS, initial evaluation, re-evaluation, housing stability plan, and recordkeeping and reporting requirements (24 CFR 576.400(d), (e), (f); 576.401(a), (b), (e)(1)(ii), and 576.500). However, with respect to any other individuals and families for which the recipient exercises the new flexibilities provided in CPD Notice 21–05, the recipient must account for the new RRH beneficiaries by making corresponding changes as appropriate to the applicable written standards for administering RRH assistance (including beneficiary eligibility and prioritization criteria), HMIS, and procedures for centralized or coordinated assessment, initial evaluation, re-evaluation, and recordkeeping and reporting.

Nature of Requirement: An individual or family must meet the criteria under paragraph (1) of the definition of ''homeless'' at 24 CFR 576.2 or meet the criteria under paragraph (4) of the ''homeless'' definition and live in an emergency shelter or other place described in paragraph (1) of the ''homeless'' definition to be eligible for rapid re-housing assistance.

Granted By: James A. Jemison, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: April 14, 2021.

Reason Waived: Many individuals and families experiencing homelessness are able to be housed with time-limited rental assistance funded by homelessness assistance resources other than ESG. In some cases, despite the efforts of local service providers, some households continue to be unable to afford housing at the end of the assistance period and would lose their housing without continued assistance. Waiving the eligibility criteria for ESG funded RRH as discussed above will ensure individuals and families currently receiving time-limited rental assistance funded through other sources will not lose their housing during the coronavirus public health crisis and the subsequent economic downturn. This will reduce the spread and harm of coronavirus by enabling households receiving homelessness assistance who had previously experienced homelessness to continue to practice social distancing, isolate, or quarantine in their housing.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 214.300(a)(3).

Project/Activity: HUD's In-Person Service Housing Counseling Program.

Nature of Requirement: Pursuant to 24 CFR 214.300(a)(3), ''[c]ounseling may take place in the office of the housing counseling agency, at an alternate location, or by telephone, as long as mutually acceptable to the housing counselor and client. All agencies participating in HUD's Housing Counseling program that provide services directly to clients must provide in-person counseling to clients that prefer this format.''

On February 24, 2021, the President continued the COVID–19 national emergency. HUD recognizes that there continues to be a demand for housing counseling services by clients facing financial hardship due to the spread of the COVID–19 virus. This partial waiver allows participating agencies to provide continuous services without violating the in-person service provision requirement of 24 CFR 214.300(a)(3). This partial waiver waives the 24 CFR 214.300(a)(3) requirement that ''. . . All agencies participating in HUD's Housing Counseling program that provide services directly to clients must provide in-person counseling to clients that prefer this format.''

Granted by: Lopa P. Kolluri, Principal Assistant Secretary for Housing Federal Housing Commissioner.

Date Granted: April 20, 2021.

Reason Waived: To assist in ensuring the continued availability of housing counseling services, a partial waiver of 24 CFR 214.300(a)(3).

Contact: Brian Siebenlist, Director, Housing Counseling, Office of Policy and

Grant Administration, Office of Housing, Department of Housing and Urban Development, 409 3rd Street SW, Washington, DC 20024, telephone (202) 402–5145.

• *Regulation:* 24 CFR 242.58(b)(ii), 24 CFR 242.58(b)(iv), 24 CFR 242.58(f), 24 CFR 242.61(a)–(d).

Project/Activity: HCA-Memorial Health Meadows Hospital, Vidalia, Georgia.

Nature of Requirements: 24 CFR 242.58(b)(ii) states that, with regard to financial reporting requirements for hospitals with FHA-insured loans, quarterly unaudited financial reports must be filed with HUD within 40 days following the end of each quarter of the Borrower's fiscal year.

24 CFR 242.58(b)(iv) states that, with regard to financial reporting requirements for hospitals with FHA-insured loans, board-certified annual financial results must be filed with HUD within 120 days following the close of the fiscal year (if the annual audited financial statements have not yet been filed with HUD). 24 CFR 242.58(f) requires that the books and records of management agents, lessees, operators, managers, and Affiliates be maintained in accordance with Generally Accepted Accounting Principles (GAAP) and shall be open to inspection by HUD. 24 CFR 242.61(a) through (d) give HUD the authority to approve contracts for executive management of the hospital, and to remove principals of the hospital (including executives, board members, and key employees).

Granted By: Lopa P. Kolluri, Principal Assistant Secretary for Housing Federal Housing Commissioner.

Date Granted: April 22, 2021.

Reason Waived: HCA Healthcare applied for a Transfer of Physical Assets (TPA) to take ownership of Toombs County Hospital Authority (TCHA) and Meadows Regional Medical Center and replace the current Borrower on the Note (TCHA) with newly created HUD Borrowers (Vidalia Health Services, LLC and Meadows Multispecialty Associates, LLC). As part of the TPA application, HCA Healthcare is requesting waivers of numerous standard requirements within OHF's Hospital Regulatory Agreement. The requirements ordinarily provide OHF with the data and authority to manage the asset when it is part of HUD's portfolio. While waiving the requirements will prevent OHF from executing our standard asset management procedures, we determined that the hospital will benefit significantly from HCA ownership, and that the waiver is fully justified.

Contact: Paul Giaudrone, Underwriting Director, Office of Hospital Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 409 3rd Street SW, Washington, DC 20024, telephone (202) 402–5684.

• *Regulation:* 24 CFR 3282.14(b), Alternative construction of manufactured homes.

Project/Activity: Regulatory Waiver for Industry-Wide Alternative Construction Letter for Swinging Exterior Passage Doors.

Nature of Requirement: 24 CFR 3282.14(b), Request for Alternative Construction, requires manufactured housing manufacturers to submit a request for Alternative Construction consideration for the use of construction designs or techniques that do not conform with HUD Standards, to receive permission from HUD to utilize such designs or techniques in the manufacturing process for manufactured homes.

Granted by: Lopa P. Kolluri, Principal Deputy Assistant Secretary for Housing—Federal Housing Administration.

Date Granted: March 29, 2021.

Reason Waived: Many manufactured home manufacturers are currently facing shortages in the supply of swinging exterior passage doors that are listed or specifically certified for use in manufactured homes due to COVID–19 pandemic impacts. The major supply line of certified swinging exterior passage doors cannot meet the current and near-term future demands of the manufactured housing industry, yet alternative door options are available that provide performance equivalent or superior to that required by the Standards yet cannot be utilized without an Alternative Construction approval. To resolve this matter for the whole industry in an expedient manner while protecting the health and safety of consumers and maintaining durability of the homes, this regulatory waiver was granted to allow the Office of Manufactured Housing Programs to provide an industry-wide Alternative Construction approval letter that could be used by any manufacturer experiencing supply chain issues for swinging exterior passage doors.

Contact: Teresa B. Payne, Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9168, Washington, DC 20410–0800, telephone (202) 402–5365, *Teresa.L.Payne@hud.gov.*

[FR Doc. 2021–25566 Filed 11–22–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7044–N–02]

60-Day Notice of Proposed Information Collection: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily and Healthcare Mortgages to the Secretary, OMB Control No.: 2510–0006

AGENCY: Office of the General Counsel, 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:* January 24, 2022.

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: Nacheshia Foxx, Reports Liaison Officer, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410–0500.

FOR FURTHER INFORMATION CONTACT: Arnette Georges, Assistant General Counsel for Multifamily Mortgage Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10172, Washington, DC 20410–0500, telephone (202) 402–5257. 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. Foxx.

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: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily and Healthcare Mortgages to the Secretary.

OMB Approval Number: 2510–0006.

Type of Request: Extension of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: Mortgagees of FHA-insured mortgages may receive mortgage insurance benefits upon assignment of mortgages to the Secretary. In connection with the assignment, legal documents (*e.g.,* mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department. The instructions contained in the Legal Instructions Concerning Applications for Full Insurance Benefits—Assigment of Multifamily and Healthcare Mortgages describe the documents to be submitted and the procedures for submission.

The Legal Instructions Concerning Applications for Full Insurance Benefits—Assigment of Multifamily and Healthcare Mortgages, in its current form and structure, can be found at *https://www.hud.gov/sites/documents/leginstrfullinsben.pdf.*

HUD proposes to revise this document with clarifying changes and updates to reflect current HUD requirements and policies, including electronic submission for legal review, as well as current practices in real estate, title insurance, hazard insurance and mortgage financing transactions.

Agency form numbers, if applicable: HUD form 2510.

Members of affected public: FHA-approved Mortgagees and their counsel who have or will have multifamily rental or healthcare loans.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents	Burden hours	Frequency of response	Total burden hours
110*	26.5	Occasion	2,915

*This is the estimated number of respondents that could file a claim in a given year.

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;

(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 or revising the physical documentation requirements for electronically filed or issued response; and

(5) Whether any updates may be made to replace the existing formal legal language with plain language in the sample assignment documents of the proposed collection of information.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

12 U.S.C. 1701z–1 Research and Demonstrations.

Aaron Santa Anna,

Associate General Counsel for Legislation & Regulations.

[FR Doc. 2021–25572 Filed 11–22–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0033014; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Florida State University, Department of Anthropology Tallahassee, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology at Florida State University (FSU) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Department of Anthropology at FSU. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Department of Anthropology at FSU at the address in this notice by December 23, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Geoffrey Thomas, Florida State University, Department of Anthropology, 60 North Woodward Avenue, Tallahassee, FL 32306, telephone (850) 644–8156, email *gpthomas@fsu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of Florida State University, Department of Anthropology, Tallahassee, FL. The human remains and associated funerary objects were removed from Jefferson County and Wakulla County, FL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Department of Anthropology at FSU professional staff in consultation with representatives of the Miccosukee Tribe of Indians; Seminole Tribe of Florida [previously listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)]; Thlopthlocco Tribal Town; and the Tunica-Biloxi Indian Tribe (hereafter referred to as ''The Tribes'').

History and Description of the Remains

In 1964, human remains representing, at minimum, one individual were removed from Oakland Mound and Village Area (8JE53), in Jefferson County, FL, by D. Phelps. This site was recorded in 1956 by Florida State University and was initially excavated in 1958–1959 by Charles Fairbanks, Edward Dolan, and Bennie Keel. In 1964, D. Phelps excavated test squares within the burial mound. The human remains from Phelps' excavations have

been at Florida State University since that investigation. They belong to an individual of unknown age and sex. No known individual was identified. No associated funerary objects are present.

In 1966, human remains representing, at minimum, 15 individuals were removed from the Marsh Island Site (8WA1), in Wakulla County, FL, by R.O. Brock and brought to FSU. Based on information provided by Brock in the site report, a total of seven intrusive burials were found that, together, contained at least 15 individuals. These intrusive burials were classified as belonging to either the Weeden Island or Fort Walton cultural phase. No known individuals were identified. The three associated funerary objects are plain ceramic sherds.

In 1966, human remains representing, at minimum, four individuals were removed from the Nichols Site (8WA3) in Wakulla County, FL, by D. Phelps of Florida State University. All the burials at this site were superficial. The mound has been completely destroyed, but contextual information suggests it is a Weeden island platform mound with intrusive Fort Walton burials. No known individuals were identified. The 14 associated funerary objects are stamped and plain ceramic sherds.

Determinations Made by the Department of Anthropology, Florida State University

Officials of the Department of Anthropology, Florida State University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 20 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 17 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Geoffrey Thomas, Florida State University, Department of Anthropology, 60 North Woodward Avenue, Tallahassee, FL 32306, telephone (850) 644–8156, email *gpthomas@fsu.edu,* by December 23, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Department of Anthropology, Florida State University is responsible for notifying The Tribes that this notice has been published.

Dated: November 17, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–25523 Filed 11–22–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0033016; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, U.S. Fish and Wildlife Service, South Atlantic-Gulf & Mississippi Basin Unified Region, Yazoo National Wildlife Refuge, Hollandale, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service, South Atlantic-Gulf & Mississippi Basin Unified Region (FWS Southeast Region), has completed an inventory of human remains in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the FWS Southeast Region. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the FWS Southeast Region at the address in this notice by December 23, 2021.

FOR FURTHER INFORMATION CONTACT: Richard S. Kanaski, Regional Historic Preservation Officer, U.S. Fish and Wildlife Service Southeast Region, 694 Beech Hill Lane, Hardeeville, SC 29927, telephone (912) 257–5434, email, *richard_kanaski@fws.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the U.S. Department of the Interior, U.S. Fish and Wildlife Service, Southeast Region, Hardeeville, SC. The human remains were removed from Washington County, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the FWS Southeast Region professional staff in consultation with representatives of the Alabama-Coushatta Tribe of Texas [previously listed as Alabama-Coushatta Tribes of Texas]; Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Miami Tribe of Oklahoma; Mississippi Band of Choctaw Indians; Quapaw Nation [previously listed as The Quapaw Tribe of Indians]; The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; and The Osage Nation [previously listed as Osage Tribe] (hereafter referred to as ''The Tribes'').

History and Description of the Remains

In 1978, human remains representing, at minimum, one individual were removed from the Steele Bayou Site (22WS582) in Washington County, MS, during a phase I survey of the Yazoo National Wildlife Refuge. David M. Heisler, a former employee of the University of Southern Mississippi, conducted the survey under contract with the FWS Southeast Region. The collections from this survey are in physical custody of the University of Southern Mississippi. After a search of the collections in May of 2021, representatives from the University of Southern Mississippi reported that the human remains—one femur—are currently missing. No known individual

was identified. No associated funerary objects are present.

The U.S. Fish and Wildlife Service has determined that this individual is Native American through the circumstance of acquisition, including material culture from the site representative of Late and Middle Woodland periods. These circumstances show that these human remains are affiliated with indigenous people in these areas of Mississippi. Present day Indian Tribes affiliated with these cultures include The Tribes.

Determinations Made by the U.S. Department of the Interior, U.S. Fish and Wildlife Service, South Atlantic-Gulf & Mississippi Basin Unified Region

Officials of the U.S. Department of the Interior, U.S. Fish and Wildlife Service, South Atlantic-Gulf & Mississippi Basin Unified Region have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Richard Kanaski, Regional Historic Preservation Officer, U.S. Fish and Wildlife Services, Southeast Region, 694 Beech Hill Lane, Hardeeville, SC 29927, telephone (912) 257–5434, email, *richard_kanaski@fws.gov,* by December 23, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The U.S. Department of the Interior, U.S. Fish and Wildlife Service, South Atlantic-Gulf & Mississippi Basin Unified Region is responsible for notifying The Tribes that this notice has been published.

Dated: November 17, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–25524 Filed 11–22–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0033013; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Florida State University, Department of Anthropology, Tallahassee, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology, Florida State University (FSU) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains, and funerary objects should submit a written request to the Department of Anthropology at FSU. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Department of Anthropology at FSU at the address in this notice by December 23, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Geoffrey Thomas, Florida State University, Department of Anthropology, 60 North Woodward Avenue, Tallahassee, FL 32306, telephone (850) 644–8156, email *gpthomas@fsu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of Florida State University, Department of Anthropology, Tallahassee, FL. The human remains and associated funerary objects were removed from Gadsden County, Okaloosa County, and Walton County, FL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Department of Anthropology at FSU professional staff in consultation with representatives of the Alabama-Quassarte Tribal Town; Jena Band of Choctaw Indians; Kialegee Tribal Town; Miccosukee Tribe of Indians; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians [previously known as the Poarch Band of Creeks, and as the Poarch Band of Creek Indians of Alabama]; Seminole Tribe of Florida [previously listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)]; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and the Tunica-Biloxi Indian Tribe (hereafter referred to as ''The Tribes'').

History and Description of the Remains

At an unknown time, human remains representing, at minimum, 16 individuals were removed from the Scotland site (8GD94), in Gadsen County, FL, by Calvin Jones. There is no information regarding how or when the human remains from this site came into the possession or control of Florida State University. The State of Florida Master Site File indicates that Calvin Jones conducted investigations at the site during a salvage operation and that the site has been linked to Weeden Island, Swift Creek, and Ft. Walton cultural phases based on unassociated sherds found there. The human remains are commingled and fragmentary. Among them are both the single designated burial (#542) of a probable male 35–50 years old and the remains of a possible female. No known individuals were identified. No associated funerary objects are present.

In the 1960s, human remains representing, at minimum, 38 individuals were removed from Fort Walton Mound (8OK6M), in Okaloosa County, FL, by Charles Fairbanks while he was associated with FSU. This site has a long history of excavation, including one carried out by C.B. Moore in 1901. Although the site is listed as

8OK6M at Florida State University, according to currently available information, it is the same site as 8OK6 listed in state files. (The M suffix was requested by Yulee Lazarus in 1968 to distinguish the large Fort Walton Temple Mound, from the nearby shell middens.) Based on several types of sherds discovered during the excavation by Fairbanks, it was deduced that the site contained occupations from the Fort Walton period through Deptford, Santa-Rosa, Swift Creek, and Weeden Island phases. The majority of the human remains belong to adult-aged individuals. A single subadult—likely late teens—is also present. No known individuals have been identified. The 33 associated funerary objects include 23 plain, two stamped, and eight incised ceramic sherds.

Between 1956 and 1958, human remains representing, at minimum, nine individuals were removed from the Bell Site (8OK19), in Okaloosa County, FL. In 1956, part of this collection was brought to Florida State University after erosion exposure from Hurricane Flossie washed ''thousands of sherds'' into Choctawhatchee Bay (according to the State of Florida Master Site File). In 1958, this site was excavated by Charles Fairbanks and W.C. Lazarus and was determined to be of Fort Walton, Santa-Rosa, Swift Creek, and Weeden Island cultural complexes. Two of the individuals are sub-adults, and the other seven are adults; all are of indeterminate sex. No known individuals have been identified. No associated funerary objects present.

In 1959, human remains representing, at minimum, three individuals were recovered from the Chambless Site (8OK35), in Okaloosa County, FL, and donated to The Florida State University by the property owner. As the recovered materials came from disturbed backfill soil, their context is unknown among the human remains. According to the State of Florida Master Site File, broken vessels recovered by the landowner were retained by W.C. Lazarus for preservation and restoration at the Fort Walton Temple Museum, Destin, FL. Those ceramic vessels are classified as Fort Walton phase. The human remains belong to one male most likely 30–35 years old, one female most likely 30–35 years old, and one individual of unknown age and sex. No known individuals have been identified. No associated funerary objects are present.

In the 1960s, human remains representing, at minimum, eight individuals were removed from the Johnson Site (8WL30), in Walton County, FL, by W.C. Lazarus and J.M. Johnson. Most of the materials collected were brought to FSU at that time. (A vessel reportedly recovered during the investigation of the site remains in the possession of J.M. Johnson.) Of the eight individuals, one is probably female 35–50 years old, and at least two are sub-adults. No known individuals were identified. No associated funerary objects are present. Cultural phase determined to be Fort Walton based on a ceramic analysis.

Determinations Made by the Department of Anthropology, Florida State University

Officials of the Department of Anthropology, Florida State University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 74 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 33 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Geoffrey Thomas, Florida State University, Department of Anthropology, 60 North Woodward Avenue, Tallahassee, FL 32306, telephone (850) 644–8156, email *gpthomas@fsu.edu,* by December 23, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Department of Anthropology, Florida State University is responsible for notifying The Tribes that this notice has been published.

Dated: November 17, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–25522 Filed 11–22–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0033015; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: McClure Archives and University Museum, University of Central Missouri, Warrensburg, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The McClure Archives and University Museum, University of Central Missouri, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of objects of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the McClure Archives and University Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the McClure Archives and University Museum, University of Central Missouri, at the address in this notice by December 23, 2021.

FOR FURTHER INFORMATION CONTACT: Olivia Thomsen, NAGPRA Preparator, McClure Archives and University Museum of JCKL 1470, 601 Missouri Street, Warrensburg, MO 64093, telephone (660) 543–4649, email *thomsen@ucmo.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the McClure Archives and University Museum, University of Central Missouri, Warrensburg MO, that meet the definition of objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal

agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

Between 1950 and 1980, three cultural items were removed from an unidentified region of Northern California. Anthropologist Robert Spier collected or bought three basket hats while doing research on the Hupa Tribe. The basket hats remained in Spier's personal collection until 2017, when his widow donated them, along with many other objects, to the McClure Archives and University Museum. The three objects of cultural patrimony are woven basket hats.

Based on an analysis by McClure Archive and University Museum staff, these baskets hats are related to the Wiyot Tribe, California. According to Robert Spier, the hats were collected from Northern California, where the traditional Wiyot Tribe lands are located. In consultation, a representative for the Wiyot Tribe described the traditional and ceremonial importance of basket hats within the Wiyot culture.

Determinations Made by the McClure Archives and University Museum, University of Central Missouri

Officials of the McClure Archives and University Museum, University of Central Missouri have determined that:

- Pursuant to 25 U.S.C. 3001(3)(D), the three cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the objects of cultural patrimony and the Wiyot Tribe, California [previously listed as Table Bluff Reservation—Wiyot Tribe].

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Olivia Thomsen, NAGPRA Preparator, McClure Archives and University Museum of JCKL 1470, 601 Missouri Street, Warrensburg, MO 64093, telephone (660) 543–4649, email *thomsen@ucmo.edu,* by December 23, 2021. After that date, if no additional claimants have come forward, transfer of control of the objects of cultural patrimony to the Wiyot Tribe, California [previously listed as Table Bluff Reservation—Wiyot Tribe] may proceed. The McClure Archives and University Museum, University of Central Missouri, is responsible for notifying the Wiyot Tribe, California [previously listed as Table Bluff Reservation—Wiyot Tribe] that this notice has been published.

Dated: November 17, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–25525 Filed 11–22–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–33035; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before November 13, 2021, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by December 8, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before November 13, 2021. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers:

FLORIDA

Santa Rosa County

Fidelis School, 13786 FL 87, Jay vicinity, SG100007241

LOUISIANA

Orleans Parish

Touro-Shakspeare Home, 2621 General Meyer Ave., New Orleans, SG100007235

MAINE

Hancock County

Moonspring Hermitage, 532 Morgan Bay Rd., Surry, SG100007256

York County

Kezar Falls Circulating Library, (Maine Public Libraries MPS), 2 Wadleigh St., Parsonsfield, MP100007254

Rendezvous Point Burying Ground, South side of Ferry Rd., between Meadow and Lewis Lns., Saco, SG100007255

MASSACHUSETTS

Worcester County

Worcester County Courthouse, 2 Main St., Worcester, SG100007236

NEW MEXICO

Bernalillo County

Heights Community Center, 823 Buena Vista Ave. SE, Albuquerque, SG100007238

Barelas Community Center, (New Deal in New Mexico MPS), 801 Barelas Rd. SW, Albuquerque, MP100007239

NORTH CAROLINA

Alleghany County

Downtown Sparta Historic District, First blks. of North and South Main, and East and West Whitehead Sts., Sparta, SG100007244

Avery County

Guy, Edwin Cochran, House, 320 Wanteska St., Newland, SG100007245

Buncombe County

High Top Colony Historic District, 143–225 High Top Colony, 14–42 Hoot Owl, and 10–21 Grey Eagle Rd., Black Mountain vicinity, SG100007246

Cabarrus County

Norcott Mill-Cannon Mills Company Plant No. 10, 580, 594, 598 Cabarrus Ave. West; 569–581 Flora Ave. NW, Concord, SG100007248

Iredell County

Norwood School, 349 Troutman Farm Rd., Statesville vicinity, SG100007249

Ramsey Farm, 1853 Norwood Rd., Statesville, SG100007250

Orange County

Neville, Jeter and Ethel, House, 107 Cobb St., Carrboro, SG100007247

A request for removal has been made for the following resource:

NORTH DAKOTA

McLean County

Former McLean County Courthouse, (North Dakota County Courthouses TR), Main St., Washburn, OT85002987

Additional documentation has been received for the following resources:

NORTH CAROLINA

Gaston County

Dallas Historic District (Additional Documentation), Bounded by Holland, Main, Gaston and Trade Sts., Dallas, AD73001344

SOUTH DAKOTA

Stanley County

Fort Pierre Chouteau Site (Additional Documentation), North of Fort Pierre, Fort Pierre vicinity, AD76001756

Authority: Section 60.13 of 36 CFR part 60.

Dated: November 13, 2021.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2021–25513 Filed 11–22–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2021–0004; EEEE500000 223E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0003]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil and Gas Production Safety Systems

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 23, 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. Please provide a copy of your comments to Kye Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0003 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kye Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on September 8, 2021 (86 FR 50373). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Regulations governing production safety systems are primarily covered in 30 CFR 250, subpart H and are the subject of this collection. In addition, BSEE also issues various Notices to Lessees (NTLs) and Operators to clarify and provide additional guidance on some aspects of the regulations, as well as forms to capture the data and information. Additional guidance pertaining to Oil-Spill Response Requirements is provided by NTLs when needed.

BSEE uses the information collected under subpart H to:

- Review safety system designs prior to installation to ensure that minimum safety standards will be met;
- evaluate equipment and/or procedures used during production operations;
- review records of erosion control to ensure that erosion control programs are effective;
- review plans to ensure safety of operations when more than one activity is being conducted simultaneously on a production facility;
- review records of safety devices to ensure proper maintenance during the useful life of that equipment; and
- verify proper performance of safety and pollution prevention equipment (SPPE).

Title of Collection: 30 CFR 250, subpart H, Oil and Gas Production Safety Systems.

OMB Control Number: 1014–0003.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS.

Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 7,454.

Estimated Completion Time per Response: Varies from 30 minutes to 48 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 95,488.

Respondent's Obligation: Mandatory.

Frequency of Collection: Generally, on occasion.

Total Estimated Annual Nonhour Burden Cost: $10,547,442.

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.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2021–25538 Filed 11–22–21; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–924]

Importer of Controlled Substances Application: Mylan Technologies, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Mylan Technologies, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 23, 2021. Such persons may also file a written request for a hearing on the application on or before December 23, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on October 22, 2021, Mylan Technologies, Inc., 110 Lake Street, Saint Albans, Vermont 05478–2266, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II
Fentanyl	9801	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically manufactured FDF. This analysis is required to allow the company to export domestically manufactured finished dosage form to foreign markets. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021–25575 Filed 11–22–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–925]

Bulk Manufacturer of Controlled Substances Application: Noramco

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Noramco, has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before January 24, 2022. Such persons may also file a written request for a hearing on the application on or before January 24, 2022.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on October 19, 2021, Noramco, 500 Swedes Landing Road, Wilmington, Delaware 19801–4417, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Dihydromorphine	9145	I
Hydromorphinol	9301	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Nabilone	7379	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Opium extracts	9610	II
Opium fluid extract	9620	II
Opium, tincture	9630	II
Opium, powdered	9639	II
Opium, granulated	9640	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances as an Active Pharmaceutical Ingredient (API) for supply to its customers. In reference to dug codes 7360 (Marihuana), and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021–25578 Filed 11–22–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0004]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Revision of a Currently Approved Collection; Number of Law Enforcement Employees as of October 31

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, will be submitting the following information collection request to the Office of Management and Budget 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 December 23, 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 to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Number of Law Enforcement Employees as of October 31.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is: 1–711. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal, state, county, city, and tribal law enforcement agencies. Abstract: Under Title 34, United States Code Section (§) 41303 and 28 U.S.C. 534, this collection requests the number of full- and part-time law enforcement employees by race/ethnicity for both officers and civilians, from federal, state, county, city, and tribal law enforcement agencies in order for the Federal Bureau of Investigation Uniform Crime Reporting Program to serve as the national clearinghouse for the collection and dissemination of police employee data and to publish these statistics in *Crime in the United States.*

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 14.993 law enforcement agency respondents that submit once a year for a total of 14,993 responses with an estimated response time of eight minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 2,299 hours, annual burden, associated with this information collection. There are approximately 2,299 hours, annual burden, associated with this information collection. This total is comprised of 1,999 hours estimated burden for completion of the survey and an additional 300 hours for review and any potential expansion of participating agencies.

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.405A, Washington, DC 20530.

Dated: November 18, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–25564 Filed 11–22–21; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On November 17, 2021, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of West Virginia in the lawsuit entitled *United States and the State of West Virginia by and through the West Virginia Department of Environmental Protection* v. *Berkeley County Public Service Sewer District and Berkeley County Public Service Storm Water District,* Civil Action No. 3:21–CV–179.

This is a civil action for injunctive relief and civil penalties brought against the Berkeley County Public Service Sewer District (the ''Sewer District'') pursuant to Sections 309(b) and (d) of the Clean Water Act (''CWA''), 33 U.S.C. 1319(b) and (d); and chapter 16, article 1, section 9a of the West Virginia Code, W. Va. Code 16–1–9a. The claims are based on violations of the CWA and the West Virginia Water Pollution Control Act (''WPCA'') in connection with the Sewer District's ownership and operation of sewage collection systems, a pretreatment plant and multiple wastewater treatment plants, and a municipal separate storm sewer system (''MS4'') in Berkeley County, West Virginia. The Berkeley County Public Service Storm Water District (''Storm Water District'') is included as a party to implement injunctive relief measures, because it has taken over operation of the MS4 from the Sewer District.

Under the consent decree, the Sewer District will implement: Comprehensive performance evaluations, corrective action plans, and standard operating procedures for certain treatment plants; a sewage collection systems inspection and maintenance program; pump station compliance requirements; a fats, oil, and grease public education program; and an asset management software system designed to record and track each asset through its life cycle. The Storm Water District will develop and implement an MS4 Manual detailing general programmatic requirements and including plans for implementing measures to ensure compliance with the MS4 Permit. Both Defendants will implement regular training programs. In

addition, the Sewer District will pay a civil penalty of $432,000 to the United States and $86,400 to the West Virginia Department of Environmental Protection, and will complete a state supplemental environmental project which will ensure treatment of sewage from two facilities that regularly operate in noncompliance with the West Virginia Water Pollution Control Act.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of West Virginia by and through the West Virginia Department of Environmental Protection* v. *Berkeley County Public Service Sewer District and Berkeley County Public Service Storm Water District,* D.J. Ref. No. 90–5–1–1–11893. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $24.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $16.75.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–25552 Filed 11–22–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number: 1110–NEW]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Law Enforcement Suicide Data Collection

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, will be submitting the following information collection request to the Office of Management and Budget 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 December 23, 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.

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 Federal Bureau of Investigation, 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 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:* Establishment of a New Collection.

2. *The Title of the Form/Collection:* Law Enforcement Suicide Data Collection.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no form number for this collection. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Law enforcement agencies.

Abstract: This collection is needed to collect data pursuant to the *Law Enforcement Suicide Data Collection Act* on incidents of suicides and attempted suicides within law enforcement agencies, as defined by 34 United States Code 50701.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The Federal Bureau of Investigation Uniform Crime Reporting Program's Law Enforcement Suicide Data Collection Estimation. It is estimated the Law Enforcement Suicide Data Collection will generate 300 responses per year with an estimated response time of 25–30 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 450 hours, annual burden, associated with this information collection. This includes 150 hours for actual responses (300 responses × 30 minutes per response) plus 300 hours of additional burden for agency outreach and development needs.

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.405A, Washington, DC 20530.

Dated: November 18, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–25563 Filed 11–22–21; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–NEW]

Agency Information Collection Activities; Proposed Collection Comments Requested; Waiver for Volunteer Services (EOIR–62)

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), 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 60 days until January 24, 2022.

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 Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone: (703) 305–0289.

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 Executive Office for Immigration Review, 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:* New collection.

2. *The Title of the Form/Collection:* Waiver for Volunteer Services.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is EOIR–62; the sponsoring component is Executive Office for Immigration Review, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private individuals. Other: None. Abstract: This information collection is necessary to accept volunteer services pursuant to 31 U.S.C. 1342 and 5 U.S.C. 3111.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 200 respondents will complete the form annually with an average of 5 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 16.7 hours. It is estimated that 200 respondents will take 6 minutes to complete the form.

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: November 18, 2021.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–25568 Filed 11–22–21; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On November 15, 2021, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of North Carolina in the lawsuit entitled *United States* v. *Armstrong World Industries, Inc. (on behalf of Armstrong Wood Products, Inc.), VIACOMCBS, and TCOM, L.P.,* Civil Action No. 2:21–cv–00047–FL.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The United States' complaint names Armstrong World Industries, Inc. (on behalf of Armstrong Wood Products, Inc.), VIACOMCBS, and TCOM, L.P., as defendants. The complaint requests recovery of costs that the United States incurred responding to releases of hazardous substances at the Triangle Pacific Corporation Site in Pasquotank County, North Carolina. The complaint also seeks injunctive relief.

The proposed consent decree would partially resolve the claims in the complaint. Armstrong World Industries, Inc., and VIACOMCBS, as Performing Settling Defendants, agree under the decree to perform the interim remedial action that EPA selected for the Site. TCOM, L.P. agrees under the decree to provide access to portions of the Site for performance of the interim remedial action. Performing Settling Defendants agree under the decree to deposit $590,146.23 into a funded trust. The United States, on behalf of the Department of Defense, as Settling Federal Agency, agrees to deposit $763,002.77 into the trust. The United States, on behalf of Settling Federal Agency, also agrees to reimburse EPA for $469,928.07 in past response costs. The Performing Settling Defendants agree to pay EPA its future response costs, and the United States, on behalf of Settling Federal Agency, agrees to reimburse Performing Settling Defendants for the Settling Federal Agency's share of response costs, as provided in the proposed consent decree, and in a separate Site Participation Agreement entered into among the settling defendants and the United States contemporaneously with the proposed consent decree. The United States agrees under the decree not to sue the settling defendants under sections 106 and 107 of CERCLA.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Armstrong World Industries, Inc., et al.,* D.J. Ref. No. 90–11–3–12058. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $103.50 (414 pages at 25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy of the proposed consent decree without the exhibits, the cost is $10.75 (43 pages).

Lori Jonas,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–25555 Filed 11–22–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0064]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; FBI Expungement Form (FD–1114)

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division 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 December 23, 2021.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Gerry Lynn Brovey, Supervisory Information Liaison Specialist, Federal Bureau of Investigation, Criminal Justice Information Services Division, 1000 Custer Hollow Road; Clarksburg, WV 26306; phone: 304–625–4320 or email *glbrovey@fbi.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* FBI Expungement Form.

(3) *Agency form number, if any, and the applicable component of the Department Sponsoring the collection:* Agency form number: FD–1114.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: This form is utilized by criminal justice and affiliated judicial agencies to request appropriate removal of criminal history information from an individual's record.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 105 respondents are authorized to complete the form which would require approximately 3.5 minutes. The total number of respondents is reoccurring with an annual response of 318,598.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 18,585 total annual burden hours associated with this collection.

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, Suite 3E.405B, Washington, DC 20530.

Dated: November 18, 2021.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2021–25561 Filed 11–22–21; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Reemployment Services and Eligibility Assessments (RESEA) Workload Report, and Reemployment Services and Eligibility Assessments (RESEA) Outcomes Report

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed revision to the authority to conduct the information collection request (ICR) titled, ''Reemployment Services and Eligibility Assessments Reports.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

DATES: Consideration will be given to all written comments received by January 24, 2022.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Lawrence Burns by telephone at (202) 693–3141, (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *Burns.Lawrence@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4524, 200 Constitution Avenue NW, Washington, DC 20210; by email: *Burns.Lawrence@dol.gov,* or by fax (202) 693–3975.

FOR FURTHER INFORMATION CONTACT: Michelle Beebe by telephone at (202) 693–3458 (this is not a toll-free number) or by email at *Beebe.Michelle.E@dol.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure 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 can be properly assessed.

The continued collection of information contained on the forms ETA 9128 (Reemployment and Eligibility Assessment Workload) and ETA 9129 (Reemployment Services and Eligibility Assessment Outcomes) is necessary to enable the Office of Unemployment Insurance (OUI) to perform program oversight, target technical assistance to states, and assess the effectiveness of the RESEA program through workload and outcomes reports. As part of its implementation of the RESEA program, ETA provided states with flexibility to include follow-up RESEA sessions, referred to as ''Subsequent RESEAs,'' as part of their service delivery models. Due to a combination of statutory and administrative changes to the RESEA program, the states' adoption of Subsequent RESEAs has become more common and now forms a significant portion of RESEA workloads in many states. To accurately reflect states' RESEA workloads and support federal oversight of the RESEA program, ETA is proposing modifications to the form ETA 9128 that will allow states to separately report the number of Subsequent RESEAs that were scheduled, completed, and instances where a claimant failed to report as directed.

44 U.S.C. 3506(c)(2)(A) authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0456.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- 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 submission of responses).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: Reemployment Services and Eligibility Assessments

Form: ETA 9128, and 9129.

OMB Control Number: 1205–0456.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 53.

Frequency: Quarterly.

Total Estimated Annual Responses: 424.

Estimated Average Time per Response: 0.83 hours.

Estimated Total Annual Burden Hours: 352 hours.

Total Estimated Annual Other Cost Burden: $0.

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–25521 Filed 11–22–21; 8:45 am]

BILLING CODE 4510–FW–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 20–080]

Name of Information Collection: NASA STEM Gateway (Universal Registration and Data Management System)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by January 24, 2022.

ADDRESSES: All comments should be addressed to Claire Little, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546–0001 or call 202–358–2375.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375 or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Based on user feedback provided during the initial release of the NASA STEM Gateway (Universal Registration and Data Management System), NASA plans to develop updates/enhancements to improve information collected and the overall user experience in the NASA STEM Gateway. The NASA STEM Gateway (Universal Registration and Data Management System) is a comprehensive tool designed to allow learners (*i.e.,* students, educators, and

awardee principal investigators) to apply to NASA STEM engagement opportunities (*e.g.,* internships, fellowships, challenges, educator professional development, experiential learning activities, etc.) in a single location. NASA personnel manage the selection of applicants and implementation of engagement opportunities within the NASA STEM Gateway. The information collected will be used by the NASA Office of STEM Engagement (OSTEM) and other NASA offices to review applications for participation in NASA STEM engagement opportunities. The information is reviewed by OSTEM project and activity managers, as well as NASA mentors who would be hosting students. This information collection will consist of student-level data such as demographic information submitted as part of the application. In addition to supporting student selection, student-level data will enable NASA OSTEM to fulfill federally mandated reporting on its STEM engagement activities and report relevant demographic information as needed for Agency performance goals and success criteria (annual performance indicators).

II. Methods of Collection

Online/Web-based.

III. Data

Title: NASA STEM Gateway (Universal Registration and Data Management System).

OMB Number:

Type of review: Renewal of a previously approved information collection.

Affected Public: Eligible students or educators, and/or awardee principal investigators may voluntarily apply for an internship or fellowship experience at a NASA facility, or register for a STEM engagement opportunity (*e.g.,* challenges, educator professional development, experiential learning activities, etc.). Parents/caregivers of eligible student applicants (at least 16 years of age but under the age of 18) may voluntarily provide consent for their eligible student applicants to apply.

Estimated Annual Number of Activities: 40.

Estimated Number of Respondents per Activity: 4,125.

Annual Responses: 165,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 82,500.

Estimated Total Annual Cost: $1,015,207.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2021–25490 Filed 11–22–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (21–081)]

NASA Advisory Council; Aeronautics Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Aeronautics Committee of the NASA Advisory Council (NAC). This meeting will be held for soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning.

DATES: Wednesday, December 15, 2021, 2:15 p.m.–6:00 p.m., Eastern Time.

ADDRESSES: Virtual Meeting via WebEx and Toll-Free telephone only.

FOR FURTHER INFORMATION CONTACT: Ms. Irma Rodriguez, Designated Federal Officer, Aeronautics Research Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 527–4826, or *irma.c.rodriguez@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is only available by WebEx. The WebEx link is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m24baf0b25e3c10cbd7eb3114cfa38dde,* the meeting number is 2764 562 7239, and the password is GQsJudx?776 (case sensitive). You can also dial in by phone toll-free: 800–369–1712 passcode: 7303690. The agenda for the meeting includes the following topics:

—Aeronautics Research Mission Directorate (ARMD) FY22 Budget Overview

—ARMD Programs Overview

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2021–25567 Filed 11–22–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2022–011]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: We are proposing to request an extension from the Office of Management and Budget (OMB) of a currently approved information collection, 3095–0054, Independent Researchers Listing Application (NA Form 14115), used by independent researchers to provide their contact information to people looking for a researcher. We invite you to comment on this proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: We must receive written comments on or before January 24, 2022.

ADDRESSES: Send comments to Paperwork Reduction Act Comments (MP), Room 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, or email them to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at *tamee.fechhelm@nara.gov* or by telephone at 301.837.1694 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995

(Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. If you have comments or suggestions, they should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether the collection affects small businesses.

We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record.

In this notice, we solicit comments concerning the following information collection:

Title: Independent researcher listing application.

OMB number: 3095–0054.

Agency form numbers: NA Form 14115 (Independent Researcher Listing Application).

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 300.

Estimated time per response: 10 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 50 hours.

Abstract: Collecting information to populate the independent researcher application listing is a service we provide to researchers and those who wish to hire them. In the past, at the request of customers, the National Archives made use of various lists of independent researchers who perform freelance research for hire in the Washington, DC, area. We sent these lists upon request to researchers who could not travel to the metropolitan area to conduct their own research. To better accommodate both the public and NARA staff in this process, the Archival Operations division of the National Archives began to maintain a listing of independent researchers who wished to participate. To populate that list, we allow interested independent researchers to provide their contact information for this purpose on NA Form 14115. Collecting contact and other key information from each independent researcher and providing such information to the public when appropriate increases researcher business. This form is voluntary and is not a burden to an independent researcher who chooses to submit one. Inclusion on the list is not an endorsement by NARA. The listing is compiled and disseminated as a service to the public.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2021–25480 Filed 11–22–21; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2022–013]

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of meeting.

SUMMARY: We are announcing an upcoming meeting of the Advisory Committee on the Records of Congress in accordance with the Federal Advisory Committee Act. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Legislative Archives, Presidential Libraries, and Museum Services (LPM).

DATES: The meeting will be on December 3, 2021, from 1:00 p.m. to 2:30 p.m. EST.

ADDRESSES: This will be a virtual meeting. To attend via video, please use the Webex link *https://ems8.intellor.com/login/841016,* and follow the prompts to connect audio by computer or telephone. To attend by telephone only, please call 888.251.2949 or 215.861.0694, then enter access code 8551042#.

FOR FURTHER INFORMATION CONTACT: James Wyatt, at The Center for Legislative Archives, by email at *James.Wyatt@nara.gov* or by telephone at 202.357.5016.

SUPPLEMENTARY INFORMATION: This virtual meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulations.

Agenda

(1) Chair's opening remarks—Clerk of the U.S. House of Representatives
(2) Recognition of co-chair—Secretary of the U.S. Senate
(3) Recognition of the Archivist of the United States
(4) Approval of the minutes of the last meeting
(5) Senate Archivist's report
(6) House Archivist's report
(7) Center for Legislative Archives update
(8) Other current issues and new business

Tasha Ford,

Committee Management Officer.

[FR Doc. 2021–25482 Filed 11–22–21; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0071]

Information Collection: Requests to Agreement States and Non-Agreement States for Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Requests to Agreement States and Non-Agreement States for Information.''

DATES: Submit comments December 23, 2021. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0071 when contacting the NRC about the availability of information for this action. You may obtain publicly

available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2021–0071.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML21193A150.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov/* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Requests to Agreement States and Non-Agreement States for Information.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 26, 2021 (86 FR 22077). On August 23, 2021 (86 FR 47164), the NRC published a **Federal Register** notice with a 30-day comment period. The NRC was delayed in submitting the renewal to OMB, therefore, the NRC is reissuing this information collection to provide the public the full 30 days to submit comments.

1. *The title of the information collection:* ''Requests to Agreement States and Non-Agreement States for Information.''

2. *OMB approval number:* 3150–0029.

3. *Type of submission:* Revision.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* One-time, on occasion.

6. *Who will be required or asked to respond:* 50 states, the District of Columbia, and Puerto Rico.

7. *The estimated number of annual responses:* 1,965.

8. *The estimated number of annual respondents:* 52.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 15,720.

10. *Abstract:* The NRC is requesting OMB approval of a plan for a generic collection of information. The need and practicality of the collection can be evaluated, but the details of the specific individual collections will not be known until a later time. The Agreement States and non-Agreement States will be asked on a one-time or as needed basis to respond to a specific incident, to gather information on licensing and inspection practices or other technical information, or to provide comments on proposed policy and program updates. The results of such information requests, which are authorized under Section 274(b) of the Atomic Energy Act, will be utilized in part by the NRC in preparing responses to Congressional inquiries. In addition, the information can assist the Commission in its considerations and decisions involving Atomic Energy Act materials programs in an effort to make the national nuclear materials program more uniform and consistent.

Dated: November 17, 2021.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2021–25473 Filed 11–22–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–10716; NRC–2020–0214]

Sigma-Aldrich Company, Fort Mims Site

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering amending the NRC's Materials License No. 24–16273–01, issued to Sigma-Aldrich Company (the licensee), for possession of byproduct material incident to radiological survey, storage of waste awaiting disposal, and decontamination, and remediation of the Fort Mims Site. The proposed amendment is to revise the decommissioning plan and terminate the license for the licensee's Fort Mims Site in Maryland Heights, Missouri. The NRC staff is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed action.

DATES: The EA and FONSI referenced in this document are available on November 23, 2021.

ADDRESSES: Please refer to Docket ID NRC–2020–0214 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0214. Address questions about Docket IDs in

Regulations.gov to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: George Alexander, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 814–415–6755; email: *George.Alexander@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an amendment of NRC Materials License 24–16273–01, issued to Sigma-Aldrich Company, for operation of the Fort Mims Site, located in Maryland Heights, Missouri. Therefore, as required by Part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC performed an EA. Based on the results of the EA that follows, the NRC has determined not to prepare an environmental impact statement for the license amendment and is issuing a FONSI.

The revised decommissioning plan was submitted to the NRC, by email dated August 22, 2019, and supplemented by a license termination request, dated April 27, 2020. On October 19, 2020, an application to amend Sigma-Aldrich's decommissioning plan and terminate NRC Materials License No. 24–16273–01 was submitted by NRC Form 313 ''Application for Materials License.'' In its revised decommissioning plan, the licensee requests the option to perform direct dose assessment of residual radioactivity, in addition to using derived concentration guideline levels (DCGLs), to demonstrate compliance with the license termination criteria in 10 CFR 20.1402, at the Fort Mims Site in Maryland Heights, Missouri. Under Sigma-Aldrich's license, the licensee shall conduct its decommissioning program in accordance with its decommissioning plan. The decommissioning plan dated October 22, 2008, states that the licensee will rely on the screening values in Appendix H of NRC's ''Consolidated Decommissioning Guidance: Characterization, Survey, and Determination of Radiological Criteria'' (NUREG–1757), Vol. 2, Rev. 1 to demonstrate that the Fort Mims Site meets the release criteria for unrestricted use specified in 10 CFR 20.1402. By letter dated May 12, 2009, the NRC approved Sigma-Aldrich's decommissioning plan, which does not include the use of a dose assessment approach to demonstrate compliance. The licensee's commitments in its current decommissioning plan include remediating all residual activity to levels below approved screening values. The NRC guidance in NUREG–1757, Vol. 2, Rev. 1 allows for the use of either the DCGL or dose assessment approach to demonstrate compliance with 10 CFR 20 1402. NRC staff is reviewing the license amendment requests to revise the decommissioning plan and terminate the license concurrently because, if the staff approves the revised decommissioning plan and determines that the site meets the radiological criteria for unrestricted use under 10 CFR 20.1402, the license can be terminated without additional site characterization or soil remediation.

On December 21, 2020, the NRC published in the **Federal Register** (85 FR 83109), a notice of opportunity to provide comment, request a hearing, and petition for leave to intervene. No comments, requests, or petitions for leave were received.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would approve two requests for license amendment. First, Sigma requested the option to perform direct dose assessment of residual radioactivity in addition to using DCGLs to demonstrate compliance with the radiological criteria for unrestricted use in 10 CFR 20.1402 at the Fort Mims Site in Maryland Heights, Missouri. The NRC guidance in NUREG–1757, Vol. 2, Rev. 1, allows for the use of either the DCGL or dose assessment approach in demonstrating compliance with the license termination criteria.

Second, Sigma also requested license termination based on the site-specific dose assessment in the revised decommissioning plan and the site characterization data referenced in the letter dated April 27, 2020. Because, according to the licensee, the revised decommissioning plan and site characterization data indicate that the site meets the radiological criteria for unrestricted use in 10 CFR 20.1402, and, therefore, the license could be terminated without additional site characterization or soil remediation.

The proposed action is in accordance with the licensee's application dated August 22, 2019, as supplemented on April 27, 2020 and October 19, 2020.

Need for the Proposed Action

The proposed action is needed because Sigma was originally approved to use screening DCGL values to demonstrate that the entire site meets the radiological criteria for unrestricted use specified in 10 CFR 20.1402. Derived concentration guideline levels are intended to be conservative because they are designed to apply generically across a range of sites. However, during site characterization, Sigma identified areas of contamination exceeding the screening DCGL values. Instead of remediating the contaminated soil to less than the screening DCGL values, Sigma requested the use of a dose assessment approach in addition to DCGLs to demonstrate that the site meets the NRC criteria for unrestricted release. The NRC's proposed approval of Sigma's use of the dose assessment and DCGL approach instead of the DCGL screening values for the site would allow Sigma to use site-specific information in a more realistic manner. A license amendment is required for Sigma to change their approach from screening DCGLs to the use of a dose assessment approach in combination with DCGLs.

In addition to the request for use of the dose assessment approach in combination with DCGLs, Sigma also requested license termination, as they have ceased principal activities at the Fort Mims Site. The NRC needs to fulfill its responsibilities under the Atomic Energy Act by making a decision on the proposed license termination request in a manner that would allow unrestricted

use of the site while protecting public health and safety and the environment.

Environmental Impacts of the Proposed Action

The Fort Mims Site is located within the Lakeside Crossing Industrial Park, which is zoned for industrial and commercial use. The proposed action would authorize Sigma to adopt a dose assessment approach for certain areas of the site to demonstrate compliance with the radiological criteria for unrestricted use in 10 CFR 20.1402 and to terminate their license. Sigma would use the dose assessment approach in combination with DCGLs to evaluate the entire site. The dose assessment approach would result in a higher allowed level of residual radioactivity in certain areas of the site in comparison to the previously approved approach of using screening DCGL values. The use of screening DCGL values would require remediation of contaminated soils that are present in the areas described in Section 2 of this EA. That residual contamination affects the soil and groundwater resources at the Fort Mims Site. However, as explained in this notice, the radiological and nonradiological impacts from this residual contamination would not be significant and the site would meet the NRC's requirements for unrestricted use.

In the Safety Evaluation Report for the Fort Mims Site, NRC staff evaluated the dose impacts from the C–14 and H–3 contamination to potential future receptors. The staff reviewed the revised decommissioning plan, in which Sigma evaluated an industrial worker as the likely scenario for the Fort Mims Site. Sigma also evaluated a suburban resident scenario, which is plausible but less likely because the parcel is currently zoned for commercial and industrial use, which is the expected future use for the land as well. In the industrial worker scenario, the hypothetical worker is at the site for 8 hours per day, does not consume food grown or well water from the site, leaves the site after work, and does not work on weekends. In the second scenario, the hypothetical suburban resident is at the site for 24 hours per day and has a vegetable garden but does not consume water from an onsite well because of the availability of a public water system. The maximum total radiological dose is projected to be 0.0002 millisievert/year (0.02 millirem/year) for the most likely scenario of industrial worker from exposure to site soils. The projected dose to the less likely, but plausible, scenario of suburban resident from exposure to site soils and food from the garden is 0.038 millisievert/year (3.8 mrem/year). If groundwater from an onsite well were consumed at the Fort Mims Site, the dose would be approximately 0.019 millisievert/year (1.9 millirem/year) based on: (1) The maximum observed groundwater concentrations of C–14 and H–3 in the groundwater, and (2) an ingestion rate of 1.4 liter/day (0.37 gal/day). All of these potential doses are significantly less than the NRC's unrestricted use criterion in 10 CFR 20.1402 of 0.25 millisievert/year (25 millirem/year).

Based on its review, the NRC staff determined that the radiological environmental impacts from the proposed action for the facility are bounded by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496, Vol.1). Because of the localized nature of the impacts, the NRC staff does not expect any cumulative effects from the proposed action, when considered in combination with previously approved actions at the site and other past, present, or reasonably foreseeable actions. The total dose from the residual radioactivity at the site will continue to be less than the 0.25 mSv/y (25 mrem/y) criterion.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). If Sigma is not authorized to use the dose assessment approach to demonstrate compliance with 10 CFR 20.1402, then Sigma would have to remove the residual radioactivity (by excavating soils) to reach levels that are below the previously approved DCGL values, in order to terminate their license. Approximately 860 m^3 (1,100 yd^3) of soils would need to be excavated. Although the residual levels of radioactivity in the soils are well below the NRC's criterion for unrestricted release of the site, the excavation and removal of this material would create a potential for radiological environmental impacts. Radiological environmental impacts that could result from such remediation activities include inhalation and ingestion hazards to workers and the public. As described in the NUREG–1496 and NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs,'' the excavation and removal of soil would also impact air quality (dust from excavation), increase noise (earthmoving equipment), and affect transportation. These impacts would not be significant but, taken together, the potential nonradiological and radiological impacts of the no-action alternative would be greater than the radiological and nonradiological impacts of leaving the soil in place.

Alternative Use of Resources

The proposed action does not affect any resource implications discussed in previous environmental reviews.

Agencies and Persons Consulted

The NRC staff consulted with the Missouri Department of Natural Resources regarding the environmental impact of the proposed action. By letter dated August 10, 2021, the State of Missouri provided several comments, and the NRC provided a response to those comments. Additionally, as described in the NRC's 2009 decommissioning plan approval EA, NRC staff previously consulted with the Missouri Department of Conservation, Wildlife Division, Endangered Species, on March 5, 2009 as required by Section 7 of the Endangered Species Act. The purpose of the call was to ensure that the licensing action is ''not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of the habitat of such species.'' The Missouri Wildlife Division staff indicated that, based on their review and knowledge of current documents relating to possible endangered species, the decommissioning and release of the Sigma building located in Maryland Heights, Missouri would not affect any endangered species. NRC staff have determined that the current proposed action of allowing dose modeling and license termination would not affect listed species or critical habitat, because there would be no additional disturbance of the site. Therefore, no additional consultation is required under Section 7 of the Endangered Species Act.

As described in the NRC's 2009 decommissioning plan approval EA, NRC staff previously consulted with the Missouri Department of Natural Resources, as required by Section 106 of the National Historic Preservation Act. By letter dated March 19, 2009 from the Department of Natural Resource's State Historic Preservation Office, Director, and Deputy State Historic Preservation Officer, the State indicated that ''[w]e have reviewed the information provided concerning the above referenced project. Based on this review we concur that the Sigma Aldrich Chemical Company is not eligible for inclusion in the National Register of Historic Places. In our opinion, the property has been extensively disturbed, and there is little

potential for the occurrence of archaeological sites. We concur that there will be no historic properties affected and we have no objection to the initiation of project activities.'' NRC staff have determined that the current proposed action of allowing dose modeling and license termination is not the type of activity that has potential to cause effects on historic properties, because there will be no additional disturbance of the site. Therefore, no additional consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

Per NRC guidance in NUREG–1757, Vol. 2, Rev. 1, the use of dose assessment in combination with DCGLs is an acceptable approach for demonstrating compliance with 10 CFR 20.1402. NRC staff also determined in its Safety Evaluation Report that the site meets the unrestricted use criterion in 10 CFR 20.1402 and that the license can be terminated.

On the basis of the EA, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No.
NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs''	ML032540811
NUREG–1757, Vol. 2, Rev.1, ''Consolidated Decommissioning Guidance: Characterization, Survey, and Determination of Radiological Criteria''	ML063000252
Letter from Sigma-Aldrich, regarding Decommissioning Plan, dated October 22, 2008	ML083010187
Consultation with State of Missouri Department of Conservation, regarding Endangered Species, dated March 5, 2009	ML090640890
Letter from State of Missouri Department of Natural Resources, State Historic Preservation Officer, regarding Sigma-Aldrich, dated March 19, 2009	ML090860375
Federal Register Notice—Environmental Assessment for Sigma-Aldrich Company's Decommissioning Plan License Amendment, dated April 28, 2009	ML091180638
NRC Approval of Sigma-Aldrich Company's Fort Mims Facility Decommissioning Plan, dated May 12, 2009	ML091330309
Sigma-Aldrich Fort Mims Site Revised Decommissioning Plan, dated June 27, 2019	ML19273A160
Transmittal Email—Sigma-Aldrich Fort Mims Revised Decommissioning Plan, dated August 22, 2019	ML19273A163
Sigma-Aldrich Fort Mims Site Request for License Termination, dated April 27, 2020	ML20120A544
NUREG–1496, Vol.1, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities''	ML20149G542
Sigma-Aldrich Fort Mims Site Revised Decommissioning Plan: NRC Form 313, ''Application for Materials License,'' dated October 19, 2020	ML20294A191
Letter from the State of Missouri Department of Natural Resources, regarding Comments on the Draft Environmental Assessment for the Sigma-Aldrich Fort Mims Site, dated August 10, 2021	ML21258A322
Safety Evaluation Report of Revised Decommissioning Plan and License Termination Request for the Sigma-Aldrich Fort Mims Site	ML21300A384
NRC Response to State of Missouri Department of Natural Resources on Sigma-Aldrich Draft Environmental Assessment, dated October 12, 2021	ML21277A027

Dated: November 18, 2021.

For the Nuclear Regulatory Commission.

Randolph W. Von Till,

Chief, Uranium Recovery and Materials Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021–25551 Filed 11–22–21; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB No. 3206–0277]

Proposed Collection; Comment Request for Review of an Information Collection: Certification of Vaccination Common Form

AGENCY: Office of Personnel Management.

ACTION: Notice of request for approval of information collection previously given an emergency clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of an existing Emergency collection for the OPM *Form: Certification of Vaccination Common Form.* Approval of the 3206–0277 is necessary for establishing specific safety protocols for two groups—''fully vaccinated people'' and ''not fully vaccinated people''—respectively. Individuals who disclose that they are fully vaccinated may comply with agency guidance for fully vaccinated individuals; those who are unvaccinated, are only partially vaccinated, or who choose not to provide this information will be required to comply with the Centers for Disease Control and Prevention and agency guidance for not fully vaccinated individuals, including wearing masks regardless of the transmission rate in a given area, physical distancing, regular testing, and adhering to applicable travel requirements.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

— Federal Rulemaking Portal: *http://www.rgulations.gov.* Follow the instructions for submitting comments.

Via email to *employ@opm.gov* or send mail to U.S. Office of Personnel Management 1900 E Street NW, Room 6500 N Washington, DC 20415.

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

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Monica Butler *employ@opm.gov* Employee Services/TACVP/HP U.S. Office of Personnel Management 1900 E Street NW, Room 6500 N Washington, DC 20415

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection (OMB No. 3206–0160). The Office of Management and Budget is particularly interested in comments that:

- Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;
- whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology collected during the Emergency approval process; and
- ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of the appropriate technological collection techniques or other forms of information technology.

Analysis

Agency: Employee Services, Office of Personnel Management.

Title: Certification of Vaccination Common Form.

OMB Number: 3206–0277.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 3,952.

Estimated Time per Respondent: 2 minutes.

Total Burden Hours: 132 hours.

Office of Personnel Management.

Kellie Cosgrove Riley,

Director Privacy and Information Management.

[FR Doc. 2021–25580 Filed 11–22–21; 8:45 am]

BILLING CODE 6325–39–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Notice of a modified system of records.

SUMMARY: The United States Postal Service® (Postal Service) is proposing to modify a General Privacy Act System of Records (SOR) to support a program that provides employees with USPS approved brand content to share to their personal social media accounts. Sharing is made easy for participating employees through an intuitive website and mobile application interfaced as an internal social media platform tool.

DATES: These revisions will become effective without further notice on December 23, 2021, unless, in response to comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be submitted via email to the Privacy and Records Management Office, United States Postal Service Headquarters (*privacy@usps.gov*). To facilitate public inspection, arrangements to view copies of any written comments received will be made upon request.

FOR FURTHER INFORMATION CONTACT: Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, 202–268–3069 or *privacy@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records. The Postal Service is proposing revisions to an existing system of records (SOR) to support an employee advocacy program which utilizes an all-in-one social media platform. The voluntary program will provide USPS approved content to current participating employees across the country to share on their personal social media platforms.

I. Background

The Postal Service is sponsoring a new voluntary program that provides USPS approved content to current participating employees across the country to share on their personal social media platforms. Employee advocacy program leverages the power of employees to promote the value of the USPS brand through the eyes of passionate employees vested in the success of the organization. The program will share content on stamps, licensing partnerships, organizational facts and history, business-focused content, and more. The program is completely voluntary as it is preferred that participants use their personal social accounts. Many employees already share information about USPS that they find on their own accord, so the program allows for USPS to provide consistent and accurate information being shared with the public. While the program does rely on two-way communication, customer service is not the focus, so program managers are instructing participants to refer any service issues and inquiries to the USPS Customer Care Center for customer service.

II. Rationale for Changes to USPS Privacy Act Systems of Records

The Postal Service is proposing to modify USPS SOR 100.450 User Profile Support Records Related to Digital Services in support of a program which provides USPS approved content to current participating employees across the country to share on their personal social media platforms.

Program objectives:

—Increase brand presence and improve brand reputation on social media by providing quality content to employees who love their jobs and want to promote the brand.

—Amplify earned reach at minimal costs by repurposing content on USPS corporate pages and creating content with existing agency contracts.

—Leverage through an intuitive website and mobile application for a unified marketing strategy for prominent USPS campaigns, including Informed Delivery®, peak season, and more.

—Improve marketing and social content through the feedback participants provide from two-way communication with their social networks.

III. Description of the Modified System of Records

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed revisions to this SOR has been sent to Congress and to the Office of Management and Budget for their evaluations. The Postal Service does not expect this modified system of records to have any adverse effect on individual privacy rights. Accordingly, for the reasons stated above, the Postal Service proposes revisions to this system of records as follows:

SYSTEM NAME AND NUMBER:

USPS 100.450; User Profile Support Records Related to Employee Programs.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Contractor sites.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Information Officer and Executive Vice President, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

Vice President Corporate Communications, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, 404; 1003, 1004, and 1201–1209.

PURPOSE(S):

1. To provide administrative support to assist end users with technical questions and issues.
2. To provide account management assistance.
3. To provide account security and to deter and detect fraud.
4. To allow USPS employees to share pre-approved USPS brand messages or content on social media via personal social media accounts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current USPS employees that voluntarily opt-in to participate in employee programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. User profile information: Name, date of birth, email, gender, phone, internally assigned identifier, username, physical address, employee identification number (EIN), contact information, customer ID(s), text message number, date of account creation, method of referral to website, date of last logon, and authentication method preferences.
2. User preferences for communications: Frequency and channel opt in/opt out and preferred means of contact for service alerts and notifications, and language.
3. Online user information: Internet Protocol (IP) address, domain name, operating system versions, browser version, date and time of first and last connection, and geographic location.
4. Identity verification information: Username, user ID, email address, text message number, and results of identity proofing validation.
5. Employee social media program: Work contact information, social media user handle, photograph, feedback received regarding content, and aggregate feedback metrics not associated with personally identifiable information.

RECORD SOURCE CATEGORIES:

Individual end user.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standard routine uses 1–9 apply.

STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, and digital files.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

For system administrators and/or customer service representatives, by internally assigned identifier, or end user account details such as name, phone number, etc. to assist end users with access or use of USPS social media access and to understand and fulfill end user needs.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Records stored in digital service are retained until (1) the end user cancels the account, (2) six years after the end user last accesses their account, (3) until the relationship ends, or (4) after reasonable notice has been provided to the end user to export their account information in the event the agreement is terminated.
2. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.
3. Records are retained as long as the employee is active in the program data is maintained. When user is in-active, user data is marked as inactive, but data is retained.
4. Records for social media historical data, posts, feedback received regarding content, and aggregate feedback metrics not associated with personally identifiable information are maintained indefinitely.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge.

Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card key systems, or other physical access control methods.

The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See Notification Procedures and Record Access Procedures.

NOTIFICATION PROCEDURES:

Individuals wanting to know if information about them is maintained in this system must address inquiries in writing to the system manager. Inquiries must include full name, date of birth, physical address, email address, username, and other identifying information, if requested.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

August 14, 2015, 80 FR 48935.

* * * * *

Ruth Stevenson,

Chief Counsel, Ethics & Legal Compliance.

[FR Doc. 2021–25498 Filed 11–22–21; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93597; File No. SR–C2–2021–016]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.34

November 17, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2021, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2 Options'') proposes to amend Rule 5.34. The text of the proposed rule change is provided in Exhibit 5.

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] 15 U.S.C. 78s(b)(3)(A)(iii).
[4] 17 CFR 240.19b–4(f)(6).

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the optional duplicate order protection risk limit setting for Users in Rule 5.34(c)(9). Duplicate order protection is voluntary functionality, which was designed to protect Users against execution of multiple identical orders that may have been erroneously entered. Specifically, pursuant to current Rule 5.34(c)(9), if a User enables this functionality for a port, then after the System receives a specified number of duplicate orders with the same EFID,[5] side, price, quantity, and class within a specified time period (the User determines the number and length of the time period), the System will (A) reject additional duplicate orders until it receives instructions from the User to reset this control or (B) reject all incoming orders submitted through that port for that EFID until the User contacts the Trade Desk to request it reset this control. The User may continue to submit cancel requests prior to reset.

The Exchange proposes to amend this risk setting to eliminate the time parameter. Particularly, as amended, the System will continue to check for a specified number of duplicate orders (which will continue to be determined by the User), but no longer check to see if any such duplicative orders were received over a specified period of time. Instead, the system will compare each submitted order against the immediately preceding order that was submitted with respect to the orders' EFID, side, price, quantity, and class. For example, suppose a User sets the duplicative order count to 10 orders. When the System receives an incoming order, the System checks if the immediately preceding order it received had the same EFID, side, price, quantity and class. If the order does not, then the System keeps the count at ''0'' (and performs the same process for the next incoming order). If the order does, the System will count that order as ''1''. If the following 9 incoming orders through that port are also duplicates (*i.e.,* same EFID, side, price, quantity and class), then regardless of how long it takes for such orders to come into the System, the System will (i) reject any additional duplicate orders until it receives a reset instruction from the User or (ii) reject all incoming orders submitted through that port for that EFID until the User contacts the Trade Desk to request it reset this control, as it does today.

The Exchange has observed that the time parameter check under the current duplicate order protection feature can potentially create a (albeit minor) latency impact for Users who opt to use the functionality. More specifically, minor latency can arise in connection with the specified time parameter because the System must store and conduct a check across all orders sent during the specified time period when this risk check is enabled. The Exchange believes removing the time parameter check will eliminate this latency for Users that opt to use the duplicate order protection. The Exchange does not believe that the proposed rule change will impact the effectiveness of the duplicate order protection feature for those Users that opt to enable such functionality. Also, as noted above, the use of the risk limit is voluntary. The Exchange will continue to offer Users a full suite of additional price protection mechanisms and risk controls which the Exchange believes sufficiently mitigate risks associated with Users entering orders and quotes at unintended prices, and risks associated with orders and quotes trading at prices that are extreme and potentially erroneous, as a likely result of human or operational error.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system and benefit investors, because the Exchange believes it will remove small latency that may currently be caused by use of the duplicate order protection functionality. Moreover, the Exchange does not believe that the proposed rule change will affect the protection of investors or the public interest or the maintenance of a fair and orderly market because Users still have the ability to enable such control to protect against execution of multiple identical orders that may have been erroneously entered, just in a different manner (*i.e.,* without a specified time parameter check). As stated, the Exchange does not believe that the proposed rule change will impact the effectiveness of the duplicate order protection feature for those Users that opt to enable such functionality. In addition to this, the Exchange notes that the use of this risk control is voluntary, and the Exchange will continue to offer a full suite of alternative price protection mechanisms and risk controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the Exchange does not believe that the proposed rule change would impose a burden on intramarket competition that

[5] The term ''EFID'' means an Executing Firm ID. The Exchange assigns an EFID to a Trading Permit Holder, which the System uses to identify the Trading Permit Holder and the clearing number for the execution of orders and quotes submitted to the System with that EFID.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

is not necessary or appropriate in furtherance of the purposes of the Act because it will amend this risk control in the same manner for all Users on the Exchange. In addition to this, and as stated above, the use of the duplicative order protection risk control is voluntary, and the Exchange will continue to offer various other price protections and risk controls that sufficiently mitigate risks associated with market participants entering and/or trading orders and quotes at unintended or extreme prices. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed rule change only updates an existing risk control applicable to ordered submitted to the Exchange. The Exchange also notes that market participants on other exchanges are welcome to become participants on the Exchange if they determine that this proposed rule change has made C2 Options a more attractive or favorable venue.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–C2–2021–016 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–C2–2021–016. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2021–016 and should be submitted on or before December 14, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–25475 Filed 11–22–21; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93602; File No. SR–NASDAQ–2021–087]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Fees

November 17, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 8, 2021, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Nasdaq's Pricing Schedule at Equity 7, Section 30, Registration and Processing Fees, to reflect adjustments to FINRA Registration Fees, Fingerprinting Fees and Continuing Education Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on January 2, 2022.[3]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission).

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

This proposal amends Nasdaq's Pricing Schedule at Equity 7, Section 30, Registration and Processing Fees, to reflect adjustments to FINRA Registration Fees, Fingerprinting Fees, and Continuing Education Fees.[4] The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of Nasdaq members that are not FINRA members (''Non-FINRA members''). The Exchange is merely listing these fees on its Pricing Schedule. The Exchange does not collect or retain these fees.

The Exchange proposes to amend the title of Equity 7, Section 30 from ''Registration and Processing Fees'' to ''Regulatory, Registration and Processing Fees'' to reflect the pricing within the section.

Today, Nasdaq Equity 7, Section 30, provides a list of FINRA Fees. The Exchange proposes to amend the introductory paragraph to: (1) Indicate ''CRD'' is the ''Central Registration Depository'' or ''CRD''; (2) add a sentence to make clear that FINRA collects the fees listed within Equity 7, Section 30 on behalf of the Exchange; (3) add the title ''General Registration Fees:''; and (4) remove the numbering from (1) to (3).

With respect to the General Registration Fees, the Exchange proposes to increase the $100 fee to $125 for each initial Form U4 filed for the registration of a representative or principal. This amendment is made in accordance with a recent FINRA rule change to adjust to its fees.[5] The Exchange also proposes to amend the description of the $45 registration fee from ''annually for each of the member's registered representatives and principals for system processing'' to ''FINRA Annual System Processing Fee Assessed only during Renewals.'' The proposed new title is more precise.

With respect to the fingerprint processing fees, the Exchange notes that the current fees do not reflect the fees assessed by FINRA today. The Exchange proposes to amend the current fees to reflect the current fees that are assessed by FINRA. The proposed new rule text, with the title, ''Fingerprint Processing Fees:'' added, would provide,

Fingerprint Processing Fees:
- $29.50—Initial Submission (Electronic)
- $44.50—Initial Submission (Paper)
- $15.00—Second Submission (Electronic)
- $30.00—Second Submission (Paper)
- $29.50—Third Submission (Electronic)
- $44.50—Third Submission (Paper)
- $30.00—FINRA Processing Fee for Fingerprint Results Submitted by Self-Regulatory Organizations other than FINRA.

In 2012, FINRA only offered one set of fees ($27.50 for the initial submission, $13.00 for the second submission, and $27.50 for the third submission). In 2013, FINRA amended its fingerprint fees and offered two sets of fees. For fingerprints submitted on paper card, the fees are $44.50 per initial submission, $30.00 per second submission, and $44.50 per third submission. For fingerprints submitted electronically, the fees are $29.50 per initial submission, $15.00 per second submission, and $29.50 per third submission.[6] By updating the fingerprinting fees, the Exchange would properly reflect the fees assessed today by FINRA.[7]

The Exchange is deleting the fees noted within current Equity 7, Section 9C [sic] at (4)–(6) and (8).[8] These fingerprint fees, which are proposed to be deleted, were superseded by the FINRA fingerprinting fees which were adopted in 2013.

The Exchange proposes to add a new title, ''Continuing Education Fee:'' and proposes to provide an introductory paragraph to those fees that states, ''The Continuing Education Fee will be assessed as to each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Exchange General 4, Section 1240. This fee is paid directly to FINRA.'' The incorrect citation to Nasdaq Rule 1240 is being removed from the current rule text. Also, the Exchange proposes to cite the appropriate registrations, namely S101 and S201.

The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those currently assessed by FINRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to increase the $100 fee for each initial Form U4 filed for the registration of a

[4] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[5] *Id.* FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[6] *See* Securities Exchange Act Release No. 67247 (June 25, 2012) 77 FR 38866 (June 29, 2012) (SR–FINRA–2012–030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections 4 and 6 of Schedule A to the FINRA By-Laws Regarding Fees Relating to the Central Registration Depository). FINRA notes in this rule change that it is proposing a two-tiered fingerprint processing fee structure in part to reflect that the costs associated with processing fingerprints submitted via a hard copy fingerprint card are much higher than those that are submitted electronically. Specifically, fingerprints submitted by a hard copy card require additional processing by FINRA, including adding a barcode, if necessary, to the card for tracking purposes; scanning the fingerprints and converting them to a digital image for submission to the FBI; and, for first-time registrants, entering the individual's personal and demographic information into the CRD system. FINRA noted that members will be able to choose how they submit their associated persons' fingerprints and therefore will have some control over the fees they incur for fingerprint processing. FINRA also noted an FBI Fee of $11.25 is assessed as well.

[7] *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[8] The Exchange proposes to delete the following rule text:

(4) $15 for processing and posting to the CRD system each set of fingerprints submitted electronically by the member, plus a pass-through of any other charge imposed by the United States Department of Justice for processing each set of fingerprints;

(5) $30.00 for processing and posting to the CRD system each set of fingerprint cards submitted in non-electronic format by the member to FINRA, plus any other charge that may be imposed by the United States Department of Justice for processing each set of fingerprints;

(6) $30 for processing and posting to the CRD system each set of fingerprint results and identifying information that has been processed through a self-regulatory organization other than NASD; and

(8) $110 for the additional processing of each initial or amended Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

representative or principal to $125 in accordance with an adjustment to FINRA's fees.[11] The Exchange's rule text will reflect the current registration rate that will be assessed by FINRA as of January 2, 2022. Additionally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees will bring greater transparency to its fees. Amending the title of the $45 fee to be more precise will provide greater transparency to this fee. Updating FINRA's fingerprint processing fees to reflect the current charges will bring greater transparency to these charges that are currently assessed and collected by FINRA. Also, referencing the rule which governs the Regulatory Element of the Continuing Education Requirements and, noting that the fee is paid directly to FINRA, will provide more information to members regarding the fees for Continuing Education. The proposed fees are identical to those adopted by FINRA for use of Web CRD for disclosure and the registration of FINRA members and their associated persons. These costs are borne by FINRA when a Non-FINRA member uses Web CRD.

The Exchange believes that its proposal to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 is equitable and not unfairly discriminatory as the amendment will reflect the current fee that will be assessed by FINRA to all members who require Form U4 filings as of January 2, 2022. Amending the title of the $45 fee to be more precise will provide greater transparency to this fee. Updating the fingerprint processing fees to reflect the current fees is equitable and not unfairly discriminatory as FINRA currently assesses these rates to all members. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal is also equitable and not unfairly discriminatory because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that its proposal to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 does not impose an undue burden on competition as the amendment will reflect the current fee that will be assessed by FINRA to all members who require Form U4 filings as of January 2, 2022. Amending the title of the $45 fee to be more precise will provide greater transparency to this fee. Updating the fingerprint processing fees to reflect the current fees does not impose an undue burden on competition as FINRA currently assesses these rates to all members. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2021–087 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2021–087. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2021–087, and should be submitted on or before December 14, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier

Assistant Secretary.

[FR Doc. 2021–25478 Filed 11–22–21; 8:45 am]

BILLING CODE 8011–01–P

[11] *See* note 3 above.

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93603; File No. SR–ICEEU–2021–018]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Amendments to the ICE Clear Europe Collateral and Haircut Procedures

November 17, 2021.

I. Introduction

On September 20, 2021, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to make certain changes to its existing Collateral and Haircut Procedures (the ''Collateral Procedures''). The proposed rule change was published for comment in the **Federal Register** on October 7, 2021.[3] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe is proposing to revise the Collateral Procedures to (i) state explicitly its formula for calculating the value of its published list of acceptable collateral (''Permitted Cover'') provided by Clearing Members (''Members'') for covering their margin and guaranty fund requirements and (ii) update its processes for monitoring data related to collateral valuations, and specify the roles and responsibilities of its various internal teams in performing such monitoring processes.[4] The proposed revisions are described in more detail below.[5]

To ensure that the collateral ICE Clear Europe holds is highly liquid with low credit and market risk, ICE Clear Europe only accepts assets that meet the criteria set forth in the Collateral Procedures, which ICE Clear Europe refers to as Permitted Cover. To facilitate Permitted Cover valuations, ICE Clear Europe is proposing an explicit formula to calculate the Permitted Cover value in new Section 2.2 of the Collateral Procedures. As proposed, cover value is equal to Nominal * Price/ 100 * (1 − Haircut)[6] + Nominal * Accrued, where price is clean (*i.e.,* without accrued interest) and accrued is expressed in %. Proposed Section 2.2 also would state that as a matter of standard practice at ICE Clear Europe, Treasuries are given no cover value two business days prior to maturity and a cash call would be issued if a Member's account is in deficit. Additionally, proposed Section 2.2 would state that accrued interest will lose value one day prior to the coupon pay date. ICE Clear Europe represents that these changes reflect its existing practice for the valuation of Permitted Cover and are intended to document such practice more clearly.[7]

The proposed rule change also would update ICE Clear Europe's processes for monitoring data related to collateral pricing and would describe the roles of various teams tasked with such monitoring. Specifically, the proposed changes to Section 5.1 (Data Monitoring) would add a new sentence stating that the System Operations team checks end of day collateral pricing. The proposed changes to Section 5.1 would then state that the Credit team has controls to monitor end of day market data that the ECS System Operations team uses to value collateral against thresholds to ensure that the data is not ''stale,'' and also would remove intraday market data from the scope of such monitoring. Currently, Section 5.1 does not specify the responsibilities of any internal teams, stating that ICE Clear Europe monitors end of day and intraday market data it uses to value collateral thresholds to ensure that the data is not ''stale.'' Additionally, the proposed changes would add a new sentence at the end of Section 5.1 which states that the Treasury team reconciles and confirms the daily bilateral collateral positions (nominal amounts).

Finally, the proposed rule change would update the scope of the Collateral Procedures in Section 1.2 to include intraday and end of day valuation of collateral, which is consistent with ICE Clear Europe's existing practice. Currently, Section 1.2 excludes intraday and end of day valuation of collateral and any associated margin processes from the scope of the Collateral Procedures.

III. Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[8] and Rules 17Ad–22(e)(2)(i) and (v), and (e)(5) thereunder.[9]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible.[10]

As described above, the proposed rule change would revise the Collateral Procedures to state explicitly ICE Clear Europe's formula for calculating the value of Permitted Cover and to update ICE Clear Europe's processes for monitoring data related to collateral valuations, which would also specify the roles and responsibilities of its various internal teams in performing such monitoring processes. For the specific reasons discussed below, the Commission believes that, in general, the proposed rule change would facilitate the sound operation of ICE Clear Europe's margin framework and overall risk management and financial stability of ICE Clear Europe, and thereby promote ICE Clear Europe's prompt and accurate clearance and settlement of cleared contracts, and help assure the safeguarding of securities and funds which are in ICE Clear Europe's custody or control or for which ICE Clear Europe is responsible.

First, the Commission believes that proposed new Section 2.2, in clearly documenting ICE Clear Europe's formula for calculating the value of Permitted Cover; its standard practice of giving no cover value two business days prior to maturity of Treasuries and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Collateral and Haircut Procedures, Exchange Act Release No. 93236 (Oct. 1, 2021), 86 FR 55879 (Oct. 7, 2021) (SR–ICEEU–2021–018) (''Notice'').

[4] Capitalized terms used not defined herein have the meanings specified in the Collateral Procedures or the ICE Clear Europe Clearing Rules (the ''Rules''), as applicable.

[5] The following description of the proposed rule change is substantially excerpted from the Notice.

[6] The term ''Haircut'' refers to the risk-based haircut or reduction percentage that ICE Clear Europe sets and applies to the value of certain collateral.

[7] *See* Notice at 55879.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(e)(2)(i) and (v), and (e)(5).

[10] 15 U.S.C. 78q–1(b)(3)(F).

issuing a cash call if a Member's account is in deficit; and also its standard practice for accrued interest to lose value one day prior to the coupon pay date, would help ensure that Members and internal personnel at ICE Clear Europe make accurate and consistent cover value calculations that adequately cover Members' margin and guaranty fund requirements. These aspects of the proposed rule change would, in turn, enhance ICE Clear Europe's ability to reduce the risk of loss mutualization among its Members when closing out a defaulting Member's portfolio and liquidating collateral under potentially stressed market conditions, thereby safeguarding the financial resources of non-defaulting Members.

Second, the Commission believes that the proposed changes to Section 5.1 (Data Monitoring), in documenting that the System Operations team checks end of day collateral pricing; that the Credit team has controls to monitor end of day market data that the ECS System Operations team uses to value collateral against thresholds to ensure that the data is not ''stale,'' and thus more timely and accurate; that monitoring of intraday market data is removed from the scope of such monitoring, and that the Treasury team reconciles and confirms the daily bilateral collateral positions (or nominal amounts), would, taken together, enhance the accuracy, clarity, and transparency of ICE Clear Europe's collateral valuation data monitoring procedures and help internal teams focus procedurally on their monitoring responsibilities. For example, the proposed removal of monitoring intraday market data would help focus the ECS System Operations team on monitoring end of day pricing, but not intraday pricing. The Commission believes that these aspects of the proposed rule change would support the ongoing accuracy of Permitted Cover valuations that inform and facilitate the adequacy of ICE Clear Europe's calculations of its Members' margin and guaranty fund requirements and, in turn, would further enhance ICE Clear Europe's ability to mitigate the risk of loss mutualization in the event of a Member's default, thereby safeguarding the financial resources of non-defaulting Members.

Third, the Commission believes that the proposed changes in Section 1.2 to include intraday and end of day valuation of collateral would ensure that the Collateral Procedures clearly document ICE Clear Europe's existing collateral valuation practice and also clarify that such practice is conducted under the Collateral Procedures. Clarifying the scope of the Collateral Procedures document would enhance its completeness and comprehensiveness, and help ICE Clear Europe's personnel efficiently implement the associated operational activities, thereby contributing to the prompt and accurate clearance and settlement of cleared contracts.

The Commission also notes that it has previously found the Collateral Procedures consistent with the Act [11] and because there are no proposed material changes, believes that the Collateral Procedures continue to be consistent with the Act.

Therefore, for the reasons discussed above, the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, and assure the safeguarding of securities and funds in ICE Clear Europe's custody or control, consistent with the Section 17A(b)(3)(F) of the Act.[12]

B. Consistency With Rules 17Ad–22(e)(2)(i) and (v) Under the Act

Rules 17Ad–22(e)(2)(i) and (v) require that ICE Clear Europe establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility, respectively.[13]

With respect to Rule 17Ad–22(e)(2)(i), the Commission believes that the proposed changes in Section 1.2, by including intraday and end of day valuation of collateral within the scope of the Collateral Procedures, would clearly and transparently document that such collateral valuation activities are conducted under the Collateral Procedures and thus subject to the governance process currently set forth in the Collateral Procedures document.

With respect to Rule 17Ad–22(e)(2)(v), the Commission believes that the proposed changes to Section 5.1 (Data Monitoring), in documenting that the System Operations team checks end of day collateral pricing, that the Credit team has controls to monitor end of day market data that the ECS System Operations team uses to value collateral against thresholds to ensure that the data is not ''stale,'' and that the Treasury team reconciles and confirms the daily bilateral collateral positions (or nominal amounts), would specify clear and direct roles and responsibilities of the internal teams involved in ICE Clear Europe's data monitoring processes.

The Commission therefore believes the proposed changes in Section 1.2 provide for governance arrangements that are clear and transparent, and the proposed changes to Section 5.1 specify clear and direct lines of responsibility.

For these reasons, the Commission finds that the proposed rule change is consistent with Rules 17Ad–22(e)(2)(i) and (v).[14]

C. Consistency With Rule 17Ad–22(e)(5) Under the Act

Rule 17Ad–22(e)(5) requires that ICE Clear Europe establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits if the covered clearing agency requires collateral to manage its or its participants' credit exposure; and require a review of the sufficiency of its collateral haircuts and concentration limits to be performed not less than annually.[15]

The Commission believes that the proposed rule change, by documenting ICE Clear Europe's formula for calculating the value of Permitted Cover and related standard practices for valuing Treasuries and accrued interest, and also by documenting that the ECS System Operations team uses end of day market data to value collateral against thresholds to ensure that the data is not stale, would enhance the accuracy of ICE Clear Europe's collateral valuation practices and help ensure that ICE Clear Europe continues to manage prudently its and its Members' credit exposure by adequately covering Members' margin and guaranty fund requirements.

For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(e)(5).[16]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act [17] and

[11] Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to the ICE Clear Europe Collateral and Haircut Policy and Collateral and Haircut Procedures, Exchange Act Release No. 88136 (Feb. 6, 2020), 85 FR 8075 (Feb. 12, 2020) (SR–ICEEU–2019–019).

[12] 15 U.S.C. 78q–(b)(3)(F).

[13] 17 CFR 240.17Ad–22(e)(2)(i) and (v).

[14] 17 CFR 240.17Ad–22(e)(2)(i) and (v).

[15] 17 CFR 240.17Ad–22(e)(5).

[16] 17 CFR 240.17Ad–22(e)(5).

[17] 15 U.S.C. 78q–1(b)(3)(F).

Rules 17Ad–22(e)(2)(i) and (v), and (e)(5) thereunder.[18]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[19] that the proposed rule change (SR–ICEEU–2021–018) be, and hereby is, approved.[20]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–25479 Filed 11–22–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93598; File No. SR–CBOE–2021–066]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.34

November 17, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2021, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Rule 5.34. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the optional duplicate order protection risk limit setting for Users in Rule 5.34(c)(9). Duplicate order protection is voluntary functionality, which was designed to protect Users against execution of multiple identical orders that may have been erroneously entered. Specifically, pursuant to current Rule 5.34(c)(9), if a User enables this functionality for a port, then after the System receives a specified number of duplicate orders with the same EFID,[5] side, price, quantity, and class within a specified time period (the User determines the number and length of the time period), the System will (A) reject additional duplicate orders until it receives instructions from the User to reset this control or (B) reject all incoming orders submitted through that port for that EFID until the User contacts the Trade Desk to request it reset this control. The User may continue to submit cancel requests prior to reset.

The Exchange proposes to amend this risk setting to eliminate the time parameter. Particularly, as amended, the System will continue to check for a specified number of duplicate orders (which will continue to be determined by the User), but no longer check to see if any such duplicative orders were received over a specified period of time. Instead, the system will compare each submitted order against the immediately preceding order that was submitted with respect to the orders' EFID, side, price, quantity, and class. For example, suppose a User sets the duplicative order count to 10 orders. When the System receives an incoming order, the System checks if the immediately preceding order it received had the same EFID, side, price, quantity and class. If the order does not, then the System keeps the count at ''0'' (and performs the same process for the next incoming order). If the order does, the System will count that order as ''1''. If the following 9 incoming orders through that port are also duplicates (*i.e.,* same EFID, side, price, quantity and class), then regardless of how long it takes for such orders to come into the System, the System will (i) reject any additional duplicate orders until it receives a reset instruction from the User or (ii) reject all incoming orders submitted through that port for that EFID until the User contacts the Trade Desk to request it reset this control, as it does today.

The Exchange has observed that the time parameter check under the current duplicate order protection feature can potentially create a (albeit minor) latency impact for Users who opt to use the functionality. More specifically, minor latency can arise in connection with the specified time parameter because the System must store and conduct a check across all orders sent during the specified time period when this risk check is enabled. The Exchange believes removing the time parameter check will eliminate this latency for Users that opt to use the duplicate order protection. The Exchange does not believe that the proposed rule change will impact the effectiveness of the duplicate order protection feature for those Users that opt to enable such functionality. Also, as noted above, the use of the risk limit is voluntary. The Exchange will continue to offer Users a full suite of additional price protection mechanisms and risk controls which the Exchange believes sufficiently mitigate risks associated with Users entering orders and quotes at unintended prices, and risks associated with orders and quotes trading at prices that are extreme and potentially erroneous, as a likely result of human or operational error.

Lastly, the Exchange proposes to correct an erroneous rule number. Particularly, the Exchange proposes to update Rule 5.34(c)(12) to Rule 5.34(c)(11), which follows the immediately preceding subparagraph (10) of Rule 5.34(c).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the

[18] 17 CFR 240.17Ad–22(e)(2)(i) and (v), and (e)(5).

[19] 15 U.S.C. 78s(b)(2).

[20] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The term ''EFID'' means an Executing Firm ID. The Exchange assigns an EFID to a Trading Permit Holder, which the System uses to identify the Trading Permit Holder and the clearing number for the execution of orders and quotes submitted to the System with that EFID.

Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system and benefit investors, because the Exchange believes it will remove small latency that may currently be caused by use of the duplicate order protection functionality. Moreover, the Exchange does not believe that the proposed rule change will affect the protection of investors or the public interest or the maintenance of a fair and orderly market because Users still have the ability to enable such control to protect against execution of multiple identical orders that may have been erroneously entered, just in a different manner (*i.e.,* without a specified time parameter check). As stated, the Exchange does not believe that the proposed rule change will impact the effectiveness of the duplicate order protection feature for those Users that opt to enable such functionality. In addition to this, the Exchange notes that the use of this risk control is voluntary, and the Exchange will continue to offer a full suite of alternative price protection mechanisms and risk controls.

The Exchange believes updating an erroneous subparagraph reference in Rule 5.34 removes impediments to and perfects the mechanism of a free and open market and national market system and benefits investors, because it eliminates potential confusion and maintains clarity in the rules.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the Exchange does not believe that the proposed rule change would impose a burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will amend this risk control in the same manner for all Users on the Exchange. In addition to this, and as stated above, the use of the duplicative order protection risk control is voluntary, and the Exchange will continue to offer various other price protections and risk controls that sufficiently mitigate risks associated with market participants entering and/or trading orders and quotes at unintended or extreme prices. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed rule change only updates an existing risk control applicable to ordered submitted to the Exchange. The Exchange also notes that market participants on other exchanges are welcome to become participants on the Exchange if they determine that this proposed rule change has made Cboe Options a more attractive or favorable venue.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). 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.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2021–066 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–CBOE–2021–066. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2021–066 and should be submitted on or before December 14, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–25476 Filed 11–22–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93601; File No. SR–CFE–2021–009]

Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of a Filing of a Proposed Rule Change Regarding Block Trade Recordkeeping Requirements

November 17, 2021.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 10, 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 November 10, 2021.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The Exchange proposes to update the recordkeeping requirements applicable to Block Trades. 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.

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 415 (Block Trades) governs Block Trades in CFE products.[3] Rule 415(e) currently requires each CFE Trading Privilege Holder (''TPH'') that is a party to a Block Trade to record certain details regarding the transaction on an order ticket. Those details include (i) the Contract (including the expiration); (ii) the number of contracts traded; (iii) the price of execution or premium; (iv) the time of execution (*i.e.,* the time at which the parties agreed to the Block Trade); (v) the arrangement time, if any (*i.e.,* the time at which the parties agreed to enter into the Block Trade at a later time); (vi) the identity of the counterparty; (vii) that the transaction is a Block Trade; (viii) if applicable, the account number of the customer for which the Block Trade was executed; and (ix) if applicable, the expiration, strike price, and type of option (put or call) in the case of an option.

The proposed rule change proposes to revise Rule 415(e) to limit the application of the Block Trade order ticket requirement to any TPH that acts as an agent for a Block Trade and to no longer apply that requirement to any TPH that is a party to a Block Trade in a principal capacity and not acting in the capacity as an agent. The proposed rule change also proposes to add a requirement to Rule 415(e) that each TPH involved in any Block Trade either maintain records evidencing compliance with the criteria set forth in Rule 415 or be able to obtain those records from its customer involved in the Block Trade. Finally, consistent with these changes, the proposed rule change proposes to revise a current cross-reference in Rule 415(e) to an order ticket in this context by referring to the order ticket as ''any required order ticket'' instead of the current description of ''the order ticket referred to in the preceding sentence.''

These proposed rule amendments are consistent with comparable provisions included in CFE Rule 414 (Exchange of Contract for Related Position), which governs exchange of contract for related position (''ECRP'') transactions involving CFE products.[4] In particular, Rule 414(g) includes a similar provision to the provision in Rule 415(e) regarding the details of an ECRP transaction that must be recorded on an order ticket and that provision of Rule 414(g) is applicable solely to any TPH that acts as an agent for an ECRP transaction. Similarly, the new requirement that the proposed rule change is proposing to add to Rule 415(e) regarding the maintenance of records evidencing compliance with Rule 415 is the same requirement that is included in the first sentence of Rule 414(h) related to ECRP transactions. Accordingly, the proposed rule change proposes to align the order ticket requirement appliable to Block Trades with the corresponding order ticket requirement applicable to ECRP transactions. Additionally, the proposed rule change proposes to make clear that any TPH involved in a Block Trade must maintain records of the Block Trade evidencing compliance with the criteria in Rule 415 or be able to obtain those records from its customer involved in the Block Trade.

Block Trades and ECRP transactions are the two primary types of off-exchange transactions that are permitted under CFE rules. Given the similarities between these two types of transactions, Block Trades and ECRP transactions are subject to similar recordkeeping and reporting requirements. Accordingly, CFE believes that it is appropriate to align the order ticket requirement

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 7 U.S.C. 7a–2(c).

[3] A Block Trade is a large transaction in a Contract listed on CFE that is negotiated off of CFE's trading facility and is then reported to CFE which meets the parameters for a Block Trade under CFE's rules.

[4] An ECRP transaction consists of a transaction in a Contract listed on CFE and a transaction in a related position that is negotiated off of CFE's trading facility and is then reported to CFE which meets the parameters for an ECRP transaction under CFE's rules. The related position must have a high degree of price correlation to the underlying of the Contract transaction so that the Contract transaction would serve as an appropriate hedge for the related position. In every ECRP transaction, one party is the buyer of (or the holder of the long market exposure associated with) the related position and the seller of the corresponding Contract and the other party is the seller of (or the holder of the short market exposure associated with) the related position and the buyer of the corresponding Contract.

appliable to Block Trades under Rule 415 with the corresponding order ticket requirement applicable to ECRP transactions under Rule 414 and that doing so will make it easier for TPHs to comply with the Exchange's recordkeeping requirements.

The Exchange also notes that it separately receives the information that a TPH party to a Block Trade in a principal capacity is currently required to record on an order ticket. Therefore, the Exchange will still receive this information following the implementation of the proposed rule change. Also, unlike with an order ticket which a TPH creates and maintains in its own records, the Exchange receives this information directly through the reporting process to the Exchange for a Block Trade and thus this information becomes part of the Exchange's records. Specifically, Rule 415(h) requires that the notification to the Exchange of a Block Trade shall include (i) whether the Block Trade is a single leg transaction, a transaction in a spread, or a transaction in a strip; (ii) the Contract identifier (or product and contract expiration for a future or product, expiration, strike price, and type of option (put or call) in the case of an option), price (or premium for an option) and quantity of the Block Trade and whether the Block Trade is buy or sell; (iii) the time of execution (*i.e.,* the time at which the parties agreed to the transaction); (iv) the arrangement time, if any (*i.e.,* the time at which the parties agreed to enter into the transaction at a later time); (v) Order Entry Operator ID; (vi) executing firm ID (''EFID''); (vii) account; (viii) Clearing Corporation origin code; (ix) Customer Type Indicator code; and (x) any other information required by the Exchange. Additionally, among the other information that the Exchange requires be included as part of the notification to the Exchange of a Block Trade under Rule 415(h)(x) is the identity of the counterparty.

In addition, the proposed rule change recognizes that the use of an order ticket is more applicable with respect to an agent involved in a transaction than with respect to a principal involved in a transaction, while at the same time still requiring that any TPH involved in a Block Trade (whether that TPH is an agent or principal) maintain appropriate records relating to the Block Trade. The primary purpose of an order ticket is to record the information regarding an order that a customer communicates to a broker. An order ticket records the authorization that a customer has provided to a broker with respect to an order placed with the broker on behalf of that customer. Because a principal is trading on behalf of itself and not on behalf of a customer, there is not the same need for the TPH entering into a Block Trade as principal to record information on an order ticket regarding a transaction that the TPH desires to effectuate on behalf of itself. This is the case because there is not another party involved in the transaction on whose behalf the principal is acting and thus it is not necessary to record an authorization from that party with respect to an order from that party. Consequently, it is not common practice for TPHs trading as principal to utilize order tickets. The proposed rule change recognizes that this is the case and that there is not the same need for an order ticket when a TPH is acting as principal that exists when a TPH is acting as an agent.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(1)[6] and 6(b)(5)[7] in particular, in that it is designed:

- To enable the Exchange to enforce compliance by its TPHs and persons associated with its TPHs 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 proposes to set forth and make clear to TPHs within CFE rules the recordkeeping requirements that apply with regard to Block Trades. The proposed rule change proposes to align the order ticket requirement appliable to Block Trades under Rule 415 with the corresponding order ticket requirement applicable to ECRP transactions under Rule 414. The Exchange believes that aligning these requirements is appropriate given the similarities between Block Trades and ECRP transactions, which are the two primary types of off-exchange transactions that are permitted under CFE rules and which are subject to similar recordkeeping and reporting requirements. Additionally, the proposed rule change recognizes that the use of an order ticket is more applicable with respect to an agent involved in a transaction than with respect to a principal involved in a transaction in that the primary purpose of an order ticket is to record the information regarding an order that a customer communicates to a broker and that the need to record a customer's authorization with respect to an order does not exist when a TPH is trading as principal on behalf of itself. The Exchange believes that clearly setting forth Block Trade recordkeeping requirements in CFE rules, aligning the recordkeeping requirements for Block Trades and ECRP transactions with regard to order tickets, and applying the Block Trade order ticket requirement to agents and not to principals in recognition that order tickets are more directed to use with customer orders will make it easier for TPHs to comply with these requirements. Accordingly, the Exchange believes that the proposed rule change will contribute to furthering compliance with Exchange rules.

The Exchange separately receives the information that a TPH party to a Block Trade in a principal capacity is currently required to record on an order ticket when a Block Trade is reported to CFE. Therefore, the Exchange will still receive this information following the implementation of the proposed rule change.

The Exchange also believes that the proposed rule change will further the Exchange's ability to carry out its responsibilities as a self-regulatory organization in that it will contribute to enhancing the Exchange's ability to obtain trade information that it may utilize in reviewing whether Block Trades comply with Rule 415 by requiring that each TPH involved in any Block Trade either maintain records evidencing compliance with the criteria set forth in Rule 415 or be able to obtain those records from its customer involved in the Block Trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change will not burden intra-market competition because the proposed rule updates will apply equally to all TPHs. The Exchange also believes that the proposed rule change will not burden inter-market competition because the proposed rule change is designed to further the Exchange's ability to carry out its responsibilities as a self-regulatory

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(1).

[7] 15 U.S.C. 78f(b)(5).

organization in that it will contribute to enhancing the Exchange's ability to obtain trade information that it may utilize in reviewing whether Block Trades comply with Rule 415.

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 November 24, 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.[8]

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–2021–009 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–2021–009. 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–2021–009, and should be submitted on or before December 14, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–25477 Filed 11–22–21; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(1).

[9] 17 CFR 200.30–3(a)(73).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17272 and #17273; CALIFORNIA Disaster Number CA–00344]

Administrative Declaration of a Disaster for the State of California

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of California dated 11/17/2021.

Incident: Cache Fire.

Incident Period: 08/18/2021 through 08/23/2021.

DATES: Issued on 11/17/2021.

Physical Loan Application Deadline Date: 01/18/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 08/17/2022.

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: Lake

Contiguous Counties: California: Colusa, Glenn, Mendocino, Napa, Sonoma, Yolo

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 17272 5 and for economic injury is 17273 0.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2021–25474 Filed 11–22–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of

information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 24, 2022.

ADDRESSES: Send all comments to Daniel Upham, Chief, Microenterprise Development Division, Office of Capital Access, Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Daniel Upham, Chief, Microenterprise Development Division, Office of Capital Access, *Daniel.upham@sba.gov* 202–205–7001, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov;*

SUPPLEMENTARY INFORMATION: Information collection is needed to ensure that Microloan Program activity meets the statutory goals of assisting mandated target market. The information is used by the reporting participants and the SBA to assist with portfolio management, risk management, loan servicing, oversight and compliance, data management and understanding of short and long term trends and development of outcome measures.

Solicitation of Public Comments: SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

OMB Control Number: 3245–0352.

Title: Microloan Program Electronic Reporting System (MPERS) (MPERsystem).

Description of Respondents: SBA reporting participants in the Microloan Program.

Form Number: N/A.

Total Estimated Annual Responses: 170.

Total Estimated Annual Hour Burden: 3,080.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–25531 Filed 11–22–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Random Drug and Alcohol Testing Percentage Rates of Covered Aviation Employees for the Period of January 1, 2022, Through December 31, 2022

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA has determined that the minimum random drug and alcohol testing percentage rates for the period January 1, 2022, through December 31, 2022, will remain at 25 percent of safety-sensitive employees for random drug testing and 10 percent of safety-sensitive employees for random alcohol testing.

FOR FURTHER INFORMATION CONTACT: Ms. Vicky Dunne, Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division, Program Policy Branch; Email *drugabatement@faa.gov;* Telephone (202) 267–8442.

SUPPLEMENTARY INFORMATION:

Discussion: Pursuant to 14 CFR 120.109(b), the FAA Administrator's decision on whether to change the minimum annual random drug testing rate is based on the reported random drug test positive rate for the entire aviation industry. If the reported random drug test positive rate is less than 1.00%, the Administrator may continue the minimum random drug testing rate at 25%. In 2020, the random drug test positive rate was 0.771%. Therefore, the minimum random drug testing rate will remain at 25% for calendar year 2022.

Similarly, 14 CFR 120.217(c), requires the decision on the minimum annual random alcohol testing rate to be based on the random alcohol test violation rate. If the violation rate remains less than 0.50%, the Administrator may continue the minimum random alcohol testing rate at 10%. In 2020, the random alcohol test violation rate was 0.148%. Therefore, the minimum random alcohol testing rate will remain at 10% for calendar year 2022.

If you have questions about how the annual random testing percentage rates are determined, please refer to the Code of Federal Regulations Title 14, section 120.109(b) (for drug testing), and 120.217(c) (for alcohol testing).

Issued in Washington, DC.

Susan Northrup,

Federal Air Surgeon.

[FR Doc. 2021–25511 Filed 11–22–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice of Airport Improvement Program Property Release; Orcas Island Airport, Eastsound, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release Airport Improvement Program property.

SUMMARY: The FAA is considering a request from the Port of Orcas, Washington to waive the Airport Improvement Program property requirements for approximately 1,120 square feet of airport property located at Orcas Island Airport, in Eastsound, Washington. The subject property is located in the east section of the airport. This release will allow the Port to sell 1,120 feet of Parcel 271142024000 to East Side Sewer District and construct a chain link fence for additional water treatment. There will be proceeds generated from the proposed release of this property for capital improvements at the airport. The Port will receive not less than fair market value for the property and the revenue generated from the sale will be used for airport purposes. It has been determined through study that the subject partial parcel will not be needed for aeronautical purposes.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**. Emailed comments can be provided to Ms. Mandi M. Lesauis, Program Specialist, Seattle Airports District Office, *mandi.lesauis@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Mandi M. Lesauis, Program Specialist, Seattle Airports District Office, *mandi.lesauis@faa.gov,* (206) 231–4140.

Authority: Title 49, U.S.C. Section 47153(c).

Issued in Des Moines, Washington, on November 9, 2021.

Warren D. Ferrell,

Acting Manager, Seattle Airports District Office.

[FR Doc. 2021–24861 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability, Notice of Public Comment Period, Notice of Public Meeting, and Request for Comment on the Draft Environmental Assessment for the Huntsville International Airport Reentry Site Operator License and Sierra Space Corporation Vehicle Operator License

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

ACTION: Notice of availability, notice of public comment period, notice of public meeting, and request for comment.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), Council on Environmental Quality NEPA implementing regulations, and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures,* the FAA is announcing the availability of and requesting comment on the Draft Environmental Assessment for the Huntsville International Airport Reentry Site Operator License and Sierra Space Corporation Vehicle Operator License (Draft EA).

DATES: Comments must be received on or before December 22, 2021. The FAA will hold a public meeting on December 9, 2021 at 5 p.m. central to solicit comments from the public concerning the scope and content of the Draft EA. Information for the meeting will be available at *https://www.faa.gov/space/stakeholder_engagement/huntsville_reentry/.*

ADDRESSES: Comments should be mailed to Ms. Stacey Zee, Huntsville Reentry, c/o ICF, 9300 Lee Highway, Fairfax, VA 22031. Comments may also be submitted by email to *huntsvillereentry@icf.com.*

FOR FURTHER INFORMATION CONTACT: Stacey Zee, Environmental Protection Specialist, Federal Aviation Administration, 800 Independence Avenue SW, Suite 325, Washington, DC 20591; phone (202) 267–9305 (Stacey); email *HuntsvilleReentry@icf.com.*

SUPPLEMENTARY INFORMATION: The FAA is the lead agency. The National Aeronautics and Space Administration (NASA) and United States Coast Guard (USGC) are cooperating agencies for the Draft Environmental Assessment for the Huntsville International Airport Reentry Site Operator License and Sierra Space Corporation Vehicle Operator License due to their special expertise and jurisdictions. The FAA is evaluating (1) Huntsville-Madison County Airport Authority's (Authority) proposal to operate a commercial reentry site at Huntsville International Airport, which would require the FAA to issue a Reentry Site Operator License, and (2) Sierra Space Corporation's (Sierra Space) proposal to land the Dream Chaser at Huntsville International Airport, which would require the FAA to issue a Vehicle Operator License. Issuing a Reentry Site Operator License and Vehicle Operator License are considered Federal actions subject to environmental review under NEPA. Under the Proposed Action, the FAA would issue a Reentry Site Operator License to the Authority to operate a commercial reentry site at Huntsville International Airport; the Reentry Site Operator License would allow the Authority to offer Huntsville International Airport to Sierra Space to conduct reentries of Dream Chaser vehicles in compliance with 14 CFR part 433. Also under the Proposed Action, the FAA would issue a Vehicle Operator License to Sierra Space to land the Dream Chaser at Huntsville International Airport; the Vehicle Operator License would allow Sierra Space to land Dream Chaser at Huntsville International Airport in compliance with 14 CFR part 450.

Alternatives under consideration include the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not issue a Reentry Site Operator License to the Authority for commercial reentries, nor would the FAA issue a Vehicle Operator License to Sierra Space for landing the Dream Chaser at Huntsville International Airport. Sierra Space's Dream Chaser reentry operations would not occur and Huntsville International Airport would continue to operate and serve forecast activity.

The FAA has posted the Draft EA on the FAA Office of Commercial Space Transportation website: *https://www.faa.gov/space/stakeholder_engagement/huntsville_reentry/.*

The FAA encourages all interested parties to provide comments concerning the scope and content of the Draft EA. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask the FAA in your comment to withhold from public review your personal identifying information, the FAA cannot guarantee that we will be able to do so.

Issued in Washington, DC, on November 19, 2021.

James R. Repcheck,

Manager, Safety Authorization Division.

[FR Doc. 2021–25541 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2120–1086]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Aviation Maintenance Technician Schools

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves Aviation Maintenance Technician School (AMTS) applicants and certificate holders. The information to be collected will be used to ensure AMTS applicants and certificate holder meet the requirements of part 147 prior to being certificated, and on an ongoing basis following FAA certification.

DATES: Written comments should be submitted by January 24, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By email: Tanya Glines, *Tanya.glines@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Tanya Glines by email at: *Tanya.glines@faa.gov;* phone: 202–380–5896.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0040.

Title: Aviation Maintenance Technician Schools.

Form Numbers: FAA Form 8310–6.

Type of Review: This is a renewal of an information collection.

Background: 14 CFR part 147. The collection of information includes both reporting and recordkeeping requirements related to AMTS. The information collected is provided to the certificate holder/applicant's appropriate FAA Flight Standards office in order to allow the FAA to determine compliance with the part 147 requirements for obtaining and/or retaining an FAA air agency certificate. For applicants, when all part 147 requirements have been met, an FAA air agency certificate is issued, with the appropriate ratings. For FAA-certificated AMTS, the FAA uses the information collected to determine if the AMTS provides appropriate training using an FAA-approved curriculum, keeps records that demonstrate each students training, and to ensure that AMTS graduates receive an appropriate document showing the graduate is eligible to take the FAA tests required to obtain a mechanic certificate.

Respondents: Approximately 10 AMTS applicants, and 182 FAA-certificated applicants respond to this collection annually.

Frequency: AMTS applicants respond one time, prior to certification. FAA-certificated AMTS respond occasionally after certification, and have ongoing recordkeeping requirements.

Estimated Average Burden per Response: 96 hours.

Estimated Total Annual Burden: 54,957 hours/year.

Issued in Washington, DC, on November 17, 2021.

Tanya A. Glines,

Aviation Safety Inspector, FAA Safety Standards, Aircraft Maintenance Division.

[FR Doc. 2021–25472 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257]

Railroad Safety Advisory Committee; Charter Renewal

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of charter renewal of the Railroad Safety Advisory Committee (RSAC).

SUMMARY: FRA announces the charter renewal of the RSAC, a Federal Advisory Committee established by the U.S. Secretary of Transportation in accordance with the Federal Advisory Committee Act to provide information, advice, and recommendations to the FRA Administrator on matters relating to railroad safety. This charter renewal will be effective for two years from the date it is filed with Congress.

FOR FURTHER INFORMATION CONTACT: Kenton Kilgore, RSAC Designated Federal Officer/RSAC Coordinator, FRA Office of Railroad Safety, 202–493–6286.

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 2). RSAC comprises 51 representatives from 26 organizations, representing various rail industry perspectives. The diversity of the committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. Please see RSAC website for additional information at *https://rsac.fra.dot.gov/.*

Issued in Washington, DC.

Amitabha Bose,

Deputy Administrator.

[FR Doc. 2021–25460 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 90]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: FRA announces the sixty-first meeting of the Railroad Safety Advisory Committee (RSAC or Committee), a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The meeting will take place via videoconference.

DATES: The RSAC meeting is scheduled for Wednesday, December 8, 2021. The meeting will commence at 9:30 a.m. and will adjourn by 12:30 p.m. (all times Eastern Standard Time). Requests to submit written materials to be reviewed during the meeting must be received by December 1, 2021. Members of the public who wish to attend are asked to register no later than December 1, 2021. FRA requests that individuals who require accommodations because of a disability notify RSAC Coordinator Kenton Kilgore prior to the meeting.

ADDRESSES: The link to join the virtual meeting will be published on the RSAC website at *https://rsac.fra.dot.gov/news* at least one week in advance of the meeting. Please see the RSAC website for additional information on the Committee at *https://rsac.fra.dot.gov/.*

FOR FURTHER INFORMATION CONTACT: Kenton Kilgore, RSAC Designated Federal Officer/RSAC Coordinator, FRA Office of Railroad Safety, at telephone: (202) 365–3724 or email: *kenton.kilgore@dot.gov.* Any Committee-related request should be sent to Mr. Kilgore.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC.

The RSAC is composed of 51 voting representatives from 26 member organizations, representing various rail industry perspectives. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities.

Public Participation: The meeting is open to the public. Attendance is on a first-come, first-served basis, and the meeting is accessible to individuals with disabilities. DOT and FRA are committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please contact Mr. Kenton Kilgore as listed in the **FOR FURTHER INFORMATION CONTACT** section and submit your request at least ten business days in advance of the meeting. The public may submit written statements to the Committee at any time. If the member of the public wants the submitted written materials to be reviewed by the Committee during the meeting, the materials must be received before the deadline listed in the **DATES** section.

Agenda Summary: The RSAC meeting topics will include discussion of the new RSAC charter for 2021–2023. FRA will present updates on recent activity by RSAC Working Groups for: Part 225 Accident Reporting; Passenger Safety; and Track Standards. FRA intends to propose to the Committee two new tasks, one related to Confidential Close Call Reporting Systems (C3RS); the other related to roadway worker protection. The detailed agenda will be posted on the RSAC internet website at least one week in advance of the meeting.

Issued in Washington, DC.

Amitabha Bose,

Deputy Administrator.

[FR Doc. 2021–25461 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2015–0062]

Florida East Coast Railway's Positive Train Control Development Plan

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that on November 12, 2021, Florida East Coast Railway (FECR) submitted to FRA its Positive Train Control Development Plan (PTCDP), Version 1.0, dated November 1, 2021, and that FECR's PTCDP is available for public comment. FECR requests that FRA approve its PTCDP, which describes the version of Wabtec Railway Electronics' Interoperable Electronic Train Management System (I–ETMS) that FECR intends to implement on at least one segment of its territory.

DATES: FRA will consider comments received by December 23, 2021. FRA may consider comments received after that date to the extent practicable, in accordance with the applicable FRA decision deadline under 49 CFR 236.1009(j)(2), and without delaying implementation of a PTC system.

ADDRESSES:

Comments: Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number is FRA–2015–0062. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports.* All comments received will be posted without change to *https://www.regulations.gov*; this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

SUPPLEMENTARY INFORMATION: FECR submitted a PTCDP pursuant to Title 49 Code of Federal Regulations (CFR) 236.1009, *Procedural requirements,* and 236.1013, *PTC Development Plan and Notice of Product Intent content requirements and Type Approval.* FECR describes, in its PTCDP, the type of I–ETMS it intends to implement on at least one segment of its territory, and FECR asserts it is designed as vital overlay PTC system as defined in 49 CFR 236.1015(e)(2). The PTCDP describes FECR's planned I–ETMS implementation per 49 CFR 236.1013. During its review of the PTCDP, FRA will consider whether this proposed type of I–ETMS would satisfy the requirements for PTC systems under 49 CFR part 236, subpart I and whether the PTCDP has made a reasonable showing that a system built to the stated requirements would achieve the level of safety mandated for such a system under 49 CFR 236.1015, *PTC Safety Plan content requirements and PTC System Certification.* If so, in addition to approving FECR's PTCDP, FRA, in its discretion, may issue a Type Approval for this specific type of I–ETMS system. *See* 49 CFR 236.1013(b)–(d).

FECR's PTCDP is available for review online at *https://www.regulations.gov* (Docket No. FRA–2015–0062). Interested parties are invited to comment on the PTCDP by submitting written comments or data. During FRA's review of the PTCDP, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable. *See* 49 CFR 236.1009(j), 236.1011(e). Under 49 CFR 236.1013(b), FRA maintains the authority to approve, approve with conditions, or deny railroads' PTCDPs at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2021–25481 Filed 11–22–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) has removed from OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) the names of persons whose property and interests in property had been blocked pursuant to Burundi sanctions authorities.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Actions

Effective November 18, 2021, Executive Order (E.O.) 13712 of November 22, 2015, ''Blocking Property of Certain Persons Contributing to the Situation in Burundi'' was revoked pursuant to ''Executive Order on the Termination of Emergency With Respect To the Situation in Burundi of November 18, 2021.'' As a result of the revocation of E.O. 13712, effective November 18, 2021, the persons listed below are no longer subject to the blocking provisions in E.O. 13712, and therefore were removed from the SDN List.

Individuals

1. NDIRAKOBUCA, Gervais (a.k.a. NDIRAKOBUCHA, Gervais; a.k.a. ''Ndakugarika''), Burundi; DOB 01 Aug 1970; nationality Burundi; Passport DP0000761; General; Chief of Staff, Ministry of Public Security; Chief of Cabinet for Police Affairs; Burundian National Police Chief of Cabinet (individual) [BURUNDI].

2. NGENDABANKA, Marius, Kinanira IV, Kinindo, Bujumbura, Burundi; DOB 25 Aug 1974; nationality Burundi; Gender Male; Commander, First Military Region; Deputy Chief of Land Forces; Burundian National

Defense Forces Deputy Commander of Operations (individual) [BURUNDI].

3. NGENDAKUMANA, Leonard; DOB 24 Nov 1968; nationality Burundi; Passport DP0000885; General; Burundian National Intelligence Service (SNR) Cabinet Chief (former) (individual) [BURUNDI].

4. NIYONZIMA, Joseph (a.k.a. NIJONZIMA, Joseph; a.k.a. NIYONZIMA, Mathias; a.k.a. NIYONZIMA, Salvator; a.k.a. ''Kazungu''); DOB 02 Jan 1967; alt. DOB 06 Mar 1956; POB Kanyosha Commune, Mubimbi, Bujumbura-Rural Province, Burundi (individual) [BURUNDI].

5. NSHIMIRIMANA, Edouard; DOB 1970; POB Bugeni Vyanda, Burundi; nationality Burundi; Passport 089567 (Burundi) issued 10 Feb 2006 expires 10 Feb 2011; Former Lieutenant Colonel (individual) [BURUNDI].

6. SIBOMANA, Ignace; DOB 01 Jan 1972; POB Buhina, Kanyosha, Bujumbura, Burundi; nationality Burundi; Gender Male; Burundian Army Colonel, Chief of Military Intelligence (individual) [BURUNDI].

7. SINDUHIJE, Alexis (a.k.a. SINHUHIJE, Alexis); DOB 05 May 1967; alt. DOB 05 May 1966; POB Kamenge, Bujumbura, Burundi; nationality Burundi; Gender Male (individual) [BURUNDI].

Dated: November 18, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–25542 Filed 11–22–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On November 10, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. CHAU, Phirun, Cambodia; DOB 02 Mar 1955; POB Svay Rieng, Cambodia; nationality Cambodia; Gender Male; Passport 0074881 (Cambodia) expires 15 Jan 2023 (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of Executive Order 13818 of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,'' 82 FR 60839, 3 CFR, 2018 Comp., p. 399, (E.O. 13818) for being a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in corruption, including the misappropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

2. TEA, Vinh, Cambodia; DOB 07 Jan 1952; POB Koh Kong, Cambodia; nationality Cambodia; Gender Male (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of E.O. 13818 for being a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in corruption, including the misappropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

Dated: November 10, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2021–25493 Filed 11–22–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, Acting Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

A. On November 18, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. KASHIAN, Sajjad (a.k.a. ''NABAVI, Kiarash''), Iran; DOB 17 Sep 1994; nationality Iran; Gender Male; National ID No. 4560134669 (Iran) (individual) [ELECTION–EO13848].

Designated pursuant to section 2(a)(i) of Executive Order 13848 of September 12, 2018, ''Imposing Certain Sanctions in the Event of Foreign Interference in a United States Election,'' (E.O. 13848), 83 FR 46843, for having directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in a United States election.

2. KAZEMI, Seyyed Mohammad Hosein Musa (a.k.a. ''ZAMANI, Hosein''), Iran; DOB 18 Jun 1997; nationality Iran; Gender Male; National ID No. 0020372604 (Iran) (individual) [ELECTION–EO13848].

Designated pursuant to section 2(a)(i) of E.O. 13848 for having directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in a United States election.

3. NODEH, Hosein Akbari, Iran; DOB 27 Dec 1980; nationality Iran; Gender Male; National ID No. 0062245260 (Iran) (individual) [ELECTION–EO13848] (Linked To: EMENNET PASARGAD).

Designated pursuant to section 2(a)(iii) of E.O. 13848 for being owned or controlled by,

or having acted or purported to act for or on behalf of, directly or indirectly, EMENNET PASARGAD, a person whose property and interests in property are blocked pursuant to E.O. 13848.

4. SARMADI, Mostafa, Iran; DOB 22 Aug 1987; nationality Iran; Gender Male; National ID No. 0082389985 (Iran) (individual) [ELECTION–EO13848] (Linked To: EMENNET PASARGAD).

Designated pursuant to section 2(a)(iii) of E.O. 13848 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, EMENNET PASARGAD, a person whose property and interests in property are blocked pursuant to E.O. 13848.

5. SHIRINKAR, Mohammad Bagher (a.k.a. TEHRANI, Mojtaba), Iran; DOB 21 Sep 1979; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; National ID No. 0067948431 (Iran) (individual) [HRIT–IR] [ELECTION–EO13848] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS ELECTRONIC WARFARE AND CYBER DEFENSE ORGANIZATION).

Designated pursuant to section 2(a)(i) of E.O. 13848 for having directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in a United States election.

6. TOGHROLJERDI, Seyyed Mehdi Hashemi (a.k.a. ''HASHEMI, Seyyed Mehdi''), Iran; DOB 19 Apr 1973; POB Iran; nationality Iran; Gender Male; National ID No. 3091111628 (Iran) (individual) [ELECTION–EO13848] (Linked To: EMENNET PASARGAD).

Designated pursuant to section 2(a)(iii) of E.O. 13848 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, EMENNET PASARGAD, a person whose property and interests in property are blocked pursuant to E.O. 13848.

Entity

1. EMENNET PASARGAD (a.k.a. IMANNET PASARGAD), Tehran, Iran; National ID No. 14008996506 (Iran); Business Registration Number 554267 (Iran) [ELECTION–EO13848].

Designated pursuant to section 2(a)(i) of E.O. 13848 for having directly or indirectly engaged in, sponsored, concealed, or otherwise been complicit in foreign interference in a United States election.

Dated: November 18, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–25598 Filed 11–22–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0867]

Agency Information Collection Activity: Health Eligibility Center (HEC) Income Verification (IV) Forms

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), 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 January 24, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Janel Keyes, Office of Regulations, Appeals, and Policy (10BRAP), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *Janel.Keyes@va.gov.* Please refer to ''OMB Control No. 2900–0867'' 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. 2900–0867'' 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, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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: Health Eligibility Center (HEC) Income Verification (IV) Forms, VA Forms 10–301, 10–302, 10–302A, 10–303, and 10–304.

OMB Control Number: 2900–0867.

Type of Review: Reinstatement of a previously approved collection.

Abstract: VHA Directive 1909 provides policy for the Department of Veterans Affairs (VA) Health Eligibility Center (HEC) Income Verification (IV) Program under authority of 38 United States Code (U.S.C.) 1722; 38 U.S.C. 5317. Title 38 U.S.C. 1722 established eligibility assessment procedures, based on income levels, for determining whether nonservice-connected (NSC) Veterans and non-compensable zero percent service-connected (SC) Veterans, who have no other special eligibility, are eligible to receive VA health care at no cost. Title 26 U.S.C. 6103(l)(7) of the Internal Revenue Code and 38 U.S.C. 5317 establish authority for VA to verify Veterans' gross household income information against records maintained by the Internal Revenue Service (IRS) and Social Security Administration (SSA) when that information indicates the Veteran is eligible for cost-free VA health care.

This information collection is necessary for HEC's Income Verification Division (IVD) to verify the income of Veterans and spouses. HEC IVD sends Veterans, and their spouses, individual letters to confirm income information reported by IRS and SSA. HEC does not change the Veteran's copay status until information supplied by IRS and SSA has been independently verified, either by the Veteran or through appropriate due process procedures.

Affected Public: Individuals and households.

Estimated Annual Burden: Total hours = 49,758.

10–301—27,948 hours.
10–302—5,679 hours.
10–302a—1,420 hours.
10–303—42 hours.
10–304—14,669 hours.

Estimated Average Burden per Respondent:

10–301—30 minutes.
10–302—20 minutes.
10–302a—15 minutes.

10–303—15 minutes.
10–304—20 minutes.
Frequency of Response: Once annually.
Estimated Number of Respondents: Total Respondents = 122,789.
10–301—55,896.
10–302—17,038.
10–302a—5,680.
10–303—167.
10–304—44,008.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer (Alt.), Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–25530 Filed 11–22–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Allowance for Private Purchase of an Outer Burial Receptacle in Lieu of a Government-Furnished Graveliner for a Grave in a VA National Cemetery

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is updating the monetary allowance payable for qualifying interments that occur during Calendar Year (CY) 2022, which applies toward the private purchase of an outer burial receptacle (or ''graveliner'') for use in a VA national cemetery. The allowance is equal to the average cost of Government-furnished graveliners less any administrative costs to VA. The purpose of this notice is to notify interested parties of the average cost of Government-furnished graveliners, administrative costs that relate to processing and paying the allowance and the amount of the allowance payable for qualifying interments that occur CY 2022.

DATES: This notice is effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: William Carter, Chief of Budget Execution Division, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Telephone: 202–461–9764 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 2306(e)(3) and (4) of title 38, United States Code, authorizes VA to provide a monetary allowance for the private purchase of an outer burial receptacle for use in a VA national cemetery where its use is authorized. The allowance for qualified interments that occur during CY 2022 is the average cost of Government-furnished graveliners in Fiscal Year (FY) 2021, less the administrative cost incurred by VA in processing and paying the allowance in lieu of the Government-furnished graveliner.

The average cost of Government-furnished graveliners is determined by taking VA's total cost during a fiscal year for single-depth graveliners that were procured for placement at the time of interment and dividing it by the total number of such graveliners procured by VA during that fiscal year. The calculation excludes both graveliners pre-placed in gravesites as part of cemetery gravesite development projects and all double-depth graveliners. Using this method of computation, the average cost was determined to be $371.00 for FY 2021.

The administrative cost is based on the costs incurred by VA during CY 2021 that relate to processing and paying an allowance in lieu of the Government-furnished graveliner. This cost has been determined to be $9.00.

The allowance payable for qualifying interments occurring during CY 2022, therefore, is $362.00.

Signing Authority

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

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2021–25471 Filed 11–22–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Human Capital Services Center; Department of Veterans Affairs (VA).

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) proposes to establish a new system of records entitled VA Emergency Alerting and Accountability System (VA EAAS). The purpose is to document the enterprise-wide system used for alerting and accountability purposes. The system is a method to send rapid, reliable, and widespread notifications and collect the safety status of all VA employees, contractors, and affiliates in times of an emergency. The method provides situational leadership awareness of all personnel safety status, safety notifications to employees and provide actionable intelligence to leadership through data analysis and compilation.

DATES: Comments on this new system of records must be received no later than 30 days after the date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new system of records will become effective a minimum of 30 days after the date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Ave. NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to ''VA Emergency Alerting and Accountability System (VA EAAS)—VA (189VA006H)''. Comments received will be available at *regulations.gov* for public viewing, inspection, or copies.

FOR FURTHER INFORMATION CONTACT: For general questions about the system contact Halena Lathe, Program Manager, Emergency Alerting and Accountability (EAAS) Program, Human Capital Services Center, (202) 632–4465 or *VAEAASProgramOffice@va.gov*.

SUPPLEMENTARY INFORMATION: VA Emergency Alerting and Accountability System (VA EAAS) is the replacement for the VA Notification System (VANS) system. The replacement VA EAAS system provides for improved accountability rates and increased usefulness across the enterprise to meet the needs of the Administrations, VA Medical Centers, VA Benefits Centers, National Cemeteries, and various VA offices throughout the nation. VA EAAS meets the requirement for a method to send rapid, reliable, and widespread notifications and collect the safety status of all VA employees, contractors, and affiliates in times of an emergency.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the

document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Neil C. Evans, M.D., Chief Officer, Connected Care, Performing the Delegable Duties of the Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on October 17, 2021 for publication.

Dated: November 18, 2021.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

VA Emergency Alerting and Accountability System (VA EAAS)—VA (189VA006H).

SECURITY CLASSIFICATION:

Information in this SORN is not classified information.

SYSTEM LOCATION:

The majority of the system is comprised of a BlackBerry vendor-hosted SaaS. The hosted SaaS performs all core functionalities of the system. There is a small component of the system that resides within the VA network. The User Synch Module resides in the VA Azure Enterprise Cloud platform. The component synchronizes VA Active Directory (AD) data to the hosted SaaS. The system is hosted on the Veterans Affairs (VA) Enterprise Cloud (EC), Microsoft Azure Government (MAG). The VA EC MAG is located in Azure Government Region 1 (USGOV VIRGINIA) and 2 (USGOV IOWA) and is designed to allow U.S. government agencies, contractors, and customers to move sensitive workloads into the cloud for addressing specific regulatory and compliance requirements.

SYSTEM MANAGER(S):

Shannon E. Jones, Director, Human Capital Systems, Human Capital Services Center (HCSC), Department of Veterans Affairs (VA), 810 Vermont, Washington, DC 20420, 202–632–4465.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority which the system of records will be maintained includes:

(a) Federal Continuity Directive 1 (FCD 1), Federal Executive Branch National Continuity Program and Requirements. January 17, 2017.

(b) Federal Continuity Directive 2 (FCD 2), Federal Executive Branch Mission Essential Functions and Candidate Mission Essential Functions Identification and Submission Process, June 13, 2017.

(c) National Security and Homeland Security Presidential Directive (National Security Presidential Directive NSPD 51/Homeland Security Presidential Directive) HSPD–20, May 4, 2007.

(d) VA Directive 0320 VA Comprehensive Emergency Management Program, August 13, 2012.

(e) VA Handbook 0320 VA Comprehensive Emergency Management Program, March 24, 2005.

(f) VA Directive 0323 VA Continuity Program, November 5, 2010.

(g) VA Directive 0325 Department of Veterans Affairs Personnel Accountability, October 8, 2020.

PURPOSE(S) OF THE SYSTEM:

The VA EAAS system enables the notification of incidents of an emergency nature to employees, contractors, affiliates and associates through multiple communication venues (*e.g.,* email, cell phones, landline); generates reports of employees and contractors who have/have not responded; and allows designated personnel to monitor/manage select groups of employees/contractors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

VA employees, contractors, or affiliates.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records will contain data on VA employees, contractors, or affiliates' name, VA email, work phone, home phone, personal cell phone, personal email, work address and home address.

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from the following sources:

a. Information voluntarily submitted by VA employees, contractors, or affiliates.

b. Information extracted from the VA Active Directory (AD).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Routine Use 1. Congress

VA may disclose information to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

Routine Use 2. Federal Agencies, for Research

''Routine Use 2 is used to allow the release of information for requests made by Federal Agencies, for Research.'' VA may disclose information to a Federal agency to conduct research and data analysis to perform a statutory purpose of that Federal agency upon the prior written request of that agency.

Routine Use 3. Data Breach Response and Remediation, for VA

VA may disclose information to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

Routine Use 4. Data Breach Response and Remediation, for Another Federal Agency

VA may disclose information to another Federal agency or Federal entity when VA determines that information from this system or records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Routine Use 5. DoJ for Litigation or Administrative Proceeding

VA may disclose information to the Department of Justice (DOJ), or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her official capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components, is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

Routine Use 6. Federal Agencies, Courts, Litigants, for Litigation or Administrative Proceedings

VA may disclose information to another federal agency, court, or party

in litigation before a court or an administrative proceeding conducted by a Federal agency, when the government is a party to the judicial or administrative proceeding.

Routine Use 7. Contractors

VA may disclose information to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

Routine Use 8. OPM

VA may disclose information to the Office of Personnel Management (OPM) in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.

Routine Use 9. EEOC

VA may disclose information to the Equal Employment Opportunity Commission (EEOC) in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law.

Routine Use 10. NARA

VA may disclose information to NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906 or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

Routine Use 11. Law Enforcement, for Locating Fugitive

In compliance with 38 U.S.C. 5313B(d), VA may disclose information to any Federal, state, local, territorial, tribal, or foreign law enforcement agency to identify, locate, or report a known fugitive felon. If the disclosure is in response to a request from a law enforcement entity, the request must meet the requirements for a qualifying law enforcement request under the Privacy Act, 5 U.S.C. 552a(b)(7).

Routine Use 12. Unions

VA may disclose information identified in 5 U.S.C. 7114(b)(4) to officials of labor organizations recognized under 5 U.S.C. Chapter 71, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

VA EAAS is a BlackBerry vendor cloud-hosted Software as a Service (SaaS) solution. Data is protected in accordance with FedRAMP/National Institute of Standards and Technology (NIST) continuous monitoring guidance and controls.

System data is collected and maintained in an account created for each VA employee, facility-based contractor, and affiliate. The accounts and information will be kept secured in the VA EAAS databases as long as each person is working with VA. The information is maintained for personnel accountability and emergency notifications. Once the individual retires or separates from the Department, the listed information within their VA EAAS account will be stored for 30 days as a disabled account. If the individual's account is not reactivated within the 30 days, the account will be deleted permanently from the VA EAAS databases.

Data backups will reside on appropriate media, according to normal system backup plans for VA Enterprise Operations. The system will be managed by VA HCSC, in VA Headquarters, Washington, DC.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by the names of the VA employee, contractor, or affiliate.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information is maintained for personnel accountability and emergency notifications. Once the individual retires or separates from the Department, the listed information within their VA EAAS account will be stored for 30 days as a disabled account. If the individual's account is not reactivated within 30 days, the account will be deleted permanently from the VA EAAS databases.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The VA EAAS Operator or admin roles are necessary permissions to gain access. Each operator or admin must complete the required training to grant access. The accounts and information will be kept secured in the VA EAAS databases as long as each person is working with VA.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records may access the records via the Active Directory or submit a written request to the system manager.

CONTESTING RECORD PROCEDURES:

An individual who wishes to contest records maintained under his or her name or other personal identifier may write or call the system manager. VA's rules for accessing records and contesting contents and appealing initial agency determinations are published in regulations set forth in the Code of Federal Regulations. See 38 CFR 1.577, 1.578.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about themselves should contact Human Capital Systems, Human Capital Services Center at (202) 632–4465 or *VAEAASProgramOffice@va.gov*.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

There are no exemptions for the system.

HISTORY:

Not applicable; this is a new SORN.

[FR Doc. 2021–25509 Filed 11–22–21; 8:45 am]

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for Pascagoula Map Turtle; Threatened Species Status With Section 4(d) Rule for Pearl River Map Turtle; and Threatened Species Status for Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle Due to Similarity of Appearance With a Section 4(d) Rule; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2021–0097; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BF42

Endangered and Threatened Wildlife and Plants; 12-Month Finding for Pascagoula Map Turtle; Threatened Species Status With Section 4(d) Rule for Pearl River Map Turtle; and Threatened Species Status for Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle Due to Similarity of Appearance With a Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; announcement of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our 12-month findings for two freshwater turtle species, the Pascagoula map turtle (*Graptemys gibbonsi*) and the Pearl River map turtle (*Graptemys pearlensis*), as endangered or threatened species. The Pascagoula map turtle is endemic to the Pascagoula River drainage in Mississippi, and the Pearl River map turtle is endemic to the Pearl River drainage in Mississippi and Louisiana. We propose to list the Pearl River map turtle as a threatened species with a rule issued under section 4(d) of the Act (''4(d) rule''). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to list the Pascagoula map turtle; however, we propose to list the Pascagoula map turtle along with Alabama map turtle (*Graptemys pulchra*), Barbour's map turtle (*Graptemys barbouri*), and Escambia map turtle (*Graptemys ernsti*) as threatened species due to similarity of appearance to the Pearl River map turtle with a 4(d) rule. If we finalize this rule as proposed, it would add the Pearl River map turtle, Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle to the List of Endangered and Threatened Wildlife and extend the Act's protections to the species.

DATES:

Comment submission: For the proposed rules to list the Pearl River map turtle and the four other species (Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle) due to similarity of appearance, we will accept comments received or postmarked on or before January 24, 2022. We also request comments on the proposed 4(d) rule for the Pearl River map turtle and the proposed 4(d) rule for the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle during the same timeframe as comments for the proposed listing actions. 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 a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by January 7, 2022.

12-month petition finding: For the Pascagoula map turtle, the finding in this document was made on November 23, 2021.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter the RIN or docket number (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 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–R4–ES–2021–0097, 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 *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

FOR FURTHER INFORMATION CONTACT: Stephen Ricks, Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Ecological Services Field Office, 6578 Dogwood View Park, Jackson, MS 39213; telephone 601–321–1122. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, if we determine that a species warrants listing, we are required to promptly publish a proposal in the **Federal Register**, unless doing so is precluded by higher-priority actions and expeditious progress is being made to add and remove qualified species to or from the List of Endangered and Threatened Wildlife and Plants. The Service will make a determination on our proposal within one year. If there is substantial disagreement regarding the sufficiency and accuracy of the available data relevant to the proposed listing, we may extend the final determination for not more than six months. 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 under the Act. Listing a species as an endangered or threatened species and designation of critical habitat can be completed only by issuing a rule.

What this document does. We find that listing the Pascagoula map turtle as an endangered or threatened species is not warranted at this time. We propose to list the Pearl River map turtle as a threatened species with a rule under section 4(d) of the Act. We also propose to list the Pascagoula map turtle, Alabama map turtle, Barbour's map turtle, and Escambia map turtle as threatened species based on their similarity of appearance to the Pearl River map turtle and propose a rule under section 4(d) of the Act for these species. We find that designation of critical habitat for the Pearl River map turtle is not prudent.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that threats to the Pearl River map turtle include habitat degradation or loss (degraded water quality, channel and hydrologic modifications/impoundments, agricultural runoff, and development—Factor B), collection (Factor C), and effects of climate change (increasing temperatures, drought, sea level rise (SLR), hurricane regime changes, and increased seasonal precipitation—Factor E).

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. We have determined that designation of critical habitat for the Pearl River map turtle is not prudent at this time.

Information Requested

We intend that any final action resulting from these proposed rules 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 species' biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, their habitats, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to the species and existing regulations that may be addressing the threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(5) Information on regulations that are necessary and advisable to provide for the conservation of the Pearl River map turtle, and that the Service can consider in developing a 4(d) rule for the species. We seek information concerning the extent to which we should include any of the section 9 prohibitions in the 4(d) rule or whether we should consider any additional exceptions from the prohibitions in the 4(d) rule. This proposed 4(d) rule will not apply take prohibitions for otherwise legal activities to the four turtles listed due to similarity of appearance (Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle) if those activities will not pose a threat to the Pearl River map turtle.

(6) Specific information on bycatch of Pearl River map turtle from fishing or trapping gear due to recreational and commercial fishing activities for other species.

(7) Information on why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act, including information to inform the following factors that the regulations identify as reasons why designation of critical habitat may be not prudent:

(a) 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;

(b) 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;

(c) 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; or

(d) No areas meet the definition of critical habitat.

(8) For the Pascagoula map turtle, we ask the public to submit to us at any time new information relevant to the species' status, threats, or its habitat.

(9) Information regarding legal or illegal collection of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, Pascagoula map turtle, or Pearl River map turtle.

(10) Threats to the Pearl River map turtle from collection of or commercial trade involving the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle.

(11) Information regarding domestic and international trade of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, Pascagoula map turtle, or Pearl River map turtle.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

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 *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *https://www.regulations.gov.*

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), we may conclude that the species are endangered instead of threatened, or we may conclude that the species do not warrant listing as either endangered species or threatened species. In addition, we may change the parameters of the prohibitions or the exceptions to those prohibitions in the 4(d) rules if we conclude it is appropriate in light of comments and new information received. For example, we may expand the prohibitions to include prohibiting take related to additional activities if we conclude that those additional activities are not compatible with conservation of the species. Conversely, we may establish additional exceptions to the prohibitions in the final rule if we conclude that the activities would facilitate or are compatible with the conservation and recovery of the species.

Public Hearing

Section 4(b)(5) of the Act provides for one or more public hearings 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 regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

On April 20, 2010, we received a petition from the Center for Biological Diversity (CBD), Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy (referred to below as the CBD petition) to list 404 aquatic, riparian, and wetland species, including the Pascagoula map turtle as an endangered or threatened species under the Act. On September 27, 2011, we published a 90-day finding that the petition contained substantial information indicating listing may be warranted for the Pascagoula map turtle (76 FR 59836). At the time of the petition, the Pascagoula map turtle description included turtles that occur in the Pascagoula and Pearl rivers. Since then, the Pascagoula map turtle was determined to be two similar, yet distinct species, the Pascagoula map turtle (*Graptemys gibbonsi*) and the Pearl River map turtle (*Graptemys pearlensis*) (Ennen et al. 2010, pp. 109–110).

On January 21, 2020, CBD filed a complaint challenging the Service's failure to complete 12-month findings for both species within the statutory deadline. The Service and CBD reached a stipulated settlement agreement whereby the Service agreed to deliver 12-month findings for the Pascagoula map turtle and the Pearl River map turtle to the Office of the Federal Register by October 29, 2021. This document constitutes our 12-month finding for the April 20, 2010, petition to list the Pascagoula map turtle and Pearl River map turtle under the Act in compliance with the October 29, 2021, stipulated settlement agreement.

Supporting Documents

A species status assessment (SSA) team prepared SSA reports for the Pascagoula map turtle and the Pearl River map turtle. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA reports represent compilations of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), 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 four appropriate specialists regarding the Pascagoula map turtle SSA report, and five appropriate specialists regarding the Pearl River map turtle SSA report. We received responses from all the peer reviewers; feedback we received informed our findings and this proposed rule. The purpose of peer review is to ensure that our listing determinations and 4(d) rules are based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in the biology, habitat, and threats to the species.

In addition, we provided the draft SSA reports for review to Federal partners, State partners, and scientists with expertise in aquatic ecology and freshwater turtle biology, taxonomy, and conservation. We notified Tribal nations early in the SSA process for the Pearl River map turtle. We sent the draft SSA report for review to the Mississippi Band of Choctaw Indians and received comments that were addressed in the SSA report. There are no Tribes associated with the Pascagoula map turtle across its range.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an endangered species or a threatened species. The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

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

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

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

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

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

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

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

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of threatened species. Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term ''foreseeable future'' extends only so far into the future as the Service can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make

reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

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

Analytical Framework

Each SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of potential threats to the species. SSA reports do not represent a decision by the Service on whether either species should be proposed for listing as an endangered or threatened species under the Act. However, they do provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. We completed SSA reports for the Pascagoula map turtle and the Pearl River map turtle and summarize the key results and conclusions from the reports below, beginning with the Pascagoula map turtle, followed by the Pearl River map turtle. The Pascagoula map turtle SSA report can be found in docket number FWS–R4–ES–2021–0097 on *https://www.regulations.gov,* and on the species profile page of the Service's Environmental Conservation Online System (ECOS) internet site, *https://www.ecos.gov/ecp/species/3198.* The Pascagoula map turtle SSA report can be found in docket number FWS–R4–ES–2021–0097 on *https://www.regulations.gov,* and on the species profile page of the Service's Environmental Conservation Online System (ECOS) internet site, *https://www.ecos.gov/ecp/species/10895.*

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

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

I. 12-Month Finding for the Pascagoula Map Turtle

Under section 4(b)(3)(B) of the Act, we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving any petition that we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (''12-month finding''). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted but precluded. ''Warranted but precluded'' means that (a) the petitioned action is warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened species, and (b) expeditious progress is being made to add qualified species to the Lists of Endangered and Threatened Wildlife and Plants (Lists) and to remove from the Lists species for which the protections of the Act are no longer necessary. Section 4(b)(3)(C) of the Act requires that, when we find that a petitioned action is warranted but precluded, we treat the petition as though resubmitted on the date of such finding, that is, requiring that a subsequent finding be made within 12 months of that date. We must publish these 12-month findings in the **Federal Register**.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the Pascagoula map turtle (*Graptemys gibbonsi;* Service 2021a, entire) currently meets the definition of ''endangered species'' or ''threatened species,'' we considered and thoroughly evaluated the best scientific and commercial data available regarding the past, present, and future stressors and threats. We reviewed the petition, information available in our files, and other available published and unpublished information. This evaluation may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; private entities; and other members of the public. After comprehensive assessment of the best scientific and commercial data available, we determined that the Pascagoula map turtle does not meet the definition of an endangered or a threatened species.

The SSA report for the Pascagoula map turtle contains more detailed biological information, a thorough description of the factors influencing the species' viability, and the current and future conditions of the species. (Service 2021, entire). This supporting information can be found on the internet at *https://www.regulations.gov* under docket number FWS–R4–ES–2021–0097. The following is a summary of our determination for the Pascagoula map turtle.

Summary of Finding

The Pascagoula map turtle is a freshwater turtle in the family Emydidae (that includes all map turtles) and the megacephalic (broad-headed) clade. Map turtles (genus *Graptemys*) are named for the intricate pattern on the carapace (top half of shell) that often resembles a topographical map. In addition to the intricate pattern, the shape of map turtle carapaces is very different from that of other turtle genera. The carapace is keeled, and most species show some type of knobby projections or spikes down the vertebral (located down the center of the carapace) scutes (thickened plates similar to scales on the turtle's shell) (Service 2021a, p. 5). Specific to

Pascagoula map turtle, the plastron (entire ventral surface of the shell) can reach lengths of up to 8.6 inches (in) (21.8 centimeters (cm)) in mature females and in mature males can range from 2.8 to 4.0 in (7.2 to 10.1 cm) (Lindeman 2013, p. 294). Typically, male map turtles mature in 2 to 3 years, while females mature at approximately 11 years of age (Service 2021a, pp. 18 and 26). The species is endemic to the Pascagoula River drainage in Mississippi including the Pascagoula, Leaf, and Chickasawhay Rivers and associated tributaries.

Before 1992, all megacephalic map turtles from the Pascagoula River system in southeastern Mississippi, the Pearl River system in central Mississippi and eastern Louisiana, the Escambia-Conecuh River system in western Florida and eastern Alabama, and the Mobile Bay system in Alabama, eastern Mississippi, northwestern Georgia, and southeastern Tennessee were recognized as the Alabama map turtle (*Graptemys pulchra*) (Baur 1893, pp. 675–676). The Pascagoula map turtle was taxonomically separated from the Alabama map turtle in 1992, when morphological features were analyzed for four operational taxonomic units, resulting in the name *G. pulchra* being restricted to the Mobile Bay drainages, individuals from the Escambia-Conecuh River system being elevated to a new species *G. ernsti* (Escambia map turtle), and individuals from the Pascagoula and Pearl River systems being elevated to the new species *G. gibbonsi* (Pascagoula map turtle; Lovich and McCoy 1992, pp. 296–306). A molecular systematics study supported the division of *G. pulchra* into three species, although *G. gibbonsi* was only represented in the analysis by genetic material collected from individuals in the Pearl River drainage (Lamb et al. 1994, pp. 554–559). The Pearl River map turtle (*G. pearlensis*) was taxonomically separated from the Pascagoula map turtle (*G. gibbonsi*) in 2010 based on morphological and genetic features (Ennen et al. 2010, pp. 109–110). This separation was subsequently supported with a molecular analysis of the phylogeny of the entire genus *Graptemys* (Thomson et al. 2018, p. 65). The Pascagoula map turtle is recognized as a separate species from the Pearl River map turtle, Escambia map turtle, and Alabama map turtle, and the distinction as a valid species is supported in the literature and recognized by the herpetological community (Crother et al. 2017, p. 82).

The Pascagoula map turtle inhabits stretches of perennial rivers and creeks with sand or gravel substrates, with higher population densities near dense accumulations of deadwood (Lindeman 2013, p. 293). Emergent deadwood serves as thermoregulatory basking structure, foraging structure for males and juveniles (Selman and Lindeman 2015, pp. 794–795), and as an overnight resting place for males and juveniles (Cagle 1952, p. 227). Pascagoula map turtles prefer clean water (Lovich et al. 2009, p. 029.4). They have never been documented in oxbow lakes or other floodplain hydrological features, despite the fact that other microcephalic map turtle species can be found in oxbows (Lindeman 2013, p. 293). They have also never been documented in saltwater or within a mile of estuaries (McCoy and Vogt 1979, p. 15; Lovich et al. 2009, p. 029.4).

Adult female Pascagoula map turtles feed mostly on freshwater mussel species, with nonnative Asian clams (*Corbicula fluminea*) as the major source of food; however, they may also consume insects and vegetation (Ennen et al. 2007, p. 200; Floyd and Floyd 2013, p. 5). Adult males forage on mussels, insects, and some vegetation (Vucenović and Lindeman 2021, pp. 123–124). Juveniles, small females, and mature males rely on insects (Dundee and Rossman 1989, p.187; Lovich et al. 2009, p. 029.4; Vučenović and Lindeman 2021, p. 123). Additionally, other aquatic invertebrates such as sponges and snails are also consumed by all sex and age classes (Selman and Lindeman 2015, pp. 794–795; Vučenović and Lindeman 2021, p. 20).

For the Pascagoula map turtle to survive and reproduce, individuals need suitable habitat that supports essential life functions at all life stages. Several elements appear to be essential to the survival and reproduction of individuals: Mainstem and tributary reaches within the Pascagoula River system that have sandbars, natural hydrologic regimes, adequate supply of invertebrate prey items including insects and mollusks, an abundance of emergent and floating basking structures of various sizes, and sand, gravel, or rocky substrates (Service 2021a, p. 22).

Additional resource needs of the Pascagoula map turtle include appropriate terrestrial nesting habitat (patches of bare sand adjacent to adult habitat with sparse vegetation, typically on sandbars; adequate sand incubation temperatures to yield an appropriate hatchling sex ratio; and adequate river flow to prevent nest mortality due to flooding).

To assess the species' viability in terms of resiliency, redundancy, and representation, we delineated the range into resilience units as a proxy for populations. As data are not available to delineate biological populations at this time, these units were intended to subdivide the species' range to facilitate assessing and reporting the variation in current and future resilience across the range. To describe the species' current and future conditions in the SSA, we delineated eight resilience units of Pascagoula River map turtles based on Hydrologic Unit Code (HUC) 8 watersheds and in accordance with guidance from species experts. These units are: Black, Chunky-Okatibbee, Escatawpa, Lower Chickasawhay, Lower Leaf, Pascagoula, Upper Chickasawhay, and Upper Leaf. Historically, the majority of the range of the species was likely connected in a single interbreeding biological population, but we used the eight units in the SSA to most accurately describe trends in resiliency, forecast future resiliency, and capture differences in stressors among units. Additional descriptions of the methodology for delineating units and the current resiliency of each unit are available in the SSA report (Service 2021a, pp. 41–65).

For units to be resilient, the needs of individuals (sandbars, adequate flow, adequate supply of invertebrate prey items, basking structures, and sand or gravel substrates) must be met at a larger scale. Tributary and mainstem reaches with suitable habitat uninterrupted by impoundments must be sizable enough to support a large enough population of individuals to avoid issues associated with small population sizes, such as inbreeding depression (Service 2021a, p. 22). The resiliency of the eight units was assessed for the current and future condition to inform the species' viability (Service 2021a, pp. 41–105). The current condition of the eight units are described as one population with low resiliency (Escatawpa), five populations with moderate resiliency (Black, Chunky-Okatibbee, Lower Chickasawhay, Pascagoula, and Upper Chickasawhay), and two units with high resiliency (Lower Leaf and Upper Leaf) (Service 2021a, p. 66).

For the species to maintain viability, there must be adequate redundancy (suitable number of populations and connectivity to allow the species to withstand catastrophic events) and representation (genetic and environmental diversity to allow the species to adapt to changing environmental conditions). Redundancy improves with increasing numbers of populations (natural or reintroduced) distributed across the species' range, and connectivity (either natural or human-facilitated) allows connected populations to ''rescue'' each other after

catastrophes. The Pascagoula map turtle is found across the eight resilience units in varying densities within the mainstems and tributaries that would prevent extinction of the entire species from the impacts of a single catastrophic event.

Representation improves with the persistence of populations spread across the range of genetic and/or ecological diversity within the species. Long-term viability will require resilient populations to persist into the future; for the Pascagoula map turtle, this will mean maintaining high-quality tributary and mainstem habitat and water quality to support many redundant populations across the species' range, while preventing barriers to dispersal between populations such as dams or impoundments (Service 2021a, p. 22). The Pascagoula map turtle has distinct genetic characteristics in at least three of the rivers: Leaf, Chickasawhay, and Pascagoula (Pearson et al. 2020, entire). We described representation based on four representative units: Chickasawhay River representative unit (includes the Chunky-Okatibbee, Upper Chickasawhay, and Lower Chickasawhay resilience units), Leaf River representative unit (consists of the Upper and Lower Leaf resilience units), Pascagoula River representative unit (consists of the Black and Pascagoula resilience units), and the Escatawpa River representative unit (consists of the Escatawpa resilience unit only) (Service 2021a, pp. 67–70).

All representative units are currently occupied, though the Escatawpa is occupied at a very low density. The Leaf River representative units substantially contribute to representation with high resiliency. The Pascagoula River and Chickasawhay River representative units both significantly contribute to representation with moderate resiliency (Service 2021a, pp. 72–73).

Status Throughout All of Its Range

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the Pascagoula map turtle, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors (which are pervasive across the species' range) affecting the Pascagoula map turtle's biological status include habitat degradation or loss (*i.e.,* channel and hydrological modifications and impoundments; removal or loss of deadwood; declines in water quality from agricultural runoff; development; and mining), collection, and effects of climate change (SLR, drought, and flooding). Additional stressors acting on the species include disease and invasive species and the synergistic effects of a multitude of stressors that affect the species or its habitat over time.

When considering the threats acting on the species, there are adequate numbers of sufficiently resilient units with redundancy and representation across the species' range to withstand any imminent threats. The current conditions of the eight resilience units range from low to high with only a single unit, Escatawpa, with low resiliency, five units with moderate resiliency (Black, Chunky-Okatibbee, Lower Chickasawhay, Pascagoula, and Upper Chickasawhay), and two with high resiliency (Lower Leaf and Upper Leaf). The species is distributed throughout the Pascagoula River watershed and thus has sufficient redundancy such that a catastrophic event, like a major, direct-hit hurricane, would only affect the small portion of the range that is in close proximity to the Gulf of Mexico. The species is also not confined to the mainstem rivers, and there are many tributaries that serve as refugia for the species.

This species' habitat is surrounded by protected lands in many areas and the species is buffered from many threats such as development. Because the species currently retains moderate to high resiliency in seven out of eight of the units with sufficient redundancy and representation, the species is not currently in danger of extinction throughout all of its range.

For the species to maintain viability, there must be adequate redundancy (suitable number of populations and connectivity to allow the species to withstand catastrophic events) and representation (genetic and environmental diversity to allow the species to adapt to changing environmental conditions). Our projections of Pascagoula map turtle viability into the foreseeable future (*i.e.,* approximately 20 to 50 years (2040 and 2070)) consider habitat and population factors, plus available climate modeling projections to inform future conditions. The greatest future threats to the Pascagoula map turtle include the effects of climate change: Loss of suitable habitat through salinization due to SLR, overall habitat changes, and other effects of climate (more precipitation extremes, including drought and floods). However, future condition projections that extend out to 2040 and 2070 do not indicate the threats will act on the species within this timeframe in a manner that would place the species in danger of extinction throughout its range. We can reasonably rely on the predictions within the timeframe presented in the future condition scenarios because these timeframes are based on input from species experts, generation time for the species, and the confidence in predicting patterns of urbanization and agriculture. This is sufficient time to account for the species' response to threats over three to seven generations. Confidence in how these land uses will interact with the species and its habitat diminishes beyond 50 years.

Habitat in the lower portions of the Escatawpa and Pascagoula units would likely experience SLR effects and a contraction of suitable habitat due to the effects of salinization. However, six of the eight populations would remain in high or moderate resiliency and moderate or better redundancy, and representation would still occur in all eight units into the foreseeable future. The two units with the greatest impacts from the above listed threats, the Escatawpa and the Pascagoula units, would also remain extant but likely with less habitat overall and some reduced resiliency. There will be sufficient redundancy with the units across the range and representation for adaptive capacity for the species to maintain viability into the future. Therefore, this species is not likely to become an endangered species in the foreseeable future. After assessing the best available information, we determine that the Pascagoula map turtle is not in danger of extinction now or likely to become so in the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. Having determined that the Pascagoula map turtle is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so in the foreseeable future in a significant portion of its range—that is, whether there is any portion of the species' range for which it is true that both (1) the portion is significant; and (2) the species is in danger of extinction now or likely to become so in the foreseeable future in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless

of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

In undertaking this analysis for the Pascagoula map turtle, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered or threatened.

For the Pascagoula map turtle, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale, which may signal that it is more likely to be endangered or threatened in that portion. We examined the following threats: Habitat degradation or loss (*i.e.,* channel and hydrological modifications and impoundments, removal or loss of deadwood, declines in water quality from agricultural runoff, development, and mining); collection; and the effects of climate change (SLR, drought, and flooding). We also considered whether cumulative effects contributed to a concentration of threats across the species' range. Overall, we found that the effects of SLR are concentrated in the lower portion of the Pascagoula and Escatawpa resilience units and will affect the southern portions of these units in the future.

We first consider the threat of SLR acting on the Pascagoula resiliency unit. The effects of SLR will encroach in the southern portion of the unit, which currently has a moderate resiliency. The unit is linearly aligned along a north-south axis and connects to the Gulf of Mexico, which is the source of the saltwater inundation into the unit. The future conditions of the habitat within the unit are projected to improve because forest cover is expected to increase. The amount of available habitat will decline due to SLR; however, this situation will affect less than 15 percent of occupied habitat within the unit. This threat will create a gradual shift in conditions, allowing turtles within the area that will be affected to move north into other suitable areas not affected by saltwater intrusion from SLR. Because such a small percentage of occupied habitat in the unit will be affected by SLR, we find that SLR is not acting at a biologically meaningful scale in the Pascagoula resiliency unit such that the species may be in danger of extinction currently or within the foreseeable future in the Pascagoula unit. Therefore, this portion of the species' range does not provide a basis for determining that the species is in danger of extinction now or likely to become so in the foreseeable future in a significant portion of its range.

We next consider the threat of SLR acting on the Escatawpa resilience unit. This unit will be impacted by SLR in its southern portion as it also is connected to the Pascagoula River in close proximity to the Gulf of Mexico. In the Escatawpa, the area projected to be inundated has only a single record of Pascagoula map turtle occurrence. Another recent detection was approximately 25 river miles (rmi) (40 river kilometers (rkm)) upstream, so it is logical to assume there are other undetected turtles that may be impacted by inundation. Depending on the magnitude of SLR over the next 50 years, the Escatawpa unit will be inundated between 2.5 rmi (4.0 rkm) and 5.5 rmi (8.9 rkm) with 1-ft (0.3-m) and 5-ft (1.5-m) level increase, respectively (Service 2021a, p. 89). Between 5–17 percent of the species' habitat within the Escatawpa resilience unit will be affected by SLR. Because such a small percentage of the unit and such a low density and abundance of turtles within it will be affected by SLR, we find that SLR is not acting at a biologically meaningful scale in the Escatawpa resiliency unit such that the species may be in danger of extinction currently or within the foreseeable future in the Escatawpa unit. Therefore, this portion of the species' range does not provide a basis for determining that the species is in danger of extinction now or likely to become so in the foreseeable future in a significant portion of its range.

All other threats to the species are distributed throughout its range and affect the species uniformly throughout its range. After evaluating the areas that will be disproportionately affected by SLR in the future, our examination leads us to find that no portion of the species' range can provide a basis for determining that the species is in danger of extinction now or likely to become so in the foreseeable future in a significant portion of its range, and we find that the Pascagoula map turtle is not in danger of extinction now or likely to become so in the foreseeable future in any significant portion of its range. This is consistent with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017).

Determination of Pascagoula Map Turtle Status

Our review of the best available scientific and commercial information indicates that the Pascagoula map turtle does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we find that listing the Pascagoula map turtle is not warranted at this time. A detailed discussion of the basis for this finding can be found in the Pascagoula map turtle species assessment form (Service 2021, entire) and other supporting documents, such as the accompanying SSA report (Service 2021a, entire) (see *https://www.regulations.gov* under docket number FWS–R4–ES–2021–0097).

II. Proposed Listing Determination for Pearl River Map Turtle

Background

The Pearl River map turtle (*Graptemys pearlensis*) is a freshwater turtle species belonging to the Emydidae family that includes terrapins, pond turtles, and marsh turtles. Turtles in the genus *Graptemys* are also known as map turtles or sawback turtles for the intricate pattern on the carapace that often resembles a topographical map. The species is in the megacephalic (large-headed) clade as females grow proportionally larger heads and jaws than males as they age; the carapace length of adult females is over two times the length of adult males on average (Gibbons and Lovich 1990, pp. 2–3).

The species inhabits rivers and large creeks with sand and gravel bottoms in the Pearl River drainage from central Mississippi to the border of southern Mississippi and Louisiana. For the Pearl River map turtle to survive and reproduce, individuals need suitable habitat that supports essential life functions at all life stages. Several elements appear to be essential to the survival and reproduction of individuals: Mainstem and tributary reaches within the Pearl River system that have sandbars, adequate flow, adequate supply of invertebrate prey items including insects and mollusks (particularly freshwater mussels), and an abundance of emergent and floating basking structures of various sizes. The diet of the Pearl River map turtle varies between females and males; mature females consume mostly Asian clams (*Corbicula fluminea*), while males and juveniles eat insects, with mature males specializing in caddisfly larvae and consuming more mollusks than juveniles (Vucenović and Lindeman 2021, entire; Service 2021a, p. 11).

Pearl River map turtles are found in rivers and creeks with sand and gravel bottoms and dense accumulations of deadwood; turtles have not been documented in oxbow lakes or other floodplain habitats. They were notably absent from lakes where their sympatric microcephalic species, the ringed map turtle (*Graptemys oculifera*), is present, but do occur at the upstream reach of Ross Barnett Reservoir, an impoundment of the Pearl River (Lindeman 2013, p. 298). Accounts from before the Pearl River map turtle and Pascagoula map turtle were taxonomically divided described ideal habitat as rivers and creeks with sand or gravel bottoms, abundant basking structures, and swift currents (Lovich 2009, p. 304; Service 2006, p. 2). Although some species of *Graptemys* may tolerate conditions with some salinity, there is evidence that the genus is largely intolerant of brackish and saltwater environments (Selman and Qualls 2008, pp. 228–229; Lindeman 2013, pp. 396–397).

The species requires semi-exposed structure for basking. Emergent deadwood serves as thermoregulatory basking structure, foraging structure for males and juveniles (Selman and Lindeman 2015, pp. 794–795), and as an overnight resting place for males and juveniles (Cagle 1952, p. 227). Moderate-to-high basking densities of Pearl River map turtles were always associated with moderate-to-high deadwood densities, but some sites with ample deadwood structure did not have high densities of basking map turtles, indicating that those sites may lack other important characteristics (Lindeman 1999, pp. 37–40). Deadwood and its source in riparian forests are positively correlated to the abundance of riverine turtles (Sterrett et al. 2011, entire),

The life history of the Pearl River map turtle can be described as the stages of egg, hatchling, juvenile, and adult. Typically, male map turtles mature in 2 to 3 years, while females mature much later (Lindeman 2013, p. 109). Maturity for adult female Pearl River map turtles may occur around 9 years of age (Vogt et al. 2019, pp. 557–558).

Female Pearl River map turtles excavate nests and lay their eggs on sandbars and beaches along riverbanks during the late spring and early summer months. Nesting habitat has been described as sandy substrates near the water's edge. At a beach on the Pearl River downstream of the Strong River, a nest was found in fine sand 82 ft (25 m) from the water (Vogt et al. 2019, p. 557). Three confirmed Pearl River map turtle nests found on sandbars along the Pearl River were dug in relatively fine sand ranging from 23 to 180 ft (7 to 55 m) from the water's edge and averaging 5.2 ft (1.6 m) from the closest vegetation (Ennen et al. 2016, pp. 094.4–094.6). Another account states that nests are typically near the vegetation lines of sandbars (Anderson 1958, pp. 212–215).

The time from deposition to nest emergence by hatchlings in natural clutches ranged from 67 to 79 days and averaged 69.3 days. Hatchlings incubated in captivity averaged 3.66 cm (1.44 in) in carapace length (Jones, unpublished data, summarized in Ennen et al. 2016, pp. 094.4094.6). Hatchlings typically emerge from the nest within 3 hours after sunset, and this life stage depends on adequate abundance of invertebrate prey and emergent branches near the riverbank. All life stages require adequate quality and quantity of water as they are primarily freshwater aquatic turtles.

A more thorough review of the taxonomy, life history, and ecology of the Pearl River map turtle is presented in detail in the SSA report (Service 2021b, pp. 15–30).

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the Pearl River map turtle, its resources, and the threats that influence the species' current and future conditions in order to assess its overall viability and the risks to that viability.

Species Needs

We assessed the best available information to identify the physical and biological needs to support individual fitness at all life stages for the Pearl River map turtle. Full descriptions of all needs are available in chapter 3 of the SSA report (Service 2021b, pp. 19–21), which can be found in docket number FWS–R4–ES–2021–0097 on *https://www.regulations.gov.* Based upon the best available scientific and commercial information, and acknowledging existing ecological uncertainties, the resource and demographic needs for breeding, feeding, sheltering, and dispersal of the Pearl River map turtle are characterized as:

- For successful reproduction, the species requires patches of fine sand adjacent to adult habitat with sparse vegetation, typically on sandbars, adequate sand incubation temperatures to yield an appropriate hatchling sex ratio, and appropriate river flow to prevent nest mortality due to flooding.
- Hatchlings require an adequate abundance of invertebrate prey and of emergent branches and tangles near the riverbank.
- Adult males require an adequate abundance of insect prey, emergent logs, branches, and tangles near the bank.
- Adult females require an adequate abundance of native mussels or Asian clams; deeper, sand or gravel-bottomed stretches for foraging; and emergent logs and branches for basking.
- Population needs include the same requirements as individuals (sandbars; natural hydrologic regimes; and an adequate supply of invertebrate prey items, basking structures, and sand, gravel, or rocky substrates) but must be met at a larger scale. Connectivity that facilitates genetic exchange and maintains high genetic diversity is needed; tributary and mainstem reaches with suitable habitat uninterrupted by impoundments must be sufficient in size to support a large enough population of individuals to avoid issues associated with small populations, such as inbreeding depression.

Threats Analysis

The following discussions include evaluations of three threats and associated sources that are affecting the Pearl River map turtle and its habitat: (1) Habitat degradation or loss, (2) collection, and (3) climate change (Service 2021b, Chapter 4). In addition, potential impacts from disease and invasive species were evaluated but were found to have minimal effects on viability of the species based on current knowledge (Service 2021b, pp. 43–45).

Habitat Degradation or Loss

Water Quality

Degradation of stream and wetland systems through reduced water quality and increased concentrations of contaminants can affect the occurrence and abundance of freshwater turtles (DeCatanzaro and Chow-Fraser 2010, p. 360). Infrastructure development increases the percentage of impervious surfaces, reducing and degrading terrestrial and aquatic habitats. Increased water volume and land-based contaminants (*e.g.,* heavy metals, pesticides, oils) flow into aquatic systems, modifying hydrologic and sediment regimes of rivers and wetlands (Walsh et al. 2005, entire). Aquatic toxicants can have both immediate and long-term negative impacts on species and ecosystems by degrading the water quality and causing direct and indirect effects to the species or its required resources (Service 2021b, p. 25). Despite these effects, species vary widely in their tolerances and abilities to adapt to

water quality degradation, including variation in stress and immune responses (French et al. 2008, pp. 5–6), population structure (Patrick and Gibbs 2010, pp. 795–797), survival and recruitment (Eskew and Dorcas 2010, pp. 368–371), and ultimately distribution and abundance (Riley et al. 2005, pp. 6–8).

Freshwater mussels and snails are important food sources for the Pearl River map turtle, and sedimentation and pollution can have adverse impacts on mollusk populations (Box and Mossa 1999, entire). While past studies have focused on the closely related Pascagoula map turtle's prey, we expect impacts to be similar for the Pearl River map turtle. Inputs of point (point source discharge from particular pipes, discharges, etc.) and nonpoint (diffuse land surface runoff) source pollution across the range are numerous and widespread. Point source pollution can be generated from inadequately treated effluent from industrial plants, sanitary landfills, sewage treatment plants, active surface mining, drain fields from individual private homes, and others (Service 2000, pp. 14–15). Nonpoint source pollution may originate from agricultural activities, poultry and cattle feedlots, abandoned mine runoff, construction, silviculture, failing septic tanks, and contaminated runoff from urban areas (Deutsch et al. 1990, entire; Service 2000, pp. 14–15).

These sources may contribute pollution to streams via sediments, heavy metals, fertilizers, herbicides, pesticides, animal wastes, septic tank and gray water leakage, and oils and greases. Glyphosate (found in Roundup and other herbicides), which is widely used as an herbicide, has been found in many waterways across the United States from agricultural runoff and exposure has been associated with endocrine and reproductive disorders in animals (Jerrell et al. 2020, entire; Medalie et al 2020, entire; Mesnage et al. 2015, entire). Water quality and many native aquatic fauna often decline as a result of this pollution, which causes nitrification, decreases in dissolved oxygen concentration, and increases in acidity and conductivity. These alterations likely have direct (*e.g.,* decreased survival and/or reproduction) and indirect (*e.g.,* loss, degradation, and fragmentation of habitat) effects. For aquatic species, submergent vegetation provides critical spawning habitat for adults, refugia from predators, and habitat for prey of all life stages (Jude and Pappas 1992, pp. 666–667), and degraded water quality and high algal biomass that result from pollutant inputs, cause loss of these critical submergent plant species (Chow-Fraser et al. 1998, pp. 38–39).

A wide range of current activities and land uses within the range of the Pearl River map turtle can lead to sedimentation within streams: Agricultural practices, construction activities, stormwater runoff, unpaved roads, incompatible timber harvest, utility crossings, and mining. Fine sediments are not only input into streams during these activities, but historical land use practices may also have substantially altered hydrological and geological processes such that sediments continue to be input into streams for several decades after those activities cease (Harding et al. 1998, p. 14846). The negative effects of increased sedimentation are well understood for aquatic species (Burkhead et al. 1997, p. 411; Burkhead and Jelks 2001, p. 964). Sedimentation can alter food webs and stream productivity (Schofield et al. 2004, p. 907), force altered behaviors (Sweka and Hartman 2003, p. 346), and even have sublethal effects on and result in mortality of individual aquatic organisms (Sutherland 2005, p. 94; Wenger and Freeman 2007, p. 7).

Degradation of water quality from municipal and industrial effluents is recognized as a cause of decline in the ringed map turtle (*Graptemys oculifera*), a sympatric endangered species (Lindeman 1998, p. 137). Lower numbers of ringed map turtles have been recorded near gravel and sand mining operations (Shively 1999, p. 10). Native mussel and gastropod populations have likely already decreased due to sedimentation and other anthropogenic alterations (Jones at al. 2005, entire). Pearl River map turtles' mollusk prey species may be affected by municipal (*e.g.,* sewage) and industrial (*e.g.,* paper mills and chicken farms) effluents that are discharged into the Pearl River (EPA 2018, entire). Because of the similar life-history traits of the ringed map turtle and the Pearl River map turtle, it is reasonable to expect that water quality also impacts the Pearl River map turtle populations (Selman 2020a, p. 2).

Additionally, water quality for the Pearl River map turtle is impacted by four processes that are further discussed below: Channel and hydrology modifications and impoundments, agriculture, development (urbanization), and mining. Water quality is affected across the range of the species; however, the source and effects are greater in certain units.

Channel and Hydrology Modifications and Impoundments

Dredging and channelization have led to loss of aquatic habitat in the Southeast (Warren Jr. et al. 1997, unpaginated). Dredging and channelization projects are extensive throughout the region for flood control, navigation, sand and gravel mining, and conversion of wetlands into croplands (Neves et al. 1997, unpaginated; Herrig and Shute 2002, pp. 542–543). Many rivers are continually dredged to maintain a channel for shipping traffic. Dredging and channelization modify and destroy habitat for aquatic species by destabilizing the substrate, increasing erosion and siltation, removing woody debris, decreasing habitat heterogeneity, and stirring up contaminants, which settle onto the substrate (Williams et al. 1993, pp. 7–8; Buckner et al. 2002, entire; Bennett et al. 2008, pp. 467–468). Channelization can also lead to headcutting, which causes further erosion and sedimentation (Hartfield 1993, pp. 131–141). Dredging removes woody debris, which provides cover and nest locations for many aquatic species (Bennett et al. 2008, pp. 467–468). Anthropogenic deadwood removal has been noted as a reason for decline in a microcephalic species, the ringed map turtle (Lindeman 1998, p. 137). Snags and logs are removed from some sites to facilitate boat navigation (Dundee and Rossman 1989, p. 187). Experiments with manual deposition of deadwood in stretches with less riparian forest have been suggested as potential habitat restoration measures (Lindeman 2019, p. 33).

Stream channelization, point-bar mining, and impoundments were identified as potential threats in a report issued prior to the Pascagoula map turtle and Pearl River map turtle being recognized as taxonomically distinct (Service 2006, p. 2). Channel modification is recognized as a cause of decline in the ringed map turtle, a sympatric endangered species (Lindeman 1998, p. 137). Considerably low densities of Pearl River map turtles were observed in the lower reaches of the Pearl, where much channelization and flow diversion has occurred (Lindeman 2019, pp. 23–29).

Impoundment of rivers is a primary threat to aquatic species in the Southeast (Benz and Collins 1997, unpaginated; Buckner et al. 2002, entire). Dams modify habitat conditions and aquatic communities both upstream and downstream of an impoundment (Winston et al. 1991, pp. 103–104; Mulholland and Lenat 1992, pp. 193–231; Soballe et al. 1992, pp. 421–474).

Upstream of dams, habitat is flooded, and in-channel conditions change from flowing to still water, with increased depth, decreased levels of dissolved oxygen, and increased sedimentation. Sedimentation alters substrate conditions by filling in interstitial spaces between rocks that provide habitat for many species (Neves et al. 1997, unpaginated). Downstream of dams, flow regime fluctuates with resulting fluctuations in water temperature and dissolved oxygen levels, the substrate is scoured, and downstream tributaries are eroded (Schuster 1997, unpaginated; Buckner et al. 2002, unpaginated). Negative ''tailwater'' effects on habitat can extend many kilometers downstream (Neves et al. 1997, unpaginated). Dams fragment habitat for aquatic species by blocking corridors for migration and dispersal, resulting in population geographic and genetic isolation and heightened susceptibility to extinction (Neves et al. 1997, unpaginated). Dams also preclude the ability of aquatic organisms to escape from polluted waters and accidental spills (Buckner et al. 2002, unpaginated).

Damming of streams and springs is extensive throughout the Southeast (Etnier 1997, unpaginated; Morse et al. 1997, unpaginated; Shute et al. 1997, unpaginated). Most Southeastern streams are impacted by impoundment (Shute et al. 1997, p. 458). Many streams have both small ponds in their headwaters and large reservoirs in their lower reaches. Small streams on private lands are regularly dammed to create ponds for cattle, irrigation, recreation, and fishing, with significant ecological effects due to the sheer abundance of these structures (Morse et al. 1997, unpaginated). Small headwater streams are increasingly being dammed in the Southeast to supply water for municipalities (Buckner et al. 2002, unpaginated), and many Southeastern springs have also been impounded (Etnier 1997, unpaginated). Dams are known to have caused the extirpation and extinction of many Southeastern species, and existing and proposed dams pose an ongoing threat to many aquatic species (Folkerts 1997, unpaginated; Neves et al. 1997, unpaginated; Service 2000, p. 15; Buckner et al. 2002, unpaginated).

On the Pearl River, Ross Barnett Reservoir was constructed between 1960 and 1963 and provides a water supply for the City of Jackson, Mississippi, and the associated area, as well as recreational opportunities on the 33,000-acre (ac) (13,355 hectares (ha)) lake and the 17,000 ac (6,880 ha) surrounding it (Pearl River Valley Water Management District 2020, entire). A total of 20.9 rmi (33.6 rkm) of the Pearl River that was previously suitable habitat is now submerged beneath the Ross Barnett Reservoir (Lindeman 2019, p. 19). The Ross Barnett Reservoir has greatly reduced habitat suitability of five percent of the mainstem Pearl River by altering the lotic (flowing water) habitat preferred by Pearl River map turtles to lentic (lake) habitat and fragmented the contiguous habitat for the species. Low population densities of Pearl River map turtles have been observed upstream of the Ross Barnett Reservoir, possibly due to recreational boating and extended recreational foot traffic or camping on sandbars by reservoir visitors (Selman and Jones 2017, pp. 32–34). Between the late 1980s and early 2010s, notable population declines also have been observed in the stretch of the Pearl River downstream of the Ross Barnett Reservoir (north of Lakeland Drive), but the exact reason for the decline is unknown (Selman 2020b, p. 194). Additionally, plans for new reservoirs on the Pearl River both upstream and downstream of Jackson have been or are being considered (Lindeman 2013, pp. 202–203). Up to 170 individual Pearl River map turtles could be impacted by the construction of the One Lake Project, one of several proposed impoundments (Selman 2020b, entire).

Agriculture

Agriculture is generally high across the Pearl River basin, where levels of agriculture within the units ranged from 12–23 percent, with the Bogue Chitto Unit having the highest levels of agriculture (Service 2021b, pp. 53–56). Some of the major crops in the area include soybeans and cotton, and much of the livestock farming includes chickens and cattle. Agricultural practices such as traditional farming, feedlot operations, and associated land use practices can contribute pollutants to rivers and may affect the Pearl River map turtle's aquatic habitat. These practices degrade habitat by eroding stream banks, which results in alterations to stream hydrology and geomorphology. Nutrients, bacteria, pesticides, and other organic compounds are generally found in higher concentrations in areas affected by agriculture than in forested areas. Contaminants associated with agriculture (*e.g.,* fertilizers, pesticides, herbicides, and animal waste) can cause degradation of water quality and habitats through instream oxygen deficiencies, excess nutrification, and excessive algal growths. These, in turn, alter the aquatic community composition, shifting food webs and stream productivity, forcing altered behaviors, and even having sublethal effects or outright killing individual aquatic organisms (Petersen et al. 1999, p. 6). These alterations likely have direct (*e.g.,* decreased survival and/or reproduction) and indirect (*e.g.,* loss, degradation, and fragmentation of habitat) effects on the Pearl River map turtle or its habitat.

Agricultural development may also reduce the amount of adjacent riparian forest available to produce deadwood through land conversion; in another megacephalic map turtle species (Barbour's map turtle), turtle abundance decreased in areas where adjacent riparian corridors had been disturbed by agriculture, while the abundance of the red-eared slider (*Trachemys scripta*), a cosmopolitan species, increased (Sterrett et al. 2011, entire).

Pesticide application and use of animal waste for soil amendment are becoming common in many regions and pose a threat to biotic diversity in freshwater systems. Over the past two decades, these practices have corresponded with marked declines in populations of fish and mussel species in the Upper Conasauga River watershed in Georgia/Tennessee (Freeman et al. 2017, p. 419). Nutrient enrichment of streams was widespread with nitrate and phosphorus exceeding levels associated with eutrophication, and hormone concentrations in sediments were often above those shown to cause endocrine disruption in fish, possibly reflecting widespread application of poultry litter and manure (Lasier et al. 2016, entire). Researchers postulate that species declines observed in the Conasauga watershed may be at least partially due to hormones, as well as excess nutrients and herbicide surfactants (Freeman et al. 2017, p. 429).

Development

The Pearl River map turtle range includes areas of the Pearl River that are adjacent to several urban areas, including the Jackson, Mississippi, metropolitan area where urbanization is expected to increase; other areas within the Pearl River basin that are expected to grow in the future include the cities of Monticello and Columbia, Mississippi. Urbanization is a significant source of water quality degradation that can reduce the survival of aquatic organisms. Urban development can stress aquatic systems in a variety of ways, which could affect the diet and habitat needs of aquatic turtles. This includes increasing the frequency and magnitude of high flows in streams, increasing sedimentation and nutrient loads, increasing

contamination and toxicity, decreasing the diversity of fish, aquatic insects, plants, and amphibians, and changing stream morphology and water chemistry (Coles et al. 2012, entire; CWP 2003, entire). Activities related to development can also reduce the amount of adjacent riparian forest available to produce deadwood; in another megacephalic map turtle species (Barbour's map turtle), abundance decreased in areas where adjacent riparian corridors had been disturbed (Service 2021b, p. 10). In addition, sources and risks of an acute or catastrophic contamination event, such as a leak from an underground storage tank or a hazardous materials spill on a highway or by train, increase as urbanization increases.

Mining

The rapid rise in urbanization and construction of large-scale infrastructure projects are driving increasing demands for construction materials such as sand and gravel. Rivers are a major source of sand and gravel because transport costs are low; river energy produces the gravel and sand, thus eliminating the cost of mining, grinding, and sorting rocks; and the material produced by rivers tends to consist of resilient minerals of angular shape that are preferred for construction (Koehnken et al. 2020, p. 363). Impacts of sand and gravel mining can be direct or indirect. Direct impacts include physical changes to the river system and the removal of gravel and floodplain habitats from the system. Indirect impacts include shifting of habitat types due to channel and sedimentation changes; changes in water quality, which changes the chemical and physical conditions of the system; and hydraulic changes that can impact movement of species and habitat availability, which is vital for supporting turtle nesting and basking activities.

Gravel mining is a major industry in southeastern Louisiana, particularly along the Bogue Chitto River, within the range of the Pearl River map turtle (Selman 2020a, p. 20). In-stream and unpermitted point-bar mining was observed in the late 1990s and was the biggest concern for *Graptemys* species in the Bogue Chitto River (Shively 1999, pp. 10–11). Gravel mining is perhaps still the greatest threat to the Pearl River system in southeastern Louisiana, particularly in the Bogue Chitto floodplain where run-off and effluents would affect the downstream of these point sources (Selman 2020a, p. 20). Gravel mining can degrade water quality, increase erosion, and ultimately impact movement and habitat quality for aquatic species such as the Pearl River map turtle (Koehnken et al. 2020, p. 363). A recent comparison of aerial imagery from the mid-1980s and late 1990s with images from 2019 reveal increases in distribution and magnitude of gravel mines in the Bogue Chitto River system, and recent surveys have reported several areas where mining appears to have degraded water quality significantly (Selman 2020a, pp. 20–21, and p. 40). Mining in the floodplain continues to be a threat to the species; however, permit requirements in Louisiana and Mississippi have reduced the threat of instream gravel mining.

Collection

Due to the intricacy of the shell morphology, map turtles are popular in the pet trade (Service 2006, p. 2), both domestically and internationally. An analysis of online marketplace offerings in Hong Kong revealed that interest in turtles as pets is increasing, that many of the species offered for sale are from North America, and that there is a higher interest in rare species (Sung and Fong 2018, p. 221). The common map turtle (*Graptemys geographica*) is one of three most-traded species in the international wildlife trade market, with individuals being sold both as pets and incorporated into Chinese aquaculture for consumption (Luiselli et al. 2016, p. 170). Exploitation of Pearl River map turtles for the pet trade domestically and in Asian markets has been documented, but the degree of impact is unclear, as it is unknown whether captive individuals were Pascagoula map turtles or Pearl River map turtles (Lindeman 1998, p. 137; Cheung and Dudgeon 2006, p. 756; Service 2006, p. 2; Selman and Qualls 2007, pp. 32–34; Ennen et al. 2016, p. 094.6).

According to a species expert, collection of wild turtles in the Pearl River system is probably occurring, and similar to what has been observed in other States, these turtles are likely destined for the high-end turtle pet trade in China and possibly other Southeast Asian countries (Selman 2020a, p. 23). Information has been documented from three different local individuals, at three different locations, concerning turtle bycatch or harvesting in local Louisiana waterways occupied by Pearl River map turtles (Selman 2020a, pp. 22–23). These locations included the Pearl River south of Bogalusa, Louisiana (possible mortality resulting from bycatch in hoop nets), the West Pearl River Navigation Canal (turtles captured and sold, possibly for shipment to China), and the Bogue Chitto River (local comment that baby turtles were being captured and shipped to China) (Selman 2020a, pp. 22–23). The specific species captured were not documented; however, it is likely that at least some of these turtles were Pearl River map turtles.

The Service manages information related to species exports in the Law Enforcement Management Information System (LEMIS). According to a LEMIS report from 2005 to 2019, more than 300,000 turtles identified as *Graptemys* spp. or their parts were exported from the United States to 29 countries (Service 2021b, Appendix B). The number of turtles recorded in each shipment ranged widely. Due to their similarity in appearance, species of *Graptemys* are difficult to differentiate. Records from 2005, when the highest number of *Graptemys* were exported, show more than 35,000 turtles (*Graptemys* spp.) in a single shipment to Spain and a total of 172,645 individual *Graptemys* exported to 24 different countries. However, there is some uncertainty in the sources of the exported turtles as they could have originated from captive stock.

Collection is allowed in Mississippi with an appropriate license through the State; a person may possess and harvest from the wild no more than 10 non-game turtles per license year. No more than four can be of the same species or subspecies. It is illegal to harvest turtles between April 1 to June 30 (40 MISS Admin Code Part 5 Rule 2.3 on Non-game Species in Need of Management).

Climate Change

In the Southeastern United States, climate change is expected to result in a high degree of variability in climate conditions with more frequent drought, more extreme heat (resulting in increases in air and water temperatures), increased heavy precipitation events (*e.g.,* flooding), more intense storms (*e.g.,* increased frequency of major hurricanes), and rising sea level and accompanying storm surge (Intergovernmental Panel on Climate Change (IPCC) 2013, entire). Warming in the Southeast is expected to be greatest in the summer, which is predicted to increase drought frequency, while annual mean precipitation is expected to increase slightly, leading to increased flooding events (IPCC 2013, entire; Alder and Hostetler 2013, unpaginated). This variability in climate may affect ecosystem processes and communities by altering the abiotic conditions experienced by biotic assemblages resulting in potential effects on community composition and individual species interactions (DeWan et al. 2010, p. 7). These changes have the potential to impact Pearl River map turtles and/

or their habitat, are ongoing, and will likely become more evident in the future.

The dual stressors of climate change and direct human impact have the potential to impact aquatic ecosystems by altering stream flows and nutrient cycles, eliminating habitats, and changing community structure (Moore et al. 1997, p. 942). Increased water temperatures and alterations in stream flow are the climate change effects that are most likely to affect stream communities (Poff 1992, entire), and each of these variables is strongly influenced by land use patterns. For example, in agricultural areas, lower precipitation may trigger increased irrigation resulting in reduced stream flow (Backlund et al. 2008, pp. 42–43). Alternatively, increased urbanization may lead to more impervious surfaces, increasing runoff and flashiness of stream flows (Nelson et al. 2009, pp. 156–159).

Increasing Temperatures

Another area where climate change may affect the viability of the Pearl River map turtle is through temperature-dependent sex determination (TDSD) during embryo development within buried nests. In turtle species that exhibit TDSD, increasing seasonal temperatures may result in unnatural sex ratios among hatchlings. This could be an important factor as climate change drives increasing temperatures. Since male map turtles with TDSD develop at lower temperatures than females, rising temperatures during developmental periods may result in sex ratios that are increasingly female-biased.

Drought

Climate change may increase the frequency of drought events, such as the one that occurred in the Southeastern United States in 2007. Based on down-scaled climate models for the Southeastern United States, the frequency, duration, and intensity of droughts are likely to increase in this region in the future (Keellings and Engstrom 2019, pp. 4–6). Stream flow is strongly correlated with important physical and chemical parameters that limit the distribution and abundance of riverine species (Power et al. 1995, entire; Resh et al. 1988, pp. 438–439). The Pearl River map turtle is aquatic and requires adequate flow for all life stages.

Sea Level Rise

As a result of climate change, the world's oceanic surface-waters and land are warming. The density of water decreases as temperature increases causing it to expand. This process of ''thermal expansion,'' exacerbated by an influx of melt water from glaciers and polar ice fields, is causing sea levels to rise. During the 20th century, global sea level rose by 0.56 feet (ft) (0.17 meters (m)) at an average annual rate of 0.079 in (2.01 millimeter (mm) per year, which was 10 times faster than the average during the previous 3,000 years (IPCC 2007, pp. 30–31). The rate of SLR continues to accelerate and is currently believed to be about 0.12 in (3 mm) per year (Church and White 2006, pp. 2–4). It is estimated that sea level will rise by a further 0.59 ft (0.18 m) to 1.94 ft (0.59 m) by the century's end (IPCC 2007, p. 46). However, some research suggests the magnitude may be far greater than previously predicted due to recent rapid ice loss from Greenland and Antarctica (Rignot and Kanagaratnam 2006, pp. 989–990). Accounting for this accelerated melting, sea level could rise by between 1.64 ft (0.5 m) and 4.6 ft (1.4 m) by 2100 (Rahmstorf et al. 2007, p. 709). SLR is likely to impact downstream Pearl River map turtle populations directly by reducing the quality and quantity of available habitat through increased salinity of the freshwater system upstream from the Gulf of Mexico (Service 2021b, p. 86). Local scenarios based on downscaled climate models predict between 2–10 ft (0.6–3.0 m) of SLR in the northern Gulf of Mexico near the mouth of the Pearl River and could inundate up to 23.73 rmi (38.18 rkm) of the Pearl River under an extreme scenario (NOAA 2020, unpaginated).

SLR may also affect the salt marsh wetlands at the mouth of the Pearl River deteriorating the protective effect of the marsh in reducing saltwater intrusion. Barrier islands off the coast may also be submerged, resulting in loss of the protections from the small land masses that buffer the effects of hurricanes and storms. Although some species of *Graptemys* appear to handle some salinity increases, there is evidence that the group is largely intolerant of brackish and saltwater environments (Selman and Qualls 2008, pp. 228–229; Selman et al. 2013, p. 1201; Lindeman 2013, pp. 396–397).

Hurricane Regime Changes—Increased Intensity and Frequency

Since 1996, the frequency of hurricane landfalls in the Southeastern United States has increased, and that trend is predicted to continue for some years into the future (Goldenberg et al. 2001, p. 475; Emanuel 2005, entire; Webster et al. 2005, p. 1845). Individual storm characteristics play a large role in the types and temporal extent of impacts (Greening et al. 2006, p. 878). For example, direction and speed of approach, point of landfall, and intensity all influence the magnitude of storm surge and resultant flooding (Weisberg and Zheng 2006, p. 164) and consequent environmental damage. The storm surge from storms of increased intensity, when compounded with SLR, will force salt water higher upstream with storm surges. Conditions that result from storm surge that correspond with high tides are amplified and change the salinity of waters ever farther upstream, negatively affecting freshwater species, such as map turtles, that are not tolerant of saline environments.

Increased Precipitation—Flooding

While river flooding under natural hydrologic conditions may be important for sandbar construction and deposition of nesting sand on riverine beaches (Dieter et al. 2014, pp. 112–117), an increase in hurricane frequency and stochastic catastrophic floods could cause an increase in nest mortality. Nest mortality from flooding has not been studied in the Pearl River map turtle but has been documented in several other riverine turtle species. A study on the sympatric yellow-blotched map turtle (*Graptemys flavimaculata*) revealed that nest mortality from flooding can be as high as 86.3 percent in some years (Horne et al. 2003, p. 732). In a study on nests of the Ouachita map turtle (*Graptemys ouachitensis*), two 10-day floods (in 2008 and 2010) were believed to have caused the complete mortality of all nests existing before the floods, as hatchlings were found dead inside eggs after the flood. However, a shorter flooding event in 2011 (approximately 4 days of inundation) caused no known nest mortalities (Geller 2012, pp. 210–211). A study on freshwater turtles in South America indicated that as flooding incidents have increased since the 1970s, the number of days that nesting sandbars remain above the inundation threshold has been steadily and significantly decreasing, causing steep declines in the number of hatchlings produced per year (Eisemberg et al. 2016, p. 6).

The effects of climate change will continue affecting the species into the future with chronic and acute exposure to the changes that will occur in its aquatic and terrestrial habitats over time.

Additional Stressors

Additional stressors that affect the Pearl River map turtle that are not well studied or considered major threats to the species' viability include disease,

contaminants, and persecution by humans. Some of the contaminants include pesticides (herbicides and insecticides) and heavy metals. The culmination of stress due to disease and chronic exposure to contaminants may exacerbate the effects of the other threats on individuals. Wanton shooting of turtles has been documented for *Graptemys* species and may impact populations (Lindeman 1998, p. 137; Service 2006, p. 2). However, this practice often goes unreported and is thus difficult to study and/or quantify.

Cumulative/Synergistic Effects

The Pearl River map turtle uses both aquatic and terrestrial habitats that may be affected by activities along the Pearl River basin. Ongoing and future stressors that may contribute to cumulative effects include habitat fragmentation, genetic isolation, invasive species, disease, climate change, and impacts from increased human interactions due to human population increases. When considering the compounding and synergistic effects acting on the species, the resiliency of the analysis units will be further reduced in the future. However, these effects would not change the overall current and future conditions of the species.

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. To assess the current and future conditions of the species, we undertake an iterative analysis that encompasses and incorporates the threats individually and then accumulates and evaluates the effects of all the factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

Current Condition

The current condition of the Pearl River map turtle is described in terms of population resiliency, redundancy, and representation across the species. The analysis of these conservation principles to understand the species' current viability is described in more detail in the Pearl River map turtle SSA report (Service 2021b, pp. 52–75).

Resiliency

In order to analyze the species' resiliency, we delineated the species into resiliency units that represent groups of interbreeding individuals. Historically, the majority of the range of the species was likely a single, connected biological population prior to the fragmentation from the Ross Barrett Reservoir; however, we delineated five different resilience units to more accurately describe trends in resiliency, forecast future resiliency, and capture differences in stressors between the units. We considered population and habitat factors to describe the overall resiliency of each unit. The resilience units are: Upper Pearl, Middle Pearl—Silver, Middle Pearl—Strong, Bogue Chitto, and Lower Pearl (figure 1).

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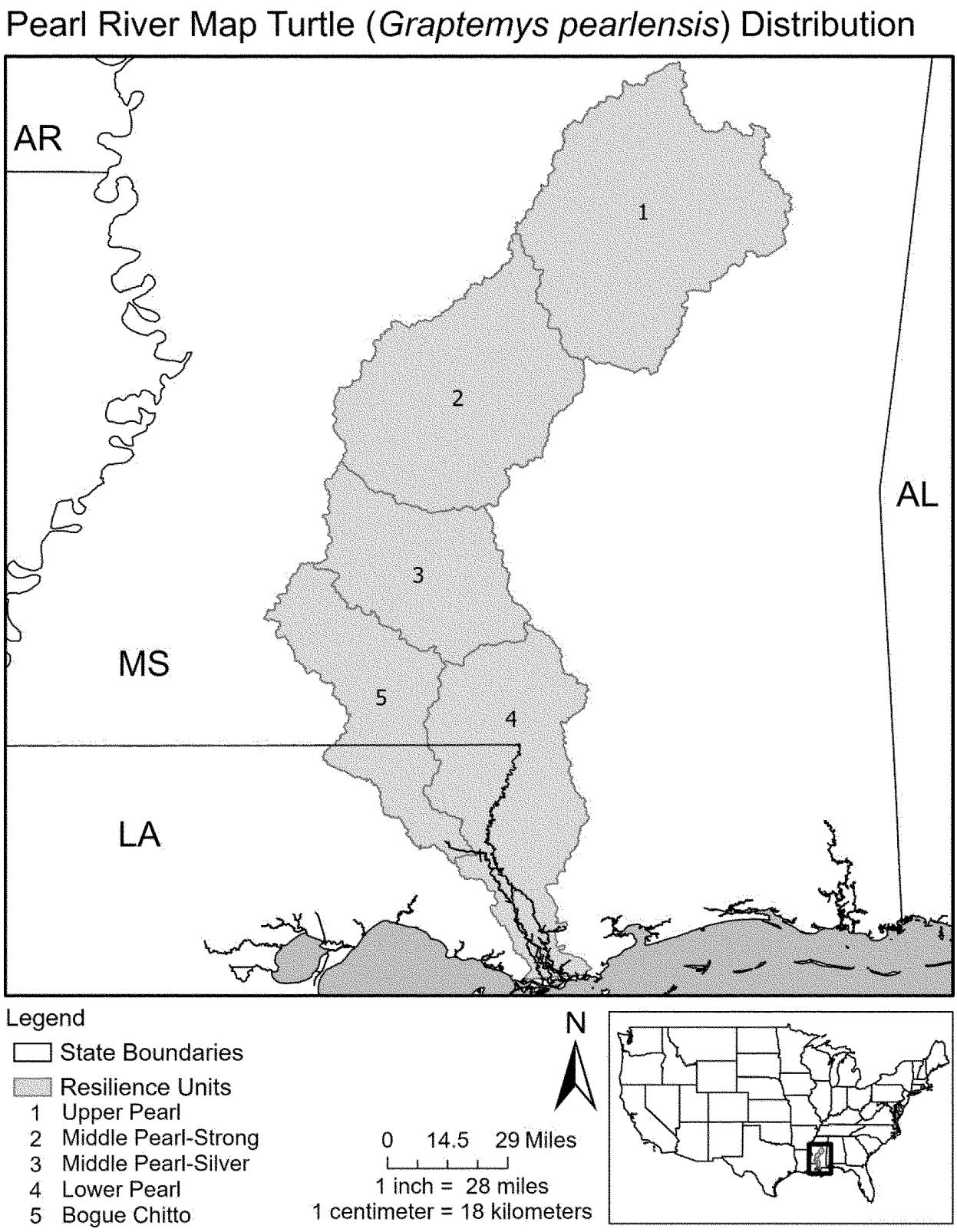

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The factors used to assess current resiliency of Pearl River map turtle resilience units include two population factors: (1) Occupied tributaries as a proxy for presence and (2) density and abundance of four habitat factors: (a) Water quality, (b) forested riparian cover, (c) protected land, and (d) presence of channelization/reservoirs/gravel mining. These population and habitat factors are collectively described as resiliency factors.

Forty-nine percent of the total range occupied by the Pearl River map turtle is in the mainstem Pearl and West Pearl Rivers, with the remaining 51 percent of the occupied range found in various tributary systems (Lindeman 2019, p.

19). Tributary populations have been shown to be less densely populated compared to mainstem populations, although some tributaries (*e.g.,* Bogue Chitto River) contain relatively large populations of Pearl River map turtles, including some that have only recently been discovered.

To assess the occupancy of tributaries, we used survey data collected from 2005–2020. These data were collected by several different observers through a variety of survey types, including bridge surveys, basking surveys, and live trapping. We used 2005 as the cutoff based on the species' biology and expert input. Females typically reach sexual maturity after 8 years, so 15 years approximates two generations. Species experts also noted that most surveys conducted for the species have occurred after 2005. When assessing the occupancy of tributaries within the range, we considered all surveyed tributaries including those where Pearl River map turtles were not detected. We established thresholds to describe the occupancy of the surveyed tributaries within each resilience unit by applying the following rule set:

- *Very Low:* No currently occupied tributaries;
- *Low:* Between 1–25 percent of surveyed tributaries are currently occupied;
- *Moderate:* Between 25–50 percent of surveyed tributaries are currently occupied;
- *High:* 50 Percent or more of surveyed tributaries are currently occupied.

Using this threshold rule set, we found that one unit was determined to be ranked very low (Middle Pearl—Silver); three ranked moderate (Upper Pearl, Bogue Chitto, and Lower Pearl); and one ranked high (Middle Pearl—Strong). The Middle Pearl—Silver unit has four surveyed tributaries, with zero detections in any of those tributaries, leading to the very low rank. In the Lower Pearl, although only 43 percent of surveyed tributaries were found to be occupied, this unit had by far, the most occupied tributaries (7), thus the moderate rank is likely more a function of survey effort. Half of the tributaries surveyed within the Middle Pearl—Strong unit were found to be occupied, giving it a high rank.

Data from point counts, basking density surveys, and results from trapping efforts in 2006–2018 were combined to estimate density and abundance for stream segments throughout the range of the Pearl River map turtle (Lindeman 2019, pp. 11–12). The entire species' population estimate is 21,841 individuals, with 61 percent occurring on mainstem reaches, 34 percent occurring in 4 large tributaries, and the remaining 5 percent spread amongst other smaller tributaries (Lindeman 2019, p. 21). Generally, abundance of the species declined with the size of the river reach surveyed, where smaller tributaries generally had lower numbers of turtles compared to larger, mainstem reaches (Lindeman 2019, p. 13). For example, basking density was found to be 2.2 times higher on mainstem reaches than on tributary reaches, and 2.1 times higher on large tributaries than on small tributaries (Lindeman 2019, p. 15).

When applying the population factors of density and abundance to determine resiliency, each river drainage was divided into river reaches that were categorized as high, moderate, low, and very low density based on basking density surveys and point count results. All mainstem reaches of the Pearl River were classified as moderate with the exception of the Lower Pearl, which was low. The tributaries and sections of the mainstems of each resilience unit were classified resulting in all moderate to low scores, with only the Pearl River mainstem within the Upper Pearl resiliency unit scoring moderate/high for its density classification.

To determine a composite (combined) score for population factors within individual units, we combined the results of the assessment of the occupancy of tributaries and density classes of mainstream reaches and large tributaries. The resulting population factor composite scoring for each resiliency unit describes three units (Bogue Chitto, Middle Pearl—Strong, and Upper Pearl) as moderate and two units (Lower Pearl and Middle Pearl—Strong) as low (table 1). Additional information regarding the methodology is described in detail in the SSA report (Service, 2021b, pp. 47–50).

TABLE 1—POPULATION FACTORS AND THE COMPILED COMPOSITE SCORE FOR EACH RESILIENCY UNIT

Resiliency unit	Tributary occupancy	Density	Composite score
Bogue Chitto	Moderate	Moderate	Moderate.
Lower Pearl	Moderate	Low	Low.
Middle Pearl—Silver	Very Low	Moderate	Low.
Middle Pearl—Strong	High	Moderate	Moderate.
Upper Pearl	Moderate	Moderate	Moderate.

The habitat factors used to describe resiliency include water quality; hydrological and structural changes from channelization, reservoirs, and gravel mining; amount of protected land adjacent to the rivers and streams; and forested riparian cover (a proxy for deadwood abundance). All four of the habitat factors were then compiled into a composite score (table 2) that is analyzed together with the population factors composite score for an overall assessment of the current resiliency of the Pearl River map turtle (table 3).

TABLE 2—HABITAT FACTOR COMPOSITE SCORES FOR ALL PEARL RIVER MAP TURTLE UNITS AS A FUNCTION OF FOUR HABITAT FACTORS (WATER QUALITY, CHANNELIZATION/RESERVOIRS, PROTECTED LAND, AND DEADWOOD ABUNDANCE)

Resiliency unit	Water quality	Channelization/ reservoirs	Protected land	Deadwood	Composite score
Bogue Chitto	Moderate	Low	Low	Moderate	Low.
Lower Pearl	Moderate	Low	Low	High	Low.
Middle Pearl—Silver	Moderate	High	Low	Moderate	Moderate.
Middle Pearl—Strong	Moderate	Low	Moderate	High	Moderate.
Upper Pearl	Moderate	Moderate	Low	High	Moderate.

Water quality is an important habitat component of Pearl River map turtle resiliency because it affects how well all life stages can survive and, for the adults, reproductive success. To characterize water quality, we considered the watershed health, riparian health, and land use. Water quality is monitored by Mississippi and Louisiana Departments of Environmental Quality (DEQ); however, the surveyed sites do not cover all of the tributaries or provide information for the entire range. Instead of using water quality monitoring data to describe the species' habitat conditions, we used land use as a proxy as it can be an indicator of overall watershed health and provide insight into water quality. Agricultural land use within riparian zones has been shown to directly impact biotic integrity when assessed within intermediate-sized zones (*i.e.,* 200-ft (61-m) buffer) surrounding streams in the region (Diamond et al. 2002, p. 1150). Urbanization has also been shown to impair stream quality by impacting riparian health (Diamond et al. 2002, p. 1150). We assessed watershed health by combining several metrics within each resiliency unit: Percent urban and agricultural land use at the watershed level, as well as riparian effects, which included urban and agricultural land use in close proximity to the stream (within a 200-ft (61-m) buffer from the center of the waterbody).

The resulting water quality composite scores based on land use for all five units were moderate (table 2). The only stream that was assessed as having a relatively high degree of threat based on land use was the Lower Pearl, driven primarily by a high degree of development within the riparian buffer (33 percent). In general, development is low throughout the Pearl River basin, although there is continual development across the Middle Pearl—Strong Unit (12 percent development) associated with the area near the city of Jackson, Mississippi. Agriculture is generally high across the Pearl River basin, where levels of agriculture within the units ranged from 12 to 23 percent, with the Bogue Chitto Unit having the highest levels of agriculture.

The next habitat factor evaluated for resiliency is the presence and abundance of channelization, reservoirs, and gravel mining. We assume that substantial channelization, the presence of a major reservoir, or evidence of gravel mining operations has a negative impact on resiliency and include these as a resiliency factor.

Considerably low densities of Pearl River map turtles were observed in the Lower Pearl unit, where much channelization and flow diversion has occurred (Lindeman 2019, pp. 23–29). Low densities of Pearl River map turtles in the West and East Pearl Rivers have been attributed to flow alteration due to the construction of the Pearl River Navigation Canal, which also has very low densities of turtles, suggesting that substantial loss of population in the lower reaches of the Pearl River drainage has occurred historically due to river engineering (Lindeman 2019, p. 27). Significantly lower basking densities of Pearl River map turtles have been reported in the West Pearl (0.16/rmi (0.1/rkm)) compared to the Upper Pearl (2.9/rmi (1.8/rkm)) (Dickerson and Reine 1996, Table 4, unpaginated; Selman 2020a, pp. 17–18). Because of these stream alterations, we assessed the Lower Pearl unit as low (*i.e.,* high degree of threats) for this factor.

Within the Middle Pearl—Strong unit, 20.9 rmi (33.6 rkm) of the middle Pearl River is inundated by the Ross Barnett Reservoir, which is a suspected contributing factor to the overall decline in Pearl River map turtle population densities upstream and downstream. Near Jackson, Mississippi, river channelization has also impacted the species' habitat negatively (Selman 2020b, entire), and Pearl River map turtles are almost nonexistent in a highly channelized stretch of the Pearl River. However, upstream and downstream of this section, the species occurs in low numbers (Selman 2020b, entire). Due to the presence of the Ross Barnett Reservoir, and the river channelization that has occurred in and around Jackson, we assessed the Middle Pearl—Strong unit as low habitat quality due to the effects of channelization and reservoirs.

In the Upper Pearl unit, channelization has occurred along Tuscolameta Creek and the upper Yockanookany River. In 1924, the Tuscolameta Creek received a 24-mile (mi) (39-kilometer (km)) channelization, and Yockanookany River received a 36-mi (58-km) canal, which was completed in 1928 (Dunbar and Coulters 1988, p. 51). In the Yockanookany, low water stages in 1960 were 6 feet higher than those of 1939, as the channel silted significantly during that period (Speer et al. 1964, pp. 26–27). In some areas of the Yockanookany, water continues to flow in the river's old natural channel (Speer et al. 1964, pp. 26–27). Although stream alteration has occurred within these streams, there has yet to be any reported evidence of Pearl River map turtle decline, thus we assessed this habitat factor as moderate for the Upper Pearl unit.

In-stream and unpermitted point-bar mining in the Bogue Chitto unit was a concern in the late 1990s (Shively 1999, entire), and although these activities no longer occur, gravel mining operations within floodplains do occur (Selman 2020a, pp. 20–21). Recent surveys have reported several areas where mining appears to have degraded water quality significantly (Selman 2020a, pp. 20–21). There is also a concern that historical in-stream and point-bar mining can have deleterious legacy effects that could be negatively impacting the species (Selman 2020a, p. 21). For these reasons, we assessed this habitat factor as low for the Bogue Chitto unit.

The next habitat factor considered protected lands adjacent to or including the terrestrial and aquatic habitat of the species. For the purposes of this analysis, we apply the definition of protected area as a clearly defined geographical space, recognized, dedicated, and managed, through legal or other effective means, to achieve the long-term conservation of nature (IUCN 2008, pp. 8–9). Protected areas are a generally accepted, although not always uncontroversial, mechanism for halting the global decline of biodiversity. Some examples of the positive effects that protected areas can have on freshwater biodiversity have been reported, such as increased local abundance or size classes of some fish species (Suski and Cooke, 2007, entire).

From an indirect standpoint, the presence of protected lands will function to minimize human disturbance in an area, which may benefit freshwater environments at multiple levels. First, enforcement of restrictions in protected areas can serve to minimize boat traffic that has been shown to have deleterious impacts to other *Graptemys* species (Selman 2013 et al., entire). The presence of protected areas may help ameliorate some of these conflicts by segregating user groups into defined areas (Suski and Cooke 2007, p. 2024). Finally, the more land within a unit that is under some sort of protection (*e.g.,* easement, State and Federal ownership), the less likely land will be developed. Because development can have negative impacts to aquatic fauna, as discussed previously, the more protected land that exists in a unit, the more resilient that unit is assumed to be.

Conservation areas have been established along the Pearl River that have positively influenced riparian forest along the river or forest land cover in the basin. Riparian conservation areas include Nanih Waiya Wildlife Management Area (WMA) (Neshoba County), Mississippi Band of Choctaw

Indian Reservation (Neshoba County), Pearl River WMA (Madison County), Fannye Cook Natural Area (Rankin County), Old River WMA (Pearl River County), Bogue Chitto National Wildlife Refuge (St. Tammany and Washington Parishes), and Pearl River WMA (St. Tammany Parish). Bienville National Forest contributes positively to increased forest cover in headwater streams that drain into the Pearl River, especially the Strong River. The most extensive habitat preservation on the Pearl River is the Bogue Chitto National Wildlife Refuge along the upper West and East Pearl and lower Bogue Chitto Rivers, which is contiguous with the Pearl River WMA, which protects the area between the West and East Pearl Rivers downstream to the Gulf of Mexico.

To assess the contribution of protected areas to the resilience of Pearl River map turtle resilience units, we calculated the percentage of the HUC 8 that is in protected status. We used the Protected Areas Database of the U.S. version 2.0 (PAD—US 2.0), released in 2019 (USGS 2019, unpaginated). The results of the analysis of protected lands show that the Pearl River basin in general has relatively small amounts of land in protected status. Four of the units have a low condition (*i.e.,* <10 percent of land protected), and one unit has a moderate condition (10–20 percent of land protected). The Middle Pearl—Strong unit has by far the greatest amount of land in protection with 147,597 ac (59,730 ha) in protection (11.67 percent), with all other units having less than 6 percent of land in protected status.

The final habitat factor used to determine current resiliency is the amount of forested riparian cover, which we used as a proxy for available deadwood. Correlations of Pearl River map turtle density is positively associated with deadwood density (Lindeman 1999, pp. 35–38). Abundance of basking substrates has shown to be an important habitat component driving *Graptemys* abundance in Kansas and Pennsylvania (Pluto and Bellis 1986, pp. 26–30; Fuselier and Edds 1994, entire), and radiotelemetry work with yellow-blotched map turtles (*G. flavimaculata)* has indicated the importance of deadwood to habitat selection on the lower Pascagoula River (Jones 1996, pp. 376, 379–380, 383). Anthropogenic deadwood removal, mainly through dredging, has been noted as a reason for decline in the sympatric microcephalic species, the ringed map turtle (*G. oculifera*) (Lindeman 1998, p. 137). Experiments with manual deposition of deadwood in stretches with less riparian forest have been recommended as potential habitat restoration measures (Lindeman 2019, p. 33).

An intact riparian habitat provides numerous benefits to map turtles, including the stabilization of stream banks and the reduction of erosional processes and channel sedimentation. Under normal erosional processes, riparian forests also provide material for in-stream deposition of deadwood, and deadwood is known to provide important basking sites for thermoregulation and also foraging sites for prey items (Lindeman 1999, entire). To assess the contribution of riparian forests to the resilience of Pearl River map turtle units, we calculated the percentage of forest within a 200-ft (61-m) riparian buffer using the 2016 National Land Cover Database land use land cover data. We considered forests to include four land use classes: deciduous forest, evergreen forest, mixed forest, and woody wetlands.

An assessment of forested cover resulted in three units in high condition (Lower Pearl, Middle Pearl—Strong, and Upper Pearl) and two units in moderate condition (Bogue Chitto and Middle Pearl—Silver). Forested cover within riparian buffers ranged from 60–98 percent across the 5 resilience units. Forested cover was highest in the Upper Pearl, where cover ranged from 90–96 percent across the occupied streams within the unit, and lowest in the Middle Pearl—Silver, where forested cover was 60 percent across the single occupied river segment. The Bogue Chitto unit was assessed as moderate for forested cover, primarily due to the Bogue Chitto and Topisaw having relatively low cover compared to other streams across the range.

The habitat factors were combined into a single composite score determined by combining the results of the water quality, channelization/reservoirs, protected lands, and deadwood abundance assessments (table 2). The final habitat composite score for each resiliency unit resulted in low condition for two units (Bogue Chitto and Lower Pearl) and moderate condition for three units (Middle Pearl—Silver, Middle Pearl—Strong, and Upper Pearl). Additional details and methodologies for determining each habitat condition score are described in the SSA report (Service 2021b, pp. 74–80).

After evaluating the population and habitat factors together, we describe the overall current resiliency of each unit. Current resiliency results are as follows: Two units have low resiliency (Bogue Chitto and Lower Pearl), and three units have moderate resiliency (Middle Pearl—Silver, Middle Pearl—Strong, and Upper Pearl) (table 3). The Lower Pearl seems particularly vulnerable, as both the population and habitat composite scores were low. The Lower Pearl has significant channelization issues, low amounts of protected land, and a low density of individual turtles, all of which are driving the low resilience of this unit. Although the Middle Pearl—Silver unit scored moderate for composite habitat score, the low composite population score (mainly a function of there being no occupied tributaries) is what is driving the low resilience of this unit. When looking at the three units with moderate resiliency, the Middle Pearl—Strong and Bogue Chitto units appear to be vulnerable to further decreases in resiliency. For the Bogue Chitto unit, low amounts of protected land and substantial mining activity make this unit vulnerable. For the Middle Pearl—Strong, development in the Jackson area and the presence of the Ross Barnett Reservoir make this unit vulnerable. If development increases substantially in this unit, or if proposed reservoir projects move forward, it is likely there would be population-level impacts that would drop the resiliency to low in the future conditions.

TABLE 3—CURRENT RESILIENCY OF PEARL RIVER MAP TURTLE UNITS BASED ON COMPOSITE HABITAT AND POPULATION FACTORS

Resiliency unit	Composite habitat score	Composite population score	Current resilience
Bogue Chitto	Low	Moderate	Moderate.
Lower Pearl	Low	Low	Low.
Middle Pearl—Silver	Moderate	Low	Low.
Middle Pearl—Strong	Moderate	Moderate	Moderate.

TABLE 3—CURRENT RESILIENCY OF PEARL RIVER MAP TURTLE UNITS BASED ON COMPOSITE HABITAT AND POPULATION FACTORS—Continued

Resiliency unit	Composite habitat score	Composite population score	Current resilience
Upper Pearl	Moderate	Moderate	Moderate.

Redundancy

Redundancy refers to the ability of a species to withstand catastrophic events and is measured by the amount and distribution of sufficiently resilient populations across the species' range. Catastrophic events that could severely impact or extirpate entire Pearl River map turtle units include chemical spills, changes in upstream land use that alter stream characteristics and water quality downstream, dam construction with a reservoir drowning lotic river habitat, and potential effects of climate change such as rising temperatures and SLR. The Middle Pearl—Silver unit is the most vulnerable to a catastrophic land-based spill due to transportation via train or automobile, and there are no known occupied tributaries at this time. However, extant units of the species are distributed relatively widely, and several of those units have moderate resilience, thus it is highly unlikely that a catastrophic event would impact the entire species' range. Consequently, the Pearl River map turtle exhibits a moderate-high degree of redundancy.

Representation

Representation refers to the breadth of genetic and environmental diversity within and among populations, which influences the ability of a species to adapt to changing environmental conditions over time. Differences in life-history traits, habitat features, and/or genetics across a species' range often aid in the delineation of representative units, which are used to assess species representation.

Between 2005 and 2018, researchers genotyped 124 Pearl River map turtles from 15 sites across the Pearl River basin (Pearson et al. 2020, pp. 6–7). No distinct genetic variation was found across the Pearl River system. A single genetic population has been described, and there was no evidence of isolation by distance (Pearson et al. 2020, pp. 11–12). For this reason, we consider the entire range of the Pearl River map turtle to be a single representative unit; however, the Strong River, located in the Pearl River—Strong unit, may have some unique habitat features that could facilitate adaptative capacity (Lindeman 2020, pers. comm.). Perhaps most notably, the Strong River has some very rocky stretches that are unlike anything else in the drainage and could conceivably have a population with unique diet, behaviors, or other life-history parameters, though no studies to date have addressed this question (Lindeman 2020, pers. comm.). The Strong River is a large tributary and occupies an estimated 54.3 rmi (87.4 rkm), with an estimated 1,749 individuals, accounting for 8 percent of the species' total population (Lindeman 2019, p. 47). Although we do not consider the Strong River to be a separate representative unit, we consider the Strong River to be a potentially significant stream for the species from a habitat diversity perspective. The species is described as consisting of a single representative unit due to the lack of genetic structuring across the range; the limited genetic diversity may reduce the ability of the species to adapt to changing conditions (Pearson et al. 2020, entire). However, we acknowledge the habitat differences for the Strong River and the potential importance of that system to the adaptive capacity of the species.

In summary, the current condition of the Pearl River map turtle is described using resiliency, redundancy, and representation. We assessed current resiliency as a function of two population factors (occupied tributaries and density) and four habitat factors (water quality, protected areas, deadwood abundance, and reservoirs/channelization) for each resiliency unit. Based on these factors, there are two units with low resiliency (Lower Pearl and Middle Pearl—Silver) and three units with moderate resiliency (Upper Pearl, Middle Pearl—Strong, and Bogue Chitto); no units were assessed as highly resilient. Because three of the five units are classified as moderate resilience, and those units are distributed relatively widely, the Pearl River map turtle exhibits a moderate-high degree of redundancy (*i.e.,* it is unlikely that a catastrophic event would impact the entire range of the species). Even with the unique habitat in the Strong River, we only recognize a single representative unit based on low genetic variation, however, the wide distribution within the five resilience units across the range provides sufficient adaptive capacity to remain viable.

Future Condition

As described in the ''Summary of Biological Status and Threats'' section above, we describe what the Pearl River map turtle needs to maintain viability. We describe the future conditions of the species by forecasting the species' response applying plausible future scenarios of varying environmental conditions and conservation efforts. The future scenarios project the threats into the future and consider the impacts those threats could have on the viability of the Pearl River map turtle. The scenarios described in the SSA report represent six plausible future conditions for the species. The scenarios include land use changes and SLR in a matrix to determine the effects of both factors to each unit. We then considered future water engineering projects for each matrix and found the resiliency of each unit based on whether the project is installed or not. All six scenarios were projected out to two different time steps: 2040 (~20 years) and 2070 (~50 years). These timeframes are based on input from species experts, generation time for the species, and the confidence in predicting patterns of urbanization and agriculture. Confidence in how these land uses will interact with the species and its habitat diminishes beyond 50 years.

We continue to apply the concepts of resiliency, redundancy, and representation to the future scenarios to describe possible future conditions of the Pearl River map turtle and understand the overall future viability of the species. When assessing the future, viability is not a specific state, but rather a continuous measure of the likelihood that the species will sustain populations over time.

Using the best available information regarding the factors influencing the species' viability in the future, we applied the following factors to inform the future resiliency of the five units: Changes in land use/water quality, SLR, and future water engineering projects. We considered projected land-use changes regarding agricultural and developed land in assessing future resiliency of each unit for the Pearl River map turtle. We also considered

these land-use classes as surrogates for potential changes in water quality, a primary risk factor for the species. We used data available at the resiliency unit scale from the U.S. Geological Survey (USGS) Forecasting Scenarios of Land-use Change (FORE–SCE) modelling framework (USGS 2017, unpaginated) to characterize nonpoint source pollution (*i.e.,* development and agriculture). The FORE—SCE model provides spatially explicit historical, current, and future projections of land use and land cover. Projecting future land cover requires modelers to account for driving forces of land-cover change operating at scales from local (''bottom-up'') to global (''top-down'') and how those driving forces interact over space and time. As a result of the high level of uncertainty associated with predicting future developments in complex socio-environmental systems, a scenario framework is needed to represent a wide range of plausible future conditions.

As previously mentioned, SLR impacts the future resiliency of Pearl River map turtles directly through loss/degradation of habitat. To estimate loss/degradation of habitat due to inundation from SLR, we used National Oceanic and Atmospheric Administration (NOAA) shapefiles available at their online SLR viewer (NOAA 2020, unpaginated). Projected SLR scenarios from NOAA provide a range of inundation levels from low to extreme. We used NOAA's SLR projections corresponding to the representative concentration pathways (RCP) of RCP6 and RCP8.5 emission scenarios to provide realistic future possible trajectories. The amount of greenhouse gases in the atmosphere through the different emission scenarios are influenced by human behavior. With uncertainty in future emissions, we included two plausible trajectories of SLR by considering RCP6 (intermediate-high) and RCP8.5 (extreme).

Local scenarios were available from a monitoring station located near Mobile Bay, Alabama, providing estimates of SLR at decadal time steps out to the year 2100. We found the average SLR estimate for the intermediate-high and extreme NOAA scenarios from this station and used the estimate (rounded to the nearest foot, because shapefiles of topography were available at only 1-ft (0.30-m) increments) to project estimated habitat loss at years 2040 and 2070. If SLR estimates overlap with known occupied portions of the river system, we assume that area is no longer suitable or occupiable; thus, resiliency would decrease.

SLR is occurring, but the rate at which it continues is dependent on the different atmospheric emissions scenarios. The range is 1 ft (0.30 m) to 2 ft (0.61 m) in the next 20 years. By 2070, 3 ft (0.91 m) to 5 ft (1.52 m) are projected for the lower and higher emissions scenarios. The effects of the SLR and saltwater intrusion are exacerbated with storm surge and high tides. Pulses of saltwater from increased storm frequency and intensity on top of slower SLR can have direct effects on freshwater habitats and species that are not salt-tolerant.

Stream channelization, point-bar mining, and impoundment have been listed as potential threats in a report written before the Pascagoula map turtle and Pearl River map turtle were taxonomically separated (Service 2006, p. 2). As noted above, in the Threats Analysis section, the proposed One Lake project proposes a new dam and commercial development area 9 mi (14.5 km) south of the current Ross Barnett Reservoir Dam near Interstate 20. However, the One Lake project is still being debated, and there is uncertainty as to whether the project will proceed. Because of this uncertainty, we have created two scenarios based around the proposed One Lake project: One in which the project occurs, and one in which it does not, within the next 50 years. Because of the potential for negative impacts on Pearl River map turtles from the proposed One Lake project, we assume a decrease in resiliency of the Middle Pearl—Strong unit if the project moves forward.

We do not assess population factors (occupancy of tributaries and density) in our future conditions analysis because the data are not comparable through time or space; the baseline data come from recent surveys and no historical data are available to allow for analyses of trends or comparisons over time. Additionally, we assume the amount of protected land within each unit stays the same within our projection timeframes, although it is possible that additional land could be converted to a protected status or lands could degrade over time. Rather than attempting to categorize future resiliency as was done in the current condition analysis, we indicate a magnitude and direction of anticipated change in resiliency of Pearl River map turtle units.

Scenario Descriptions

Scenarios were built around three factors: Land use, SLR, and water engineering projects. To present plausible future conditions for the species and to assess the viability for the Pearl River map turtle in response to those conditions, we projected two land use and two SLR scenarios out to the years 2040 (20 years) and 2070 (50 years).

The two land use scenarios are based on scenarios from the IPCC Special Report on Emissions Scenarios (SRES). The SRES presents a set of scenarios developed to represent the range of driving forces and emissions in the scenario literature so as to reflect current understanding and knowledge about underlying uncertainties. Four different narrative storylines were developed to describe consistently the relationships between emission driving forces and their evolution and add context for the scenario quantification. Each storyline represents different demographic, social, economic, technological, and environmental developments. The four qualitative storylines yield four sets of scenarios called ''families'': A1, A2, B1, and B2.

The two land use scenarios we examined are embedded within the FORE–SCE model (A2 and B1). The two SLR projections are based on NOAA's intermediate-high (RCP6) and extreme (RCP8.5) scenarios. We also considered whether a proposed water engineering project (*i.e.,* One Lake) would be constructed within the species' range. This results in six plausible scenarios for each of two time increments (2040 and 2070), with the A2–Extreme—One Lake project scenarios representing the highest threat scenario for 2040 and 2070, the B1–Intermediate High—No One Lake project scenario the lowest threat scenario for 2040 and 2070, and the other four scenarios representing moderate threat scenarios (table 4).

TABLE 4—SCENARIOS USED TO MODEL FUTURE CONDITION FOR PEARL RIVER MAP TURTLE

[Scenarios were built around three factors: Land use (SRES emission scenarios A2 and B1), sea level rise (emission scenarios Intermediate High (IH) and Extreme (EX)), and water engineering projects (One Lake Project: Yes or No). Scenarios were projected under two time-frames: 2040 and 2070]

	Sea level rise			
	2040		2070	
	Intermediate high	Extreme	Intermediate high	Extreme
One Lake Project (Yes)				
Land Use:				
A2	A2–IH—OneLake	A2–EX—OneLake	A2–IH—OneLake	A2–EX—OneLake.
B1	B1–IH—OneLake		B1–IH—OneLake.	
One Lake Project (No)				
Land Use:				
A2	A2–IH—NoProject	A2–EX—NoProject	A2—IH—NoProject	A2–EX—NoProject.
B1	B1–IH—NoProject		B1–IH—NoProject.	

Future Resiliency

Bogue Chitto—Under all scenarios, development remains low across the Bogue Chitto unit. Agriculture is high across the entire unit in all scenarios, except for the B1 scenario in the year 2070, where agriculture is moderate. Forested cover is relatively high across the unit under all scenarios; thus, deadwood does not appear to be a limiting factor. There are no predicted SLR or water engineering project impacts directly affecting this unit. It is likely that the condition of the unit will decline into the future, though there is uncertainty regarding future impacts related to mining activity, which has the potential to further reduce resiliency. Even with declines in condition of the Bogue Chitto unit, there will be no change in the resiliency category over the next 50 years according to the future scenarios.

Lower Pearl—SLR impacts this unit under all scenarios, although the impacts of inundation are localized to the southern portion of the unit, mainly in the East Pearl River. Under the A2 scenarios, a few streams are impacted by high levels of development, although most of the unit has low levels of development; under the B1 scenario, development is low across the entire unit. Agriculture is predicted to be high across the unit under the A2 scenarios, and moderate across the unit under the B1 scenario. There are no predicted water engineering projects, and forested cover is anticipated to be relatively high. Current resiliency for this unit is low, and resiliency is anticipated to decrease across all scenarios, with the A2 scenarios with extreme SLR associated with the most substantial decreases.

Middle Pearl—Silver—Development remains low across the unit under all scenarios at both time steps. Agriculture increases to high under the A2 scenarios and stays moderate under the B1 scenario. There are no predicted SLR effects or water engineering project impacts on this unit. Forested cover is relatively high across the unit under all scenarios and is predicted to increase under the B1 scenario; thus, deadwood does not appear to be a limiting factor. Current resiliency for this unit is low, and although declines in condition of the Middle Pearl–Silver unit are predicted, there will be no change in the resiliency category in the future based on the factors assessed.

Middle Pearl—Strong—Development is substantial in a few areas within this unit, particularly around Jackson, Mississippi. The current resiliency for this unit is moderate and the future resiliency is likely to decline due to increased agriculture and decreased forest cover within the unit (without One Lake). Agriculture is predicted to be high across the unit under all scenarios. If the One Lake project moves forward, there is a substantial decrease in resiliency predicted within and adjacent to the project area. A few streams are predicted to lose a substantial amount of forested cover. No SLR impacts are predicted in this unit. The Middle Pearl—Strong unit is perhaps the most vulnerable unit, as development, agriculture, and water engineering projects are all potential stressors in this unit.

Upper Pearl—The habitat associated with this unit provides conditions to potentially support a stronghold for the species because it has the highest amount of protected lands compared to the other four units (Service 2021a, p. 92). Development remains low across the entire unit under all scenarios. Agriculture is high across the entire unit in all scenarios, except for the B1 scenario in the year 2070, where agriculture is moderate. Forested cover is relatively high across the unit under all scenarios; thus, deadwood does not appear to be a limiting factor. There are no predicted SLR or water engineering project impacts in this unit; however, this population may experience genetic drift over time due to isolation caused by habitat fragmentation from the existing (Ross Barnett) and planned (One Lake) reservoirs in the adjacent unit. Even though the threats are projected to be low, the overall condition of the Upper Pearl unit is likely to decline as a result of the loss of connectivity with the rest of the turtle's range. Even with declines in condition of the Upper Pearl unit, it will remain in the moderate category over the next 50 years according to the future scenarios.

Future Redundancy

Although we do not project any of the units to be extirpated in any scenarios, we do anticipate resiliency to decline in two units. For example, the Middle Pearl—Strong unit will potentially lose a substantial amount of habitat and individuals under all scenarios in which the One Lake project is built. Also, the Lower Pearl unit will be impacted by SLR under all scenarios, and this is compounded by projected increases in both development and agriculture. All other units are anticipated to remain relatively stable. Because extant units of the species are predicted to be distributed relatively widely, it is highly unlikely that a catastrophic event would impact the entire species' range, thus

the Pearl River map turtle is predicted to exhibit a moderate degree of redundancy in the future under all scenarios.

Future Representation

As described under the current conditions, the species is a single representative unit regarding genetic variation. Relatively unique habitat conditions in the Strong River may influence the species' adaptive capacity and its overall representation. When looking at projections of threats within the Strong River, a few general trends can be seen. First, for land use, development is projected to remain low. In the A2 climate scenarios, agriculture increases from moderate to high; in the B1 climate scenario, agriculture stays moderate. Also, forested cover within the riparian zone of the Strong River remains relatively high (68–83 percent), although it does drop across all climate scenarios from the current condition (92 percent). SLR does not impact this river in any of our scenarios, as the Strong River is far enough inland to avoid the effects of inundation. Finally, the One Lake project is not anticipated to directly impact the Strong River due to the location of the project (*i.e.,* mainstem Pearl River). Given all of this information, although the resiliency of the Strong River might decrease slightly due to land use projections, it is likely the Strong River will support a moderate density of individual turtles, and thus contribute to representation through maintenance of potential genetic diversity based on unique habitat features.

It is noteworthy that a recent genetics study has revealed that genetic diversity is lower in Pearl River map turtles compared to the closely related congener, Pascagoula map turtles (Pearson et al. 2020, pp. 11–12). Declining populations generally have reduced genetic diversity, which can potentially elevate the risk of extinction by reducing a species' ability and potential to adapt to environmental changes (Spielman et al. 2004, entire). Future studies could help to elucidate whether levels of genetic diversity seen in Pearl River map turtles are low enough to suggest potential genetic bottlenecks, thus clarifying the species' level of representation. Genetic bottleneck and low overall genetic diversity are more of a concern for populations that become geographically isolated by physical barriers that inhibit connectivity.

Conservation Efforts and Regulatory Mechanisms

Federal

The Clean Water Act of 1972 (33 U.S.C. 1251 *et seq.*) regulates dredge and fill activities that would adversely affect wetlands. Such activities are commonly associated with dry land projects for development, flood control, and land clearing, as well as for water-dependent projects such as docks/marinas and maintenance of navigational channels. The U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) share the responsibility for implementing the permitting program under section 404 of the Clean Water Act. Permit review and issuance follows a process that encourages avoidance, minimizing and requiring mitigation for unavoidable impacts to the aquatic environment and habitats. This includes protecting the riverine habitat occupied by the Pearl River map turtle. This law has resulted in some enhancement of water quality and habitat for aquatic life, particularly by reducing point-source pollutants.

The regulatory mechanisms have improved water quality within the Pearl River drainage, as evidenced by a resurgence of intolerant fishes (Wagner et al. 2018, p. 13). Because the Pearl River map turtle has a greater tolerance for variances in water quality compared to intolerant fishes, these regulatory mechanisms provide some protection for the species and its habitat from the threat of water quality degradation; however, there may be some instances where sources and occurrences may exceed EPA thresholds and degrade water quality.

Additionally, Federal agencies are required to evaluate the effects of their discretionary actions on federally listed species and must consult with the Service if a project is likely to affect a species listed under the Endangered Species Act. Such discretionary Federal actions within the Pearl River map turtle's habitat that may affect other listed species include: Maintenance dredging for navigation in the lower Pearl River by the Corps and their issuance of section 404 Clean Water Act permits; construction and maintenance of gas and oil pipelines and power line rights-of-way by the Federal Energy Regulatory Commission; EPA pesticide registration; construction and maintenance of roads or highways by the Federal Highway Administration; and funding of various projects administered by the U.S. Department of Agriculture's Natural Resources Conservation Service and the Federal Emergency Management Agency. Section 7 consultations on other federally listed aquatic species are known to frequently require and recommend Federal agencies implement conservation measures, best management practices, and other actions that may also minimize or eliminate potential harmful effects on Pearl River map turtle and encourage best management practice for all aquatic species. Accordingly, requirements under section 7 of the Act may provide some protections indirectly to the Pearl River map turtle and its habitat.

National Wildlife Refuges

The National Wildlife Refuge System Administration Act (NWRAA) represents organic legislation that set up the administration of a national network of lands and water for the conservation, management, and restoration of fish, wildlife, and plant resources and their habitats for the benefit of the American people and is managed by the Service. Conservation-minded management of public lands allows for: (1) Natural processes to operate freely and thus changes to habitat occur due to current and future environmental conditions; (2) managing the use of resources and activities, which minimizes impacts; (3) preservation and restoration to maintain habitats; and (4) reduction of the adverse physical impacts from human use. Amendment of the NWRAA in 1997 required the refuge system to ensure that the biological integrity, diversity, and environmental health of refuges be maintained.

The Pearl River map turtle occurs on the Bogue Chitto National Wildlife Refuge within Pearl River County, Mississippi, and St. Tammany and Washington Parishes, Louisiana. A Comprehensive Conservation Plan (CCP) has been developed to provide the framework of fish and wildlife management on the refuge (Service 2011, entire). Within the CCP, specific actions are described to protect the ringed map turtle that will also benefit the Pearl River map turtle. Actions include ongoing habitat management to provide downed woody debris for basking turtles and to maintain 330-ft (100.6-m) buffers along all named streams during forest habitat improvement and harvest to protect water quality in streams (Service 2011, pp. 21, 73, 89, 179).

National Forests

The National Forest Management Act (1976) provides standards for National Forest management and planning to protect the designated forest lands while maintaining viable populations of existing native and desired non-native

vertebrate species. The Planning Rule (2012) requires that the U.S. Forest Service develop land management plans for all units within the National Forest system. The National Forests in Mississippi have adopted, and in most cases exceeded, the best management practices (BMPs) (see discussion below of State BMPs) established by the State of Mississippi (U.S. Forest Service 2014, p. 66). These include practices such as establishing streamside buffer zones, restricting vegetation management in riparian zones, and employing erosion control measures. The Bienville National Forest has no known records for the Pearl River map turtle but contains tributaries that flow into the Pearl and Strong Rivers; thus, these practices may provide some protective measures for habitat occupied by the species downstream. The regulations and practices applied across the national forests upstream from the Pearl River map turtle habitat provide protections for the species' aquatic habitat and contribute to the conservation of the species.

Department of Defense Integrated Natural Resources Management Plans

The Sikes Act Improvement Act (1997) led to Department of Defense guidance regarding development of Integrated Natural Resources Management Plans (INRMPs) for promoting environmental conservation on military installations. The U.S. Navy operates the Stennis Western Maneuver Area located along the western edge of the NASA Stennis Space Center and incorporated into the Stennis Space Center Buffer Zone. The Stennis Western Maneuver Area encompasses a 4-mile reach of the East Pearl River and a smaller eastern tributary named Mikes River (Buhlman 2014, p. 4) in Hancock and Pearl River Counties, Mississippi. These river reaches are used by the Navy's Construction Battalion Center for riverboat warfare training. The western bank of the East Pearl River denotes the boundary of the Navy property and is managed as the Pearl River Wildlife Management Area by the State of Louisiana (see below under State/Louisiana). There are records of the Pearl River map turtle from Stennis Western Maneuver Area (Buhlman 2014, pp. 11–12, 31–32). The U.S. Navy has developed an INRMP for the Stennis Western Maneuver Area (U.S. Navy 2011, entire). Measures within the INRMP are expected to protect listed species, and also provide a level of protection for the Pearl River map turtle, include erosion and storm water control, floodplain management, invasive plant species management, and the use of an ecosystem approach to general fish and wildlife management (U.S. Navy 2011, pp. 4–4–4–20).

Convention on International Trade in Endangered Species of Wild Fauna and Flora, Appendix III

All species of *Graptemys* are included on the Convention on International Trade in Endangered Species of Wild Fauna and Flora's (CITES) Appendix III (CITES 2019, p. 43). The Pearl River map turtle was added to the CITES Appendix III list in 2006 (70 FR 74700; December 16, 2005). Appendix III is a list of species included at the request of a Party to the Convention that already regulates trade in the species and that needs the cooperation of other countries to prevent unsustainable, illegal exploitation. International trade in specimens of species listed in Appendix III is allowed only on presentation of the appropriate permits or certificates. The information that is provided in export reports for the Pearl River map turtle does not provide sufficient information to support identification of the source of the turtles. According to a LEMIS report from 2005 to 2019, more than 300,000 turtles identified as *Graptemys* spp. or their parts were exported from the United States to 29 countries (Service 2021b, Appendix B). Due to their similarity in appearance, species of *Graptemys* are difficult to differentiate. Records from 2005, when the highest number of *Graptemys* were exported, show more than 35,000 turtles (*Graptemys* spp.) in a single shipment to Spain and a total of 172,645 individual *Graptemys* exported to 24 different countries. However, there is some uncertainty regarding the sources of the exported turtles as they could have originated from captive stock. The CITES Appendix III reporting does not provide sufficient protections for the Pearl River map turtle because only the genus name, *Graptemys,* is used to describe the turtles, resulting in no mechanism to understand the number or source of Pearl River map turtles that are exported.

State Protections—Louisiana

In Louisiana, the species has no State status under Louisiana regulations or law (LDWF 2021, entire). Protections under State law for collecting the Pearl River map turtle are limited to licensing restrictions for turtles. In Louisiana, a recreational basic fishing license is required but allows unlimited take of most species of turtles, including the Pearl River map turtle; exceptions are that no turtle eggs or nesting turtles may be taken (LDWF 2020, pp. 50–51). A recreational gear license is also required for operating specified trap types (see Louisiana's regulations for details on trap types), for instance, five or fewer hoop nets; greater than five hoop nets requires a Commercial Fisherman License.

The Louisiana Scenic Rivers Act (1988) was established as a regulatory program administered by the Louisiana Department of Wildlife and Fisheries (LDWF) through a system of regulations and permits. Certain actions that may negatively affect the Pearl River map turtle are either prohibited or require a permit on rivers included on the natural and scenic river list. Prohibited actions include channelization, channel realignment, clearing and snagging, impoundments, and commercial clearcutting within 100 ft (30.5 m) of the river low water mark (Louisiana Department of Agriculture and Forestry (LDAF) undated, p. 45). Permits are required for river crossing structures, bulkheads, land development adjacent to the river, and water withdrawals (LDAF undated, p. 45). Rivers with the natural and scenic river designation that are occupied by the Pearl River map turtle include the Bogue Chitto River, Holmes Bayou, and West Pearl River in St. Tammany Parish and Pushepatapa Creek in Washington Parish (LDAF undated, p. 48).

Additional protected areas of Pearl River map turtle habitat in Louisiana include the Pearl River Wildlife Management Area located in St. Tammany Parish and Bogue Chitto State Park located on the Bogue Chitto River in Washington Parish. A master plan for management of Wildlife Management Areas and State Refuges has been developed for Louisiana, which describes the role of these lands in improving wildlife populations and their habitat including identifying and prioritizing issues threatening wildlife resources (LDWF and The Conservation Fund 2014, entire). Bogue Chitto State Park is managed by the Louisiana Department of Culture, Recreation, and Tourism for public use.

The Louisiana State Comprehensive Wildlife Action Plan (Holcomb et al. 2015, entire) was developed as a roadmap for nongame conservation in Louisiana. The primary focus of the plan is the recovery of Species of Greatest Conservation Need, those wildlife species in need of conservation action within Louisiana, which includes the Pearl River map turtle. Specific actions identified for the Pearl River map turtle include conducting ecological studies of the turtle's reproduction, nest success, and recruitment as well as developing general population estimates via mark

and recapture studies (Holcomb et al. 2015, p. 69). Recent Pearl River map turtle survey work in Louisiana was conducted using funding from the SWG program (Selman 2020a, entire).

Gravel mining activities that occur within Louisiana require review and permits by Louisiana Department of Environmental Quality. Additional permits are required by LDWF for any mining activities that occur within designated Scenic Streams in Louisiana. The permit requirements ensure all projects are reviewed and approved by the State, thus ensuring oversight by the State and application of State laws.

State Protections—Mississippi

The Pearl River map turtle is S2 (imperiled because of rarity or because of some factor making it very vulnerable to extinction) in Mississippi (Mississippi Museum of Natural Science (MMNS) 2015, p. 38) but is not listed on the Mississippi State list of protected species (Mississippi Natural Heritage Program 2015, entire). Protections under State law are limited to licensing restrictions for take for personal use of nongame species in need of management (which includes native species of turtles). A Mississippi resident is required to obtain one of three licenses for capture and possession of Pearl River map turtles (Mississippi Commission on Wildlife, Fisheries, and Parks, Mississippi Department of Wildlife, Fisheries, and Parks 2016, pp. 3–5). The three licenses available for this purpose are a Sportsman License, an All Game Hunting/Freshwater Fishing License, and a Small Game Hunting/Freshwater Fishing License. A nonresident would require a Nonresident All Game Hunting License. Restrictions on take for personal use include no more than four turtles of any species or subspecies may be possessed or taken within a single year and that no turtles may be taken between April 1st and June 30th except by permit from the Mississippi Department of Wildlife, Fisheries, and Parks (Mississippi Commission on Wildlife, Fisheries, and Parks, MDWFP 2016, pp. 3–5). Additional restrictions apply to this species if removed from the wild; non-game wildlife or their parts taken from wild Mississippi populations may not be bought, possessed, transported, exported, sold, offered for sale, shipped, bartered, or exhibited for commercial purposes.

The Mississippi Comprehensive Wildlife Action Plan (MMNS 2015, entire) was developed to provide a guide for effective and efficient long-term conservation of biodiversity in Mississippi. As in Louisiana, the primary focus of the plan is on the recovery of species designated as SGCN, which includes the Pearl River map turtle. Specific actions identified for the Pearl River map turtle in Mississippi include planning and conducting status surveys for the species (MMNS 2015, p. 686).

Lands managed for wildlife by the State of Mississippi, which may provide habitat protections for the Pearl River map turtle, include the Old River Wildlife Management Area, Pearl River County and Pearl River Wildlife Management Area, Madison County. In addition, a ringed map turtle sanctuary was designated in 1990 by the Pearl River Valley Water Supply District (District), north of the Ross Barnett Reservoir, Madison County, which also provides habitat for the Pearl River map turtle. One of the goals of management on Wildlife Management Areas in Mississippi is to improve wildlife populations and their habitat (MDWFP 2020, entire). The District sanctuary is approximately 12 rmi (19.3 rkm) north from Ratliff Ferry to Lowhead Dam on the Pearl River (Service 2010, p. 4). Within the sanctuary, the District maintains informational signs to facilitate public awareness of the sanctuary and of the importance of the area to the species and conducts channel maintenance by methods that do not hinder the propagation of the species. The District has recorded a notation on the deed of the property comprising the sanctuary area that will in perpetuity notify transferees that the sanctuary must be maintained in accordance with the stated provisions (Service 2010, p. 4).

Additionally, gravel mining activities that occur within Mississippi require review and permits by Mississippi Department of Environmental Quality. The permit requirements ensure all projects are reviewed and approved by the State, thus ensuring oversight by the State and application of State laws.

U.S. Fish and Wildlife State Wildlife Grants

In 2000, the State Wildlife Grants (SWG) Program was created through the Fiscal Year 2001 Interior Appropriations Act and provided funding to States ''for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished.'' The SWG Program is administered by the Service and allocates Federal funding for proactive nongame conservation measures nationwide. Congress stipulated that each State fish and wildlife agency that wished to participate in the SWG program develop a Wildlife Action Plan to guide the use of SWG funds (see discussion below regarding the plans developed by the Louisiana Department of Wildlife and Fisheries (LDWF) and Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP)). This program funds studies that assist conservation by providing needed information regarding the species or its habitat and has contributed to the conservation of the species by assessing the current status and range of the Pearl River map turtle.

Additional Conservation Measures—Best Management Practices

Most of the land adjacent to the Pearl and Bogue Chitto Rivers in Louisiana and Mississippi is privately owned and much of it is managed for timber. Both States have developed voluntary BMPs for forestry activities conducted in their respective States with the intent to protect water quality and minimize the impacts to plants and wildlife. In addition, the forest industry has a number of forest certification programs, such as the Sustainable Forestry Initiative, which require participating landowners to meet or exceed State forestry BMPs. Silvicultural practices implemented with State-approved BMPs can reduce negative impacts to aquatic species, such as turtles, through reductions in nonpoint source pollution, such as sedimentation. Although nonpoint source pollution is a localized threat to the Pearl River map turtle, it is less prevalent in areas where State-approved BMPs are used (Service 2021b, p. 41).

In Louisiana, BMPs include streamside management zones (SMZ) of 50 ft (15.24 m), measured from the top of the streambank, for streams of less than 20 ft (6.1 m) under estimated normal flow, to a width of 100 ft (30.5 m) for streams more than 20 ft (6.1 m) wide (LDAF undated, p. 15). Guidance includes maintaining adequate forest canopy cover for normal water and shade conditions as well as an appropriate amount of residual cover to minimize soil erosion (LDAF undated, p. 14). An overall rate of 97.4 percent of 204 forestry operations surveyed by the LDAF in 2018 complied with the State's voluntary guidelines; compliance with guidelines in SMZs was 98.6 percent (LDAF 2018, entire).

The State of Mississippi has voluntary BMPs developed by the Mississippi Forestry Commission (MFC) (MFC 2008, entire). These BMPs include SMZs with the purpose of maintaining bank stability and enhancing wildlife habitat by leaving 50 percent crown cover during timber cuts (MFC 2008, p. 6). The width of SMZs is based on slope,

with a minimum SMZ width of 30 ft (9.14 m) extending to 60 ft (18.3 m) at sites with over 40 percent slope (MFC 2008, p. 6). The most recent monitoring survey of 174 Mississippi forestry sites indicated that 95 percent of applicable sites were implemented in accordance with the 2008 guidelines (MFC 2019, p. 6).

Overall, voluntary BMPs related to forest management activities conducted on private lands throughout the riparian corridor of the Pearl River System have provided a significant foothold for Pearl River map turtle conservation. As a result of high BMP compliance in these specific areas, non-point source pollution associated with silvicultural operations is not a major contributor to impacts on the species.

Determination of Pearl River Map Turtle Status

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

In conducting our status assessment of the Pearl River map turtle, we evaluated all identified threats under the Act's section 4(a)(1) factors and assessed how the cumulative impact of all threats acts on the current and future viability of the species based on resiliency, redundancy, and representation. In assessing future viability, all the anticipated effects from both habitat-based and direct threats to the species are examined in total and then evaluated in the context of what those combined negative effects will mean to the future condition of the Pearl River map turtle. We use the best available information to determine the magnitude of each individual threat on the species, and then assess how those effects combined (and as may be ameliorated by any existing regulatory mechanisms or conservation efforts) will impact the Pearl River map turtle's future viability.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we determined that the species currently has sufficient resiliency, redundancy, and representation contributing to its overall viability across its range. Even though the species is described as a single population, the current condition of the units are all below optimal or high resiliency, three units have moderate resiliency, and the remaining two units have low resiliency. There are no units within the range that demonstrate high resiliency. Despite the moderate and low conditions of all units, the species is widely distributed across much of its range. Current threats to the species include habitat degradation and loss due to alterations in the aquatic and terrestrial environments that affect water quality through sedimentation, impoundment, and gravel mining; and collection for the pet trade is also an ongoing threat to the species.

The Ross Barnett Reservoir was completed in 1963 and has reduced the amount of available habitat for the species and fragmented contiguous suitable habitat. Pearl River map turtles prefer flowing water in rivers and creeks. Indirect effects from the reservoir are associated with recreational use from boat traffic and foot traffic from day visitors and campers. Declines in Pearl River map turtles have been documented both upstream (lower density) and downstream (population declines) from the reservoir (Selman and Jones 2017, pp. 32–34). A total of 20.9 rmi (33.6 rkm) of the Pearl River is submerged beneath the Ross Barnett Reservoir and no longer suitable for the Pearl River map turtle. This reservoir is currently affecting the Middle Pearl–Strong unit and the Upper Pearl unit, reducing the suitable habitat of five percent of the mainstem Pearl River by altering the lotic (flowing water) habitat preferred by Pearl River map turtles to lentic (lake) habitat. The reservoir reduces the resiliency and overall condition of these affected units.

Despite the effects of the existing reservoir on the Upper Pearl and Middle Pearl–Strong resilience units, sufficient habitat remains to provide adequate resiliency of these units to contribute to the viability of the species. The effects from the reservoir may continue affecting the species in the future as the turtles in the Upper Pearl unit (above the reservoir) become more isolated over time; however, there is currently adequate resiliency.

In terms of redundancy and the ability of the species to respond to catastrophic events, the species currently has enough redundancy across the five resilience units to protect it from a catastrophe such as a large hurricane or oil spill. The Middle Pearl–Silver and Middle Pearl–Strong units are particularly vulnerable to a potential spill from railways and transportation corridors that are near or adjacent to habitat occupied by Pearl River map turtles. The Lower Pearl unit is vulnerable to the effects from hurricanes as it is in close proximity to the Gulf of Mexico. However, because the species is a single population distributed across five resilience units encompassing 1,279.6 rkm (795.1 rm), it is buffered against catastrophic events such as these.

While the overall current condition of the species exhibits low redundancy, the species is still widespread across its range in all resilience units across the single representative unit. Although we do not project any of the units to be extirpated in any scenarios, we do anticipate resilience to drop significantly in several units across many scenarios. Thus, after assessing the best available information, we conclude that the Pearl River map turtle is not currently in danger of extinction throughout all of its range.

A threatened species, as defined by the Act, is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Because the species is not currently in danger of extinction (endangered) throughout its entire range, we evaluated the viability of the species over the foreseeable future considering the condition of the species in relation to its resiliency, redundancy, and representation. We analyzed future conditions based on input from species experts, generation time for the species, and the confidence in predicting patterns of urbanization and agriculture, enabling us to reliably predict threats and conservation actions and the species' response over time. Details regarding the future condition analyses are available in the SSA report (Service 2021b, pp. 81–118).

The threats included in the future scenarios are projected to negatively affect the Pearl River map turtle and result in a decline of resiliency throughout four (Bogue Chitto, Lower Pearl, Middle Pearl–Strong, and Upper Pearl) of the five resilience units (table

2). While the Middle Pearl–Silver unit is not expected to see major declines in resiliency, its current resiliency is low and it is anticipated to remain low in the future projections. None of the resilience units will improve from current conditions to provide high resiliency; three units are moderate, but the conditions decline in the future scenarios. Three resilience units may have additional stressors including isolation for the Upper Pearl, compounded by the addition of another planned reservoir for the Middle Pearl–Strong unit, and gravel mining for the Bogue Chitto unit. These threats will likely cause a decline in the amount of available suitable habitat, thereby affecting the future resiliency; however, the development of the reservoir and future sand and gravel mining activities are uncertain. Two of the resilience units are low (Lower Pearl and Middle Pearl), with the most southern unit (Lower Pearl) facing threats from SLR. The single population that consists of five resilience units has low genetic variability resulting in low adaptive capacity or the potential to adapt to environmental or habitat changes within the units. Most of the population primarily uses the main stem river, which is subject to more catastrophic events (*e.g.,* an oil spill) as any point source pollutants would flow downstream throughout the range of the turtle below the point of contamination. The species has limited occurrence in tributaries in its range, resulting in limited refugia from future catastrophic effects.

In terms of resiliency, the future condition is expected to decline for all resilience units. The future scenarios project out to the year 2070 to capture the species' response to threats and changing landscape conditions. The impacts from the existing Ross Barnett Reservoir will continue affecting the species, and resilience of the units will decline as the turtles in the most northern unit (Upper Pearl) will become even more spatially isolated. An additional planned development project adjacent to the existing reservoir could affect up to 170 turtles directly and 360 turtles indirectly in the Upper Pearl and Middle Pearl–Strong units (Selman 2020b, pp. 192–193). If this impoundment project moves forward, the species' viability will continue to decline in the foreseeable future as resiliency declines through loss of suitable habitat and further isolation of turtles above the reservoirs. The turtles in the Upper Pearl unit are subject to genetic isolation and potentially the effects of small population size as the species here will not be connected to the rest of the contiguous habitat south of the reservoir.

Another future threat to the species is SLR, which will cause a contraction in the most southern unit (Lower Pearl) as saline waters encroach farther north from the Gulf of Mexico in rising seas, and the effects will be magnified with hurricane-related storm surge pulsing saline water upstream into the freshwater system. The amount of habitat affected over time depends on the rate of SLR and other factors that influence surge such as increased hurricane or storm frequency and severity.

An additional threat that is expected to impact the species in the foreseeable future includes the continued collection from wild populations for the domestic and international pet trade. Map turtles are desired by collectors for their intricate shell patterns. Despite the less distinctive shell patterns and markings of adult Pearl River map turtles, the species remains a target for some herptile enthusiasts and personal collections. The demand for turtles globally is increasing, which results in more intense pressures on wild populations. The threat of illegal collection is expected to continue into the foreseeable future.

The overall future condition of the species is expected to continue a declining trajectory resulting in compromised viability as described in the future scenarios out to year 2070. Therefore, the species is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020) (*Center for Biological Diversity*), vacated the aspect of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014) that provided that the Service does not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range. Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Center for Biological Diversity,* we now consider whether there are any significant portions of the species' range where the species is in danger of extinction now (*i.e.,* endangered). In undertaking this analysis for the Pearl River map turtle, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered. We considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following threats: Effects of climate change (including SLR), habitat loss and degradation, and illegal collection. We also considered whether cumulative effects contributed to a concentration of threats across the species' range.

Overall, we found that the threat of SLR and habitat loss are likely acting disproportionately to particular areas within the species' range. The threat of SLR is concentrated in the Lower Pearl, which is the most southern resilience unit that connects to the Gulf of Mexico. However, the salinity influx into the species' habitat due to SLR is not currently affecting this area but will affect the species' habitat within the foreseeable future; thus, we excluded SLR from the significant portion of its range analysis as we have already determined the species is threatened across all of its range.

The threat of habitat loss and degradation is concentrated on the Middle Pearl–Strong and Upper Pearl units due to an existing reservoir and a planned project that disjoins the connectivity of turtles above and below the reservoir. The impacts due to habitat degradation and loss are acting on the species' current condition and possibly future condition if the One Lake project is constructed as planned. Future reduction in habitat in the Middle Pearl–Strong and Upper Pearl units will occur, and increased isolation of the Upper Pearl unit will further reduce

connectivity if the additional One Lake project is completed. Researchers have estimated that up to 170 individual Pearl River map turtles could be directly impacted by the One Lake Project (Selman 2020b, pp. 192–193). The impacts from this project are in the future and are not currently affecting the species; therefore, we will only consider the existing reservoir for the analysis to determine if the species is endangered in a significant portion of its range.

After identifying areas where the concentration of threats of habitat degradation and loss affects the species or its habitat and the time horizon of these threats, we considered the status to determine if the species is endangered in the affected portion of the range. The area that currently contains a concentration of threats includes a portion of the Middle Pearl–Strong and Upper Pearl units. Habitat loss and degradation from an existing reservoir has reduced the amount and quality of existing habitat for the species in these units. The Ross Barnett Reservoir constructed between 1960 and 1963 near Jackson, Mississippi, changed the natural hydrology of the Pearl River and resulted in 20.9 rmi (33.6 rkm) of river submerged and made unsuitable for the Pearl River map turtle (Lindeman 2019, p. 19). Low population densities of turtles have been observed upstream from the reservoir (Selman and Jones 2017, pp. 32–34). Notable population declines also have been observed in the stretch of the Pearl River downstream of the Ross Barnett Reservoir (north of Lakeland Drive), but the exact reason for the decline is unknown (Selman 2020b, p. 194). However, despite these declines, the species currently exhibits adequate resiliency in these portions.

As a result, the Pearl River map turtle is not in danger of extinction in the portion of the range affected by the Barnett Ross Reservoir. In other words, we found no concentration of threats in any portion of the Pearl River map turtle's range at a biologically meaningful scale. Thus, there are no portions of the species' range where the species has a different status from its rangewide status. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the Pearl River map turtle is likely to become in danger of extinction within the foreseeable future throughout all of its range. This is consistent with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017).

Determination of Pearl River Map Turtle Status

Our review of the best available scientific and commercial information indicates that the Pearl River map turtle meets the definition of a threatened species. Therefore, we propose to list the Pearl River map turtle as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning consists of preparing draft and final recovery plans, beginning with the development of a recovery outline and making it available to the public within 30 days of a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*http://www.fws.gov/endangered*) or from our Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If the Pearl River map turtle is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Louisiana and Mississippi would be eligible for Federal funds to implement management actions that promote the protection or recovery of the Pearl River map turtle. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Although the Pearl River map turtle is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that

is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' range that may require conference or consultation or both as described in the preceding paragraph include actions that fund, authorize, or carry out management and any other landscape-altering activities include, but are not limited to:

(1) Actions that would increase sediment deposition within the stream channel. Such activities could include, but are not limited to, channelization, channel alteration, dredging, impoundment, flood-control structures, road and bridge construction, de-snagging (submerged dead-wood removal), timber harvests, destruction of riparian vegetation, oil or natural gas development, pipeline construction, off-road vehicle use, and other land-disturbing activities in the watershed and floodplain. Sedimentation from these activities could lead to stream bottom embeddedness that eliminates or reduces the quality of aquatic habitat necessary for the conservation of the Pearl River map turtle.

(2) Actions that would alter river or tributary morphology or geometry. Such activities could include, but are not limited to, channelization, dredging, impoundment, road and bridge construction, pipeline construction, and destruction of riparian vegetation. These activities may cause changes in water flows or channel stability and lead to increased sedimentation that eliminates or reduces the sheltering habitat necessary for the conservation of the Pearl River map turtle.

(3) Actions that would alter water chemistry or quality. Such activities could include, but are not limited to, the release of chemicals, fill, biological pollutants, or off-label pesticide use. These activities could alter water conditions to levels that are beyond the tolerances of the Pearl River map turtle and result in direct or cumulative adverse effects to individual turtles.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of the species proposed for listing. The discussion below (section III. Proposed Rule Issued Under Section 4(d) of the Act for the Pearl River Map Turtle) regarding protective regulations under section 4(d) of the Act complies with our policy.

III. Proposed Rule Issued Under Section 4(d) of the Act for the Pearl River Map Turtle

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of species listed as threatened. The U.S. Supreme Court has noted that statutory language like ''necessary and advisable'' demonstrates a large degree of deference to the agency (see *Webster* v. *Doe,* 486 U.S. 592 (1988)). Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of threatened species. The second sentence grants particularly broad discretion to the Service when adopting the prohibitions under section 9.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld rules developed under section 4(d) as a valid exercise of agency authority where they prohibited take of threatened wildlife or include a limited taking prohibition (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (*see State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him/[her] with regard to the permitted activities for those species. [S]he may, for example, permit taking, but not importation of such species, or [s]he may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Exercising our authority under section 4(d), we have developed a proposed rule that is designed to address the Pearl River map turtle's conservation needs. Although the statute does not require us to make a ''necessary and advisable'' finding with respect to the adoption of specific prohibitions under section 9, we find that this proposed rule as a whole satisfies the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the Pearl River map turtle. As discussed under Summary of Biological Status and Threats, we have concluded that the Pearl River map turtle is likely to become in danger of extinction within the foreseeable future primarily due to habitat degradation and loss due to impoundments, dams, agricultural runoff, development, mining, loss of riparian habitat and deadwood abundance, collection, and climate change. Additional stressors acting on the species include disease and contaminants (pesticides and heavy metals). Drowning and/or capture due to bycatch associated with recreational and commercial fishing of some species of freshwater fish also may affect the species but are of unknown frequency or severity.

The provisions of this proposed 4(d) rule would promote conservation of the Pearl River map turtle by encouraging responsible land management activities and implementing use of best management practices for activities near and in rivers, streams, and riparian areas to minimize habitat alteration to the maximum extent practicable. The rule will also address the threat of

collection by prohibiting take of individuals from the wild. The provisions of this proposed rule include some of the many tools that we would use to promote the conservation of Pearl River map turtle. This proposed 4(d) rule would apply only if and when we make final the listing of Pearl River map turtle as a threatened species.

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.

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, authorized, or carried out by a Federal agency—do not require section 7 consultation.

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

Provisions of the Proposed 4(d) Rule for the Pearl River Map Turtle

This proposed 4(d) rule would provide for the conservation of the Pearl River map turtle by prohibiting the following activities, except as otherwise authorized or permitted: Importing or exporting; take; possession and other acts with unlawfully taken specimens; delivering, receiving, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce. We also include several exceptions to these prohibitions, which along with the prohibitions, are set forth under Proposed Regulation Promulgation, below.

As discussed above under Summary of Biological Status and Threats, habitat degradation and loss (aquatic and terrestrial nesting) and collection are affecting the status of the Pearl River map turtle. A range of activities has the potential to affect the Pearl River map turtle, including: Dredging, de-snagging, removal of riparian cover, channelization, in-stream activities that result in stream bank erosion and siltation (*e.g.,* stream crossings, bridge replacements, flood control structures, impoundments, etc.), improper pesticide use, and changes in land use within the riparian zone of waterbodies (*e.g.,* clearing land for agriculture). Regulating take associated with these activities would provide for the conservation of the species by better preserving the condition of the species' resilience units, slowing its rate of decline, and decreasing synergistic, negative effects from other ongoing or future threats.

Under the Act, ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulation at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. This proposed 4(d) rule would provide for the conservation of Pearl River map turtle by prohibiting intentional and incidental take, except as otherwise authorized or permitted. Prohibiting take of the species resulting from activities, including but not limited to habitat alteration and collection, will provide for the conservation of the species. Regulating take from these activities under a 4(d) rule would prevent continued declines in population abundance and decrease synergistic, negative effects from other threats; this regulatory approach will provide for the conservation of the species by improving resiliency of the species across all units within its range and prevent future projected declines in its viability.

Prohibitions

Aquatic and terrestrial nesting habitat alteration is a threat to the Pearl River map turtle, as the species is endemic to the Pearl River basin and its river ecosystems, including tributary waterbodies, where structure (*e.g.,* tree root masses, stumps, submerged trees, etc.) provides habitat for the species and its prey. Pearl River map turtles spend the majority of their time in aquatic habitat; overland movements are generally restricted to nesting females and juveniles moving from the nest to water (Jones 2006, pp. 207–208; Lindeman 2013, pp. 211–212). The primary causes for aquatic habitat alteration include actions that change hydrologic conditions to the extent that dispersal and genetic interchange are impeded.

The activities that alter Pearl River map turtle aquatic and terrestrial nesting habitats may directly or indirectly affect the species. As well as providing basking sites for all age classes of Pearl River map turtles, fallen riparian woody debris provides important feeding areas for juvenile and male turtles. The species' habitat needs include flowing water with limited sedimentation, sufficient water quality to support the invertebrate and mussel food source of the species, and sandbars for nesting sites. We recommend the implementation of industry and/or State-approved best management practices for activities that may change the hydrology or water quality or reduce available basking structures such as deadwood. Additionally, pesticides should be applied according to label guidelines complying with State and Federal regulations.

State regulatory programs for Pearl River map turtle include regulations in Louisiana and Mississippi that limit or prohibit possession, purchase, sale, transport, or export. Additionally, collection of turtles for the pet trade and aquaculture is a practice that continues to threaten many turtle species globally and also within the Southeastern United States. Based on the provisions of this proposed 4(d) rule, the following actions would be prohibited across the range of the species: Importing or exporting individuals; take (as set forth at 50 CFR 17.21(c)(1) with exceptions as discussed below); possession, sale, delivery, carrying, transporting, or shipping of specimens from any source; delivering, receiving, transporting, or shipping individuals in interstate or foreign commerce in the course of commercial activity; and selling or offering for sale individuals in interstate or foreign commerce.

Exceptions to the Prohibitions

We are proposing several exceptions to the prohibitions: Take incidental to any otherwise lawful activity caused by pesticide and herbicide use; construction, operation, and maintenance activities that implement industry and/or State-approved best management practices accordingly; silviculture practices and forestry activities that implement industry and/or State-approved best management practices accordingly; and maintenance dredging that affects previously disturbed portions of the maintained channel.

Best Management Practices for Implementing Actions That Occur Near- or In-Stream—Implementing best management practices to avoid and/or minimize the effects of habitat alterations in areas that support Pearl River map turtles would provide additional measures for conserving the species by reducing direct and indirect effects to the species. We consider that certain construction, forestry, and pesticide/herbicide management activities that occur near- and in-stream may remove riparian cover or forested habitat, change land use within the riparian zone, or increase stream bank erosion and/or siltation. These actions and activities, if implemented using appropriate best management practices, may have some minimal level of incidental take of the Pearl River map turtle, but any such take is expected to be rare and insignificant and is not expected to negatively impact the species' conservation and recovery efforts.

Construction, operation, and maintenance activities such as installation of stream crossings, replacement of existing in-stream structures (*e.g.,* bridges, culverts, water control structures, boat launches, etc.), operation and maintenance of existing flood control features (or other existing structures), and directional boring, when implemented with industry and State-approved standard best management practices, will have minimal impacts to Pearl River map turtles and their habitat. In addition, silviculture practices and forestry management activities that follow State-approved best management practices to protect water and sediment quality and stream and riparian habitat will not impair the species' conservation. Lastly, invasive species removal activities, particularly through pesticide (insecticide and herbicide) application, are considered beneficial to the native ecosystem and are likely to improve habitat conditions for the species; all excepted pesticide applications must be conducted in a manner consistent with Federal and applicable State laws, including Environmental Protection Agency label restrictions and pesticide application guidelines as prescribed by pesticide manufacturers that would not impair the species' conservation. These activities should have minimal impacts to Pearl River map turtles if industry and/or State-approved best management practices are implemented. These activities and management practices should be carried out in accordance with any existing regulations, permit and label requirements, and best management practices to avoid or minimize impacts to the species and its habitat.

Thus, under this proposed 4(d) rule, incidental take associated with the following activities are excepted:

(1) Construction, operation, and maintenance activities that occur near- and in-stream, such as installation of stream crossings, replacement of existing in-stream structures (*e.g.,* bridges, culverts, water control structures, boat launches, etc.), operation and maintenance of existing flood control features (or other existing structures), and directional boring, when implemented with industry and/or State-approved best management practices for construction;

(2) Pesticide and herbicide applications that follow the chemical label and appropriate application rates; and

(3) Silviculture practices and forest management activities that use State-approved best management practices to protect water and sediment quality and stream and riparian habitat.

Maintenance Dredging of Navigable Waterways—We considered that maintenance dredging activities generally disturb the same area of the waterbody in each cycle; thus, there is less likelihood that suitable turtle habitat (*e.g.,* submerged logs, cover, etc.) occurs in the maintained portion of the channel. Accordingly, incidental take associated with maintenance dredging activities that occur within the previously disturbed portion of the navigable waterway is excepted from the prohibitions as long as these activities do not encroach upon suitable turtle habitat outside the maintained portion of the channel and provide for the conservation of the species.

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

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

The proposed 4(d) rule would also allow any employee or agent of the Service, or other Federal land management agency, the National Marine Fisheries Service, a State conservation agency, or a State-licensed wildlife rehabilitation facility staff member designated by his/her agency for such purposes, when acting in the course of official duties, to take endangered wildlife without a permit in accordance with 50 CFR 17.21(c)(3).

Nothing in this proposed 4(d) rule would change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the Pearl River map turtle. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between Federal agencies and the Service, where appropriate. We ask the public, particularly State agencies and other interested stakeholders that may be affected by the proposed 4(d) rule, to provide comments and

suggestions regarding additional guidance and methods that the Service could provide or use, respectively, to streamline the implementation of this proposed 4(d) rule (see Information Requested, above).

IV. Critical Habitat for the Pearl River Map Turtle

Background

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, habitat restoration, propagation, live trapping, and transplantation, 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. Designation does not 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. The implementing regulations at 50 CFR 424.12(b)(2) further delineate unoccupied critical habitat by setting out three specific parameters: (1) When designating critical habitat, the Secretary will first evaluate areas occupied by the species; (2) the Secretary will consider unoccupied areas to be essential only where a critical habitat designation limited to geographical areas occupied by the species would be inadequate to ensure the conservation of the species; and (3) 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 the 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, or other species conservation planning efforts if new information available at the time of those 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.

Increased Degree of Threat to the Pearl River Map Turtle

After evaluating the status of the species and considering the threats acting on the species, we find the designation of critical habitat would not be prudent for Pearl River map turtle because 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. As discussed earlier in the proposed listing determination for Pearl River map turtle, there is currently an imminent threat of collection identified under Factor B for the Pearl River map turtle. Identification and mapping of critical habitat is expected to facilitate any such threat.

Collection of wild turtles in the Pearl River system is probably occurring, and similar to what has been observed in other States, these turtles are likely destined for the high-end turtle pet trade in China and possibly other Southeast Asian countries (Selman 2020a, p. 23). Information has been documented from three different local individuals, at three different locations, concerning turtle bycatch or harvesting in local Louisiana waterways occupied by Pearl River map turtles (Selman 2020a, pp. 22–23). These locations included the Pearl River south of Bogalusa, Louisiana (possible mortality resulting from bycatch in hoop nets), the West Pearl River Navigation Canal (turtles captured and sold, possibly for shipment to China), and the Bogue Chitto River (local comment that baby turtles were being captured and shipped to China) (Selman 2020a, pp. 22–23). The specific species captured were not documented; however, it is likely that at least some of these turtles were Pearl River map turtles.

The Service manages information related to species exports in the Law Enforcement Management Information System (LEMIS). According to a LEMIS report from 2005 to 2019, more than 300,000 turtles identified as *Graptemys* spp. or their parts were exported from the United States to 29 countries (Service 2021b, Appendix B). The number of turtles recorded in each shipment ranged widely. Due to their similarity in appearance, species of *Graptemys* are difficult to differentiate (Selman 2021, pers comm.). Records from 2005, when the highest number of *Graptemys* were exported, show more than 35,000 turtles (*Graptemys* spp.) in a single shipment to Spain and a total of 172,645 individual *Graptemys* exported to 24 different countries (Service 2021b, Appendix B). However, there is some uncertainty regarding the sources of the exported turtles as they could have originated from captive stock.

The Pearl River map turtle is declining throughout its range as a consequence of factors including collection of live adult turtles from the wild for the pet trade. All life stages of aquatic turtles are at risk of collection for both domestic and international distribution (Stanford et al. 2020, p. R722). All species of map turtles are prized by collectors because of their intricate shell patterns. While the Pearl River map turtle lacks many of the distinct intricacies, there is still a demand for all map turtles and this species is collected and trafficked domestically and internationally (Service 2021b, Appendix B).

The unauthorized collection of Pearl River map turtles for the pet trade is a factor contributing to the species' decline and remains a threat today. Pearl River map turtles can be found near basking structures because many turtles may use the same logs and semi-submerged features (Selman and Lindeman 2015, pp. 794–795). Therefore, publishing specific location information would provide a high level of assurance that any person going to a specific location would be able to successfully locate and collect multiple individuals given the species' concentrated use of limited basking sites.

Designation of critical habitat requires the publication of maps and a narrative description of specific critical habitat areas in the **Federal Register**. We are concerned that designation of critical habitat would more widely announce the exact locations of Pearl River map turtles and their suitable habitat that may facilitate unauthorized collection/poaching and contribute to further declines of the species' viability. Moreover, as species become rarer and more difficult to obtain, the monetary value increases, thus driving increased collection pressure on remaining wild individuals. We anticipate that listing the Pearl River map turtle under the Act may promote further interest in black market sales of the turtles and increase the likelihood that the species will be sought out for the pet trade as demand rises. The removal of the species by taking is expected to increase if we identify critical habitat; thus, we find that designation of critical habitat for

the Pearl River map turtle is not prudent. Therefore, because 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, the criterion as provided in regulations at 50 CFR 424.12(a)(1) has been met. Accordingly, we have determined that the designation of critical habitat is not prudent for the Pearl River map turtle.

Critical Habitat Determinability

Having determined that designation is not prudent, under section 4(a)(3) of the Act we do not evaluate the extent to which critical habitat for the Pearl River map turtle is determinable.

V. Similarity of Appearance for the Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle

Whenever a species which is not endangered or threatened closely resembles an endangered or threatened species, such species may be treated as either endangered or threatened if the Secretary makes such determination in accordance with section 4(e) of the Act for similarity of appearance. Section 4(e) authorizes the treatment of a species, subspecies, or population segment as an endangered or threatened species if: ''(a) Such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species; (b) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and (c) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this Act.''

A designation of an endangered or threatened species due to similarity of appearance under section 4(e) of the Act, however, does not extend other protections of the Act, such as consultation requirements for Federal agencies under section 7 and the recovery planning provisions under section 4(f), that apply to species that are listed as an endangered or threatened species under section 4(a). All applicable prohibitions and exceptions for species listed under section 4(e) of the Act due to similarity of appearance to a threatened or endangered species will be set forth in a species-specific rule issued under section 4(d) of the Act. The Service implements this Section 4(e) authority in accordance with the Act and our regulations at 50 CFR 17.50. Our analysis of the criteria for the 4(e) rule is described below for the similarity of appearance of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle in relation to the proposed threatened Pearl River map turtle.

Do the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle so closely resemble in appearance, at the point in question, the Pearl River map turtle such that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species?

Map turtles (genus *Graptemys*) are named for the intricate pattern on the carapace that often resembles a topographical map. In addition to the intricate markings, the shape of the carapace (top half of shell) in map turtles is very distinctive. The carapace is keeled, and many species show some type of knobby projections or spikes down the vertebral scutes (located down the midline of the carapace). All five of these map turtle species are in the megacephalic (large-headed) clade where the females have large, broad heads and all occur in the Southeastern United States. There are only slight morphological differences between the Pearl River map turtle and four other map turtle species in the megacephalic clade from the Southeastern United States: Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle. The ranges of these species do not geographically overlap, with the exception of Barbour's and Escambia map turtle ranges in some areas of the Choctawhatchee River drainage in Alabama and Florida (figure 2). Additional information regarding characteristics and identification of megacephalic map turtles is described in the SSA report (Service 2021b, pp. 17–24). The lack of distinctive physical features makes it difficult to differentiate among these species, even for law enforcement officers, especially considering their similar body form, shell markings, and head markings (Selman 2021, pers. comm). The Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle all closely resemble in appearance, at the point in question, the Pearl River map turtle such that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species.

Is the effect of this substantial difficulty an additional threat to Pearl River map turtle?

As provided in 50 CFR 17.50(b)(2), we considered the additional threat posed to the proposed threatened Pearl River map turtle because of its similarity of appearance to the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle. Specifically, we considered the possibility that an additional threat is posed to the Pearl River map turtle by unauthorized trade or commerce by persons who misrepresent Pearl River map turtle specimens as Alabama map turtle, Barbour's map turtle, Escambia map turtle, or Pascagoula map turtle specimens, because this might result in the Pearl River map turtle (if listed) entering the global black market via the United States or contributing to market demand for the Pearl River map turtle.

Due to the lack of distinct physical characteristics and difficulty in distinguishing individual species of megacephalic map turtles, the similarity of these species poses a problem for Federal and State law enforcement agents trying to stem unauthorized collection of the Pearl River map turtle. Collection is a real threat to many turtle species in the United States and also affects species globally (Stanford et al. 2020, entire). Turtles are collected in the wild and sold into the pet trade both domestically and internationally. The proposed listing of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle as threatened due to similarity of appearance minimizes the possibility that private and commercial collectors will be able to misrepresent Pearl River map turtles as Alabama map turtles, Barbour's map turtles, Escambia map turtles, or Pascagoula map turtles for private or commercial purposes.

We find that the difficulty enforcement personnel have in attempting to differentiate between the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle species would pose an additional threat to the Pearl River map turtle.

Would treatment of the four unlisted map turtles as threatened or endangered due to similarity of appearance substantially further the enforcement and policy of the Act?

The listing of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle due to similarity of appearance will facilitate Federal, State, and local law enforcement agents' efforts to curtail

unauthorized possession, collection, and trade in the Pearl River map turtle. Listing the four similar map turtle species due to similarity of appearance under section 4(e) of the Act and providing applicable prohibitions and exceptions under section 4(d) of the Act will substantially facilitate the enforcement and further the policy of the Act for the Pearl River map turtle. For these reasons, we propose to list Alabama map turtle (occurring in Alabama, Georgia, Mississippi, and Tennessee), Barbour's map turtle (occurring in Alabama, Florida, and Georgia), Escambia map turtle (occurring in Alabama and Florida), and Pascagoula map turtle (occurring in Mississippi) as threatened due to similarity of appearance to the Pearl River map turtle pursuant to section 4(e) of the Act (see figure 2).

With this proposed rule, we do not consider the Alabama map turtle, Barbour's map turtle, Escambia map turtle, or Pascagoula map turtle to be biologically threatened or endangered but we have determined that listing the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle as threatened species under the similarity of appearance provision of the Act, coupled with a proposed 4(d) rule as discussed below, minimizes misidentification and enforcement-related issues. This proposed listing would promote and enhance the conservation of the Pearl River map turtle.

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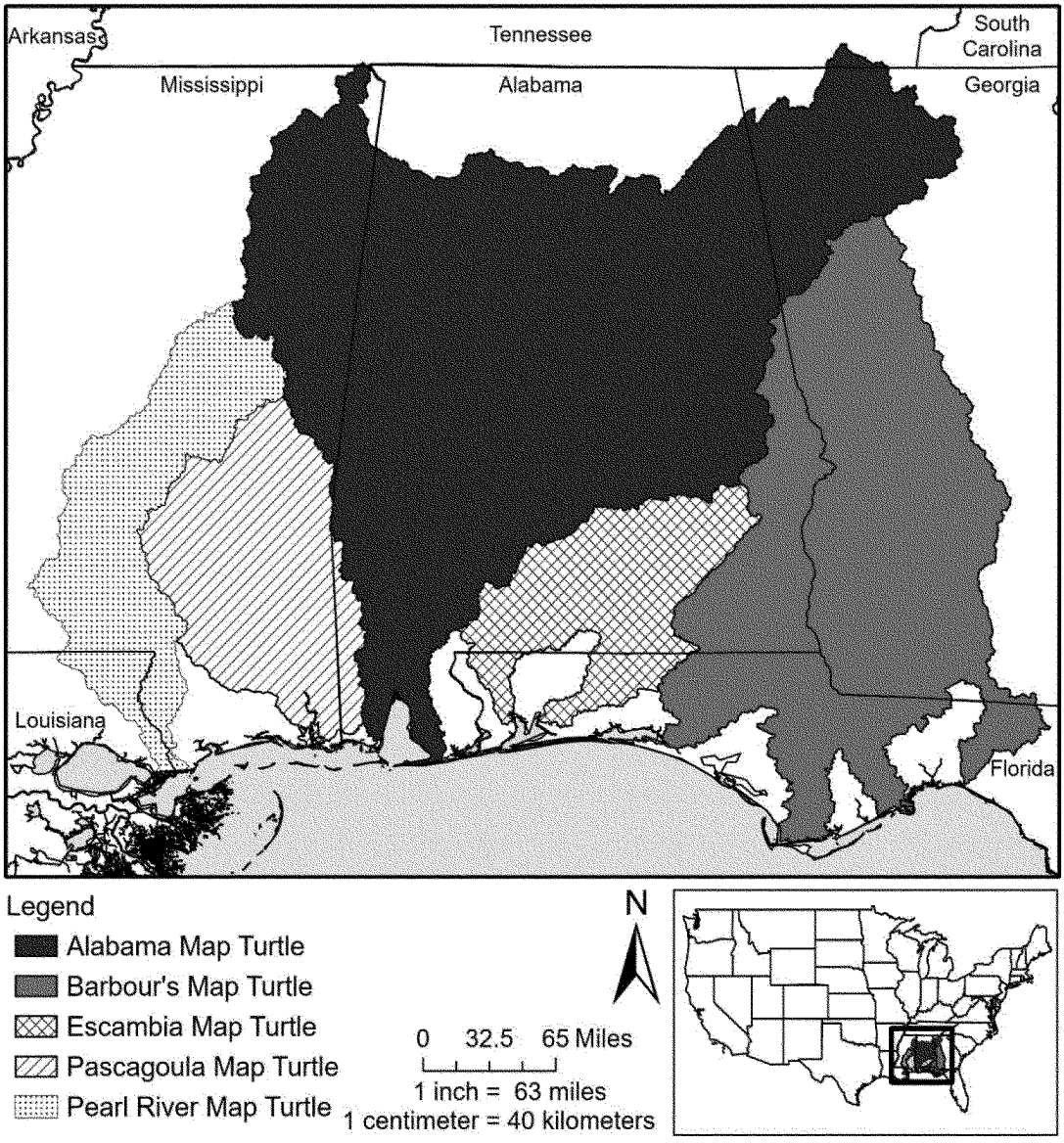

Figure 2—Range map of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, Pascagoula map turtle, and Pearl River map turtle.

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VI. Proposed Rule Issued Under Section 4(d) of the Act for the Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle Background

Whenever a species is listed as a threatened species under the Act, the Secretary may specify regulations that she deems necessary and advisable to provide for the conservation of that species under the authorization of section 4(d) of the Act. Because we are proposing to list the Alabama map turtle (*Graptemys pulchra*), Barbour's map turtle (*Graptemys barbouri*), Escambia map turtle (*Graptemys ernsti*), and Pascagoula map turtle (*Graptemys gibbonsi*) as threatened species due to similarity of appearance to the Pearl River map turtle (see V. Similarity of Appearance for the Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle section), we are proposing a 4(d) rule to minimize misidentification and enforcement-related issues. This proposed 4(d) rule would promote and enhance the conservation of the Pearl River map turtle.

This proposed 4(d) rule, to be promulgated for addition to 50 CFR 17.42, will establish prohibitions on collection of these four similar-in-appearance species of map turtle in order to protect the Pearl River map turtle from unlawful collection, unlawful possession, and unlawful trade. In this context, collection is defined as any activity where Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle are, or are attempted to be, collected from wild populations. Capture of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle is not prohibited if it is not intentional, such as during research or fishing activities, provided live animals are released immediately upon discovery at the point of capture and dead animals are reported to the Service. Incidental take associated with all otherwise legal activities involving the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle that are conducted in accordance with applicable State, Federal, Tribal, and local laws and regulations is not considered prohibited under this proposed rule.

Provisions of the Proposed 4(d) Rule for the Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle

This proposed 4(d) rule would provide for the conservation of the Pearl River map turtle by prohibiting the following activities for Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle, except as otherwise authorized or permitted: Take in the form of collection (other than for scientific purposes); importing or exporting individuals; possession and other acts with unlawfully taken specimens; delivering, receiving, transporting, or shipping of unlawfully taken specimens from any source; delivering, receiving, transporting, or shipping individuals in interstate or foreign commerce in the course of commercial activity; and selling or offering for sale individuals in interstate or foreign commerce.

The proposed 4(d) rule does not prohibit incidental take of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle through permitted and other excepted activities as described below. Incidental take is take that results from, but is not the purpose of, carrying out an otherwise lawful activity. For example, construction activities, application of pesticides and fertilizers according to label, silviculture and forest management practices, maintenance dredging activities that remain in the previously disturbed portion of a maintained channel, and any other legally undertaken actions that result in the accidental take of an Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle will not be considered a violation of section 9 of the Act in the southern States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Tennessee.

Effect of the Proposed Rule

Listing the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle as threatened species under the ''similarity of appearance'' provisions of the Act, and the promulgation of a rule under section 4(d) of the Act, to extend take prohibitions regarding collection, import, export, and commerce to these species will provide a conservation benefit to the Pearl River map turtle. Capture of these species is not prohibited if it is accidental, such as during research, provided the animal is released immediately upon discovery at the point of capture.

As Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle can be confused with the Pearl River map turtle, we strongly recommend maintaining the appropriate documentation and declarations with legal specimens at all times, especially when importing them into the United States, and permit holders should also comply with the import/export transfer regulations under 50 CFR part 14, where applicable. All otherwise legal activities that may involve what we would normally define as incidental take (take that results from, but is not the purpose of, carrying out an otherwise lawful activity) of these similar turtles, and which are conducted in accordance with applicable State, Federal, Tribal, and local laws and regulations, are not prohibited under this proposed regulation.

This proposed 4(d) rule will not consider instances of incidental take as violations of section 9 of the Act if they result in incidental take of any of the similarity of appearance turtles. We do not find it necessary to apply incidental take prohibitions for those otherwise legal activities to these four similar turtles (Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle), as these activities will not pose a threat to the Pearl River map turtle because: (1) Activities that affect the waters where Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle reside will not affect Pearl River map turtle and (2) the primary threat to the Pearl River map turtle comes from collection and commercial trade as it relates to the similar turtles. Listing the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle under the similarity of appearance provision of the Act, coupled with this 4(d) rule, will help minimize enforcement problems related to collection and enhance conservation of the Pearl River map turtle.

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.

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 regulations adopted pursuant to section 4(a) of 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. We coordinated with Tribes within the Pearl River map turtle's range when we initiated the SSA process. We also requested review and addressed comments accordingly. We also coordinated with Tribes within the Alabama, Barbour's, and Escambia map turtles' ranges, requesting information regarding threats and conservation actions for those species. There are no Tribes within the range of the Pascagoula map turtle. We will continue to work with Tribal entities during the development of a final rule.

References Cited

A complete list of references cited in the petition finding for the Pascagoula map turtle and this proposed rulemaking for the Pearl River map turtle is available on the internet at *https://www.regulations.gov* and upon request from the Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this document are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Service's Mississippi Ecological Services Field 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; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries for ''Turtle, Alabama map'', ''Turtle, Barbour's map'', ''Turtle, Escambia map'', ''Turtle, Pascagoula map'' and ''Turtle, Pearl River map'' to the List of Endangered and Threatened Wildlife in alphabetical order under Reptiles to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
REPTILES				
*	*	*	*	*
Turtle, Alabama map	*Graptemys pulchra*	Wherever found	T (S/A)	[**Federal Register** citation when published as a final rule]; 50 CFR 17.42(n).[4d]
*	*	*	*	*
Turtle, Barbour's map	*Graptemys barbouri*	Wherever found	T (S/A)	[**Federal Register** citation when published as a final rule]; 50 CFR 17.42(n).[4d]
*	*	*	*	*
Turtle, Escambia map	*Graptemys ernsti*	Wherever found	T (S/A)	[**Federal Register** citation when published as a final rule]; 50 CFR 17.42(n).[4d]
*	*	*	*	*
Turtle, Pascagoula map	*Graptemys gibbonsi*	Wherever found	T (S/A)	[**Federal Register** citation when published as a final rule]; 50 CFR 17.42(n).[4d]
*	*	*	*	*
Turtle, Pearl River map ..	*Graptemys pearlensis* ...	Wherever found	T	[**Federal Register** citation when published as a final rule]; 50 CFR 17.42(m).[4d]
*	*	*	*	*

■ 3. As proposed to be amended at 85 FR 61700 (September 30, 2020), 86 FR 18014 (April 7, 2021), and 86 FR 62122 (November 9, 2021), § 17.42 is further amended by adding paragraphs (m) and (n) to read as follows:

§ 17.42 Special rules—reptiles.

* * * * *

(m) Pearl River map turtle (*Graptemys pearlensis*)—(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the Pearl River map turtle. Except as provided under paragraph (m)(2) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of a commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take, as set forth at § 17.21(c)(2) through (4) for endangered wildlife.

(iii) Possess and engage in other acts with unlawfully taken wildlife, as set forth at § 17.21(d)(2) for endangered wildlife.

(iv) Take as set forth at § 17.31(b).

(v) Take incidental to an otherwise lawful activity caused by:

(A) Construction, operation, and maintenance activities that occur near- and in-stream, such as installation of stream crossings, replacement of existing in-stream structures (*e.g.,* bridges, culverts, water control structures, boat launches, etc.), operation and maintenance of existing flood control features (or other existing structures), and directional boring, when implemented with industry and/or State-approved best management practices for construction.

(B) Pesticide (insecticide or herbicide) application that follows approved chemical label instructions and appropriate application rates.

(C) Silviculture practices and forest management activities that use State-approved best management practices to protect water and sediment quality and stream and riparian habitat.

(D) Maintenance dredging activities that remain in the previously disturbed portion of the maintained channel.

(n) Alabama map turtle (*Graptemys pulchra*), Barbour's map turtle (*Graptemys barbouri*), Escambia map turtle (*Graptemys ernsti*), and Pascagoula map turtle (*Graptemys gibbonsi*)—(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle. Except as provided under paragraph (n)(2) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to these species:

(i) Take in the form of collection (other than for scientific purposes).

(ii) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(v) Interstate or foreign commerce in the course of a commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(vi) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to these species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take as set forth at § 17.31(b).

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–23992 Filed 11–22–21; 8:45 am]

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FEDERAL REGISTER

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No. 223 November 23, 2021

Part III

Office of Personnel Management

5 CFR Part 890

Department of the Treasury

Internal Revenue Service

26 CFR Part 54

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2590

Department of Health and Human Services

45 CFR Part 149

Prescription Drug and Health Care Spending; Interim Final Rule

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206–AO27

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD 9958]

RIN 1545–BQ10

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AC07

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 149

[CMS–9905–IFC]

RIN 0938–AU66

Prescription Drug and Health Care Spending

AGENCY: Office of Personnel Management; Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Interim final rules with request for comments.

SUMMARY: This document sets forth interim final rules implementing provisions of the Internal Revenue Code (the Code), the Employee Retirement Income Security Act (ERISA), and the Public Health Service Act (PHS Act), as enacted by the Consolidated Appropriations Act, 2021 (CAA). These provisions are applicable to group health plans and health insurance issuers offering group or individual health insurance coverage. These interim final rules add provisions to existing rules under the Code, ERISA, and the PHS Act. These interim final rules implement provisions of the Code, ERISA, and PHS Act that increase transparency by requiring group health plans and health insurance issuers in the group and individual markets to submit certain information about prescription drugs and health care spending to the Department of Health and Human Services (HHS), the Department of Labor (DOL), and the Department of the Treasury (collectively, the Departments). The Departments are issuing these interim final rules with largely parallel provisions that apply to group health plans and health insurance issuers offering group or individual health insurance coverage. The Office of Personnel Management (OPM) is also issuing interim final rules that require Federal Employees Health Benefits (FEHB) carriers to report information about prescription drugs and health care spending in the same manner as a group health plan or health insurance issuer offering group or individual health insurance coverage.

DATES:

Effective date: These regulations are effective on December 23, 2021.

Applicability date: The regulations are generally applicable beginning December 27, 2021. The OPM-only regulations that apply to health benefits plans and carriers under the FEHB Program are applicable beginning December 27, 2021. However, as discussed in section II.C.1.b. of this preamble, the Departments will provide temporary and limited deferral of enforcement during the first year of applicability and this temporary and limited deferral of enforcement will apply, in the same manner, to FEHB plans and carriers.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, by January 24, 2022. Please see section V.E. of this preamble for information regarding submission of comments on the information collection requirements.

ADDRESSES: Written comments may be submitted to the addresses specified below.

In commenting, refer to file code CMS–9905–IFC.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation at *https://www.regulations.gov* by entering the file code in the search window and then clicking on ''Comment.''

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9905–IFC, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9905–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Padma Babubhai Shah, Office of Personnel Management, at 202–606–4056.

Christopher Dellana, Internal Revenue Service, Department of the Treasury, at 202–317–5500.

Matthew Litton or Shannon Hysjulien, Employee Benefits Security Administration, Department of Labor, at 202–693–8335.

Christina Whitefield, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at 301–492–4172.

Customer Service Information: Information from OPM on health benefits plans offered under the FEHB Program can be found on the OPM website (*www.opm.gov/healthcare-insurance/healthcare/*). Individuals interested in obtaining information from DOL concerning employment-based health coverage laws may call the Employee Benefits Security Administration (EBSA) Toll-Free Hotline at 1–866–444–EBSA (3272) or visit DOL's website (*www.dol.gov/ebsa*). In addition, information from HHS on private health insurance coverage and coverage provided by non-federal governmental group health plans can be found on the Centers for Medicare & Medicaid Services (CMS) website (*www.cms.gov/cciio*), and information on health care reform can be found at *www.HealthCare.gov.*

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. The Departments generally post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. The Departments will not post on *Regulations.gov* public comments that make threats to

individuals or institutions or suggest that the individual will take actions to harm the individual. The Departments continue to encourage individuals not to submit duplicative comments. The Departments will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

A. Prescription Drug and Health Care Spending Transparency Under the Consolidated Appropriations Act, 2021

On December 27, 2020, the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) (CAA) was enacted. Section 204 of Title II of Division BB of the CAA added parallel provisions at section 9825 of the Internal Revenue Code (the Code), section 725 of the Employee Retirement Income Security Act (ERISA), and section 2799A–10 of the Public Health Service Act (PHS Act), which require group health plans and health insurance issuers offering group or individual health insurance coverage to annually submit to the Departments certain information about prescription drug and health care spending. The statute provides that data shall be reported not later than 1 year after the date the CAA was enacted, and not later than June 1 of each year thereafter.

The data submission required under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act (section 204 data submissions) includes general information on the plan or coverage, such as the beginning and end dates of the plan year, the number of participants, beneficiaries, or enrollees, as applicable, and each state in which the plan or coverage is offered. Plans and issuers must also report the 50 most frequently dispensed brand prescription drugs, and the total number of paid claims for each such drug; the 50 most costly prescription drugs by total annual spending, and the annual amount spent by the plan or coverage for each such drug; and the 50 prescription drugs with the greatest increase in plan or coverage expenditures from the plan year preceding the plan year that is the subject of the report, and, for each such drug, the change in amounts expended by the plan or coverage in each such plan year (top 50 lists). Additionally, plans and issuers must report total spending on health care services by the plan or coverage broken down by the type of costs (including hospital costs; health care provider and clinical service costs, for primary care and specialty care separately; costs for prescription drugs; and other medical costs, including wellness services); spending on prescription drugs by the plan or coverage as well as by participants, beneficiaries, and enrollees, as applicable; and the average monthly premiums paid by participants, beneficiaries, and enrollees and paid by employers on behalf of participants, beneficiaries, and enrollees, as applicable. Plans and issuers must report any impact on premiums by rebates, fees, and any other remuneration paid by drug manufacturers to the plan or coverage or its administrators or service providers, including the amount paid with respect to each therapeutic class of drugs and for each of the 25 drugs that yielded the highest amounts of rebates and other remuneration under the plan or coverage from drug manufacturers during the plan year (top 25 list). Finally, plans and issuers must report any reduction in premiums and out-of-pocket costs associated with these rebates, fees, or other remuneration. The Departments intend to provide greater technical detail regarding each data element in the section 204 data submission in the instructions for the information collection instrument. The Departments also intend to provide an internet portal where reporting entities can submit the required data.

Section 9825(b) of the Code, section 725(b) of ERISA, and section 2799A–10(b) of the PHS Act additionally require the Departments to publish on the internet a report on prescription drug reimbursements for plans and coverage, prescription drug pricing trends, and the role of prescription drug costs in contributing to premium increases or decreases under these plans or coverage, with information that is aggregated so that no drug or plan specific information is made public (section 204 public report). This section 204 public report must be published no later than 18 months after the date on which plans and issuers are required to first submit the information and biannually thereafter. The section 204 public report may not include any confidential or trade secret information submitted to the Departments, pursuant to section 9825(c) of the Code, section 725(c) of ERISA, and section 2799A–10(c) of the PHS Act. These interim final rules implement section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act. The Departments seek comment on all aspects of these interim final rules.

Under the FEHB Act, 5 U.S.C. 8901 *et seq.,* OPM is charged with administering the FEHB Program and maintains oversight and enforcement authority with respect to FEHB plans, which are federal governmental plans. Pursuant to 5 U.S.C. 8910, OPM is joining the Departments to require the submission of prescription drug and health care spending data from FEHB plans in the same manner as plans and issuers must provide such data under section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act.

On July 9, 2021, President Biden issued Executive Order 14036, ''Promoting Competition in the American Economy.'' [1] Executive Order 14036 directed the federal government to ''enforce the antitrust laws to combat the excessive concentration of industry, the abuses of market power, and the harmful effects of monopoly and monopsony.'' The data collection required by these interim final rules will provide valuable information about competition and market concentration in the pharmaceutical and health care industries. Policymakers can use the prescription drug and health care spending data to make informed decisions in support of the goals of Executive Order 14036, including identifying any excessive pricing of prescription drugs driven by industry concentration and monopolistic behaviors, promoting the use of lower-cost generic drugs, and addressing the impact of pharmaceutical manufacturer rebates, fees, and other remuneration on prescription drug prices and on plan, issuer, and consumer costs.

The Departments are issuing regulations implementing provisions of Title I (No Surprises Act) and Title II (Transparency) of Division BB of the CAA in several phases.

On July 13, 2021, the Departments and OPM issued interim final rules entitled, ''Requirements Related to Surprise Billing; Part I'' [2] which generally apply to group health plans and health insurance issuers offering group or individual health insurance coverage (including grandfathered health plans) with respect to plan years (in the individual market, policy years) beginning on or after January 1, 2022; FEHB health benefits plans with respect to contract years beginning on or after January 1, 2022; and health care providers and facilities, and providers of air ambulance services beginning on January 1, 2022 (July 2021 interim final rules). The July 2021 interim final rules implement sections 9816(a)–(b) and 9817(a) of the Code; sections 716(a)–(b)

[1] *https://www.federalregister.gov/documents/2021/07/14/2021-15069/promoting-competition-in-the-american-economy.*

[2] 86 FR 36872 (July 13, 2021). Public comments on this rule were due by September 7, 2021.

and 717(a) of ERISA; sections 2799A–1(a)–(b), 2799A–2(a), 2799B–1, 2799B–2, 2799B–3, and 2799B–5 of the PHS Act; and 5 U.S.C. 8902(p), to protect consumers from surprise medical bills for emergency services, air ambulance services furnished by nonparticipating providers of air ambulance services, and non-emergency services furnished by nonparticipating providers at participating facilities in certain circumstances.

Among other requirements, the July 2021 interim final rules require emergency services to be covered without any prior authorization, without regard to whether the health care provider or facility furnishing the emergency services is a participating provider or a participating emergency facility with respect to the services, and without regard to any other term or condition of the plan or coverage other than the exclusion or coordination of benefits or a permitted affiliation or waiting period. With respect to emergency services furnished by nonparticipating providers or facilities, air ambulance services furnished by nonparticipating providers of air ambulance services, and non-emergency services furnished by nonparticipating providers at certain participating facilities, the July 2021 interim final rules generally limit cost sharing for out-of-network services to in-network levels, require such cost sharing to count toward any in-network deductibles and out-of-pocket maximums, and prohibit balance billing in certain circumstances. Balance billing refers to the practice of out-of-network providers billing patients for the difference between: (1) The provider's billed charges; and (2) the amount collected from the plan or issuer plus the amount collected from the patient in the form of cost sharing (such as a copayment, coinsurance, or amounts paid toward a deductible).

On September 16, 2021, the Departments and OPM issued proposed rules entitled, ''Requirements Related to Air Ambulance Services, Agent and Broker Disclosures, and Provider Enforcement.'' [3] These proposed rules propose to implement section 9823 of the Code; section 723 of ERISA; and sections 2723(b), 2746, 2799A–8, and 2799B–4 of the PHS Act; as well as sections 106(a) and 106(e) of the No Surprises Act. These proposed rules would implement certain provisions of the No Surprises Act that would increase transparency by requiring group health plans and health insurance issuers in the group and individual markets, and FEHB carriers, to submit certain information about air ambulance services to the Departments and OPM, as applicable, and by requiring providers of air ambulance services to submit certain information to the Secretaries of HHS and Transportation. These proposed rules also include HHS-only provisions that would increase transparency by requiring a health insurance issuer offering individual health insurance coverage or short-term, limited-duration insurance to disclose to policyholders and to report to HHS any direct or indirect compensation provided by the issuer to an agent or broker associated with enrolling individuals in such coverage. The HHS-only proposed rules would additionally provide the process by which HHS would investigate complaints and potential violations of PHS Act provisions and, if warranted, take enforcement action, including the imposition of civil money penalties, against providers and facilities, including providers of air ambulance services. These proposed rules would amend existing regulations to clarify the process to investigate complaints and potential violations of the PHS Act and impose civil money penalties against plans and issuers. These proposed rules would also establish the process by which HHS would impose civil money penalties if a provider of air ambulance services fails to submit some or all required data to HHS.

On October 7, 2021, the Departments and OPM published interim final rules entitled, ''Requirements Related to Surprise Billing; Part II,'' [4] which generally apply to certified independent dispute resolution (IDR) entities; selected dispute resolution (SDR) entities; group health plans and health insurance issuers offering group or individual health insurance coverage and FEHB carriers; and providers, facilities, and providers of air ambulance services beginning on or after January 1, 2022, with the exception of certain provisions that apply beginning on October 7, 2021 (October 2021 interim final rules). The October 2021 interim final rules implement sections 9816(c) and 9817(b) of the Code; sections 716(c) and 717(b) of ERISA; and sections 2799A–1(c), 2799A–2(b), 2799B–6(1), 2799B–6(2)(B), and 2799B–7 of the PHS Act.

The October 2021 interim final rules implement provisions of the No Surprises Act that establish a federal IDR process that group health plans, health insurance issuers offering group or individual health insurance coverage, and FEHB carriers; and nonparticipating providers, facilities, and providers of air ambulance services may use following the end of an unsuccessful open negotiation period to determine the out-of-network rate for items or services that are emergency services, nonemergency services furnished by nonparticipating providers at participating facilities, and air ambulance services furnished by nonparticipating providers of air ambulance services, under certain circumstances. In addition, HHS-only provisions of the October 2021 interim final rules address good faith estimates of health care items or services for uninsured or self-pay individuals and the associated patient-provider dispute resolution process. The October 2021 interim final rules also amend final regulations issued by the Departments in 2015 related to external review in order to implement section 110 of the No Surprises Act.

Division BB of the CAA also includes: Provisions regarding transparency in plan and insurance identification cards (section 107); continuity of care (section 113); accuracy of provider network directories (section 116); and prohibition on gag clauses (section 201) that are applicable for plan years beginning on or after January 1, 2022. The Departments intend to undertake rulemaking to fully implement these provisions, with the exception of section 201 of Title II of Division BB of the CAA, prohibition on gag clauses, which is self-implementing. On August 20, 2021, the Departments issued guidance regarding implementation of each of these sections of Division BB of the CAA.[5] Until rulemaking fully implementing these provisions is finalized and effective, plans and issuers are expected to implement the requirements using a good faith, reasonable interpretation of the statute.

B. Stakeholder Consultation and Input

The Departments and OPM published a Request for Information (RFI) in the June 23, 2021 **Federal Register** (86 FR 32813). The RFI solicited comments from the public regarding implementation considerations for the data collection required by section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act and the associated impact on plans and issuers. The Departments sought input on specific data elements to be

[3] 86 FR 51730 (Sept. 16, 2021). Public comments on this rule were due by October 18, 2021.

[4] 86 FR 55980 (October 7, 2021). Public comments on this rule are due by December 6, 2021.

[5] FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021, Implementation Part 49 (Aug. 20, 2021), available at *https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQs-Part-49.pdf.*

collected, including the level of detail that is feasible for entities subject to the data collection requirements to report and the associated burdens and potential compliance costs. In the RFI, the Departments indicated that public comments would inform the Departments' and OPM's implementation of the statutory requirements through rulemaking and the establishment of processes to receive the required information. The Departments also sought comment from the public regarding information to include in the Departments' biannual section 204 public report. OPM sought input from the public regarding implementation considerations for the data collection as it pertains to FEHB carriers.

The Departments also held several listening sessions with employers, group health plans, issuers, and pharmacy benefit managers (PBMs) to gather public input on each aspect of the data submission requirements as well as the biannual section 204 public reports. OPM also held a listening session with FEHB carriers. The Departments consulted with stakeholders through regular contact with states, issuers, plans, trade groups, employers, and other interested parties. The Departments and OPM considered all public input received in the development of these interim final rules. The Departments and OPM also took into account the objectives of Executive Order 14036 to promote competitiveness in the health care and pharmaceutical markets and lower the price of and improve access to prescription drugs and biologics.

II. Overview of the Interim Final Rules—Departments of HHS, Labor, and the Treasury

A. Applicability

These interim final rules add 26 CFR 54.9825–2T and amend 29 CFR 2590.716–2 and 45 CFR 149.20 to include a reference to the new regulations added by these interim final rules.[6] These interim final rules include the prescription drug and health care spending data submission requirements for plans and issuers required under section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act.

These interim final rules generally apply to group health plans and health insurance issuers offering group or individual health insurance coverage. The term ''group health plan'' includes both insured and self-funded group health plans, and includes private employment-based group health plans subject to ERISA, non-federal governmental plans (such as plans sponsored by states and local governments) subject to the PHS Act, and church plans subject to the Code. Individual health insurance coverage includes coverage offered in the individual market, through or outside of an Exchange, and includes student health insurance coverage as defined at 45 CFR 147.145. As discussed further in section III. of this preamble, OPM interim final rules require FEHB carriers to comply with these interim final rules, with respect to prescription drug and health care spending data submission requirements, subject to OPM regulation and contract provisions.

Section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act (and all provisions of the No Surprises Act that are applicable to group health plans and health insurance issuers offering group or individual health insurance coverage) apply to grandfathered health plans. Section 1251 of the Affordable Care Act provides that grandfathered health plans are not subject to certain provisions of the Code, ERISA, or the PHS Act, as added by the Affordable Care Act, for as long as they maintain their status as grandfathered health plans. For example, grandfathered health plans are subject neither to the requirement to cover certain preventive services without cost sharing under section 2713 of the PHS Act, nor to the annual limitation on cost sharing set forth under section 2707(b) of the PHS Act. If a plan or coverage loses its grandfathered status, it is required to comply with both provisions, in addition to certain other requirements of the Affordable Care Act. However, the CAA does not include an exception for grandfathered health plans that is comparable to the exception contained in section 1251 of the Affordable Care Act. Therefore, the provisions of these interim final rules that apply to plans and issuers also apply to grandfathered health plans (as defined in 26 CFR 54.9815–1251, 29 CFR 2590.715–1251, and 45 CFR 147.140).

These interim final rules do not apply to health reimbursement arrangements (HRAs), or other account-based group health plans, as described in 26 CFR 54.9815–2711(d)(6)(i), 29 CFR 2590.715–2711(d)(6)(i), and 45 CFR 147.126(d)(6)(i), that make reimbursements subject to a maximum fixed dollar amount for a period, because the benefit design of these plans makes the prescription drug and health care spending data reporting concepts under section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act inapplicable. The Departments expect that account-based group health plans typically will be integrated with other coverage that will be required to report such information (such as in the case of individual coverage HRAs (ICHRAs), for which the issuer of the individual coverage will be required to report the information) or will be otherwise exempt from these requirements (such as excepted benefit HRAs). Therefore, under these interim final rules, the reporting requirements do not apply to HRAs (including ICHRAs) and other account-based group health plans. This approach is consistent with many other requirements that apply to group health plans and the existing applicability provisions in 26 CFR 54.9816–2T, 29 CFR 2590.716–2, and 45 CFR 149.20 with respect to other requirements of Division BB of the CAA.

Excepted benefits are exempt from the requirements in chapter 100 of the Code, part 7 of ERISA, and Part A and Part D of title XXVII of the PHS Act.[7] Under section 2791(b)(5) of the PHS Act, short-term, limited-duration insurance is excluded from the definition of individual health insurance coverage and is, therefore, exempt from the new requirements established in section 2799A–10 of the PHS Act. Therefore, short-term, limited-duration insurance (as defined in 26 CFR 54.9801–2, 29 CFR 2590.701–2, and 45 CFR 144.103) and coverage that consists solely of excepted benefits (as described in section 9832(c) of the Code, section 733(c) of ERISA, and section 2791(c) of the PHS Act) are not subject to the data submission requirements set forth in these interim final rules.

The Departments seek comment as to whether there are any other plans with unique benefit designs that should be exempt from these interim final rules.

B. Definitions (26 CFR 54.9825–3T, 29 CFR 2590.725–1, 45 CFR 149.710)

The Departments adopt terms and definitions applicable to the data submission requirements set forth in these interim final rules in 26 CFR 54.9825–3T, 29 CFR 2590.725–1, and 45 CFR 149.710. In addition, the

[6] The amendment to 29 CFR 2590.716–2 also includes a technical edit to correct a cross-reference in 29 CFR 2590.716–2(a)(2).

[7] *See* section 9831 of the Code, section 732 of ERISA, and section 2722 of the PHS Act. The CAA amended the PHS Act statutory exemption for these products to include the new requirements established under new Part D of the PHS Act. *See* section 102(a)(3)(B) of the No Surprises Act, which made conforming amendments to add the phrase ''and Part D'' to section 2722(b), (c)(1), (c)(2), and (c)(3) of the PHS Act.

definitions in 26 CFR 54.9816–3T, 29 CFR 2590.716–3, and 45 CFR 149.30 apply to these interim final rules. In general, these interim final rules do not define terms that are commonly used in the health care and health insurance industry.

Reference Year. Section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act require plans and issuers to submit information ''with respect to the health plan or coverage in the previous plan year.'' To help ensure uniformity of data across plans and coverage and increase the usability of the data for purposes of the section 204 public report, the Departments are requiring plans and issuers to submit information based on the ''reference year,'' defined in these interim final rules as the calendar year immediately preceding the calendar year in which the section 204 data submissions are due.

Collecting data for the immediately preceding calendar year, rather than the previous plan year, better accounts for the timing of when newly introduced drugs—including new brand prescription drugs, newly available generic versions of brand prescription drugs, and biosimilars—become available and the fact that some group health plans and health insurance coverage have plan years that do not correspond to calendar years. If data are collected based on the plan year, newly introduced drugs would be reflected in the data for some plans and coverage but not others. If data are collected based on the calendar year, newly introduced drugs will be reflected in the data for every plan, regardless of the start and end date of the plan year.

Newly introduced drugs, such as biologics, are often very costly and may impact the ranking of the 50 most costly prescription drugs. Similarly, when a generic or biosimilar version of a drug becomes available, the brand version will be prescribed less frequently, which may impact the ranking of the top 50 most frequently dispensed brand prescription drugs. Therefore, if the Departments were to collect information regarding the top 50 drugs by plan or policy year as specified in plan or coverage documents, without additional specification about the measurement period, there would be inconsistency among data submissions that would make them difficult to compare to each other. Collection of all data on a calendar-year basis will enable the Departments to effectively analyze the data and understand the impact of a newly introduced drug consistently across plans and coverage, market segments, and years. In addition, using the calendar year as the reference year will enable the Departments to produce consistent data analyses across group health plans and group health insurance coverage (which may be offered on a non-calendar basis) and individual health insurance coverage (which is generally offered on a calendar-year basis) for purposes of the section 204 public report.

Second, using the calendar year as the reference year is consistent with other HHS rules and data collections related to prescription drug and health care spending. For example, similar to section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act, section 2718(a) of the PHS Act requires issuers to report Medical Loss Ratio (MLR) data ''with respect to each plan year.'' However, issuers report calendar year information to HHS for the MLR data collection instead.[8] The National Association of Insurance Commissioners (NAIC), which section 2718(c) of the PHS Act directs to make recommendations to HHS regarding definitions for the MLR data collection, recommended that the term ''plan year'' in section 2718(a) of the PHS Act be interpreted to refer to the calendar year, rather than the year specified in particular plan or policy documents.[9] The NAIC recommended this interpretation because any other definition would have precluded meaningful comparison of the reported data, reduced the reliability of the data, and increased reporting burdens. The Departments are of the view that the same rationales apply with respect to the section 204 data submissions.

In addition, the prescription drug data collection with respect to qualified health plans (QHPs), required under section 1150A of the Social Security Act related to collection of information ''for a contract year,'' also involves the submission of data on a calendar-year basis.[10] Likewise, the Medicare program, in which some Medicare Part D plans and Medicare Advantage Plans offering a prescription drug plan have non-calendar year contract years, analyzes prescription drug and prescription drug rebate data on a calendar-year basis and generally collects data in a manner that permits calendar year-based analysis.[11] Similarly, the Medicaid program, where some managed care plans have non-calendar year contract years, analyzes prescription drug and prescription drug rebate data on a calendar-year basis.[12] In addition, state data collections related to prescription drug spending and rebates, including certain state All-Payer Claims Databases, generally collect data on a calendar-year basis.[13] Collection of calendar-year data will allow the Departments to evaluate the consistency and validity of the data and compare trends across multiple data sources as well as between publicly- and privately-sponsored health coverage.

Prior to issuing these interim final rules, the Departments received comment letters from several stakeholders recommending that the Departments collect data on a calendar-year basis, including for non-calendar year plans or coverage. The Departments also solicited comment on using calendar year as the basis for the section 204 data submissions in the RFI, and the overwhelming majority of commenters that responded to this RFI question supported the calendar-year approach. Commenters stated that calendar-year data would be more meaningful when comparing trends in the group markets (where plan years may not align with the calendar year) to those in the individual market (where policy years are generally on a calendar-year basis), because all of the data would be based on the same period. Issuers additionally advised that reporting calendar-year data for purposes of the section 204 data submissions would reduce compliance burdens because issuers submit other

[8] *See* 45 CFR 158.103, which defines the MLR reporting year as a calendar year during which group or individual health insurance coverage is provided by an issuer.

[9] *https://www.naic.org/documents/committees_ex_mlr_reg_asadopted.pdf.*

[10] Pharmacy Benefit Manager Transparency for Qualified Health Plans information collection, *available at https://www.cms.gov/regulations-and-guidancelegislationpaperworkreductionactof1995pra-listing/cms-10725.*

[11] *See, e.g.,* 42 CFR part 423; *see also https://www.cms.gov/newsroom/fact-sheets/medicare-part-d-direct-and-indirect-remuneration-dir.*

[12] *See, e.g., https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Information-on-Prescription-Drugs/Medicaid.*

[13] *See, e.g.,* Colorado Prescription Drug Rebate Data Submission Manual (Sept. 8, 2020), *https://www.civhc.org/wp-content/uploads/2020/10/Colorado-APCD-2020-Drug-Rebate-Data-Submission-Manual_09.08.2020.pdf;* Maine Uniform Reporting System for Prescription Drug Price Data Sets, 90–590 C.M.R. ch. 570, *https://mhdo.maine.gov/_finalStatutesRules/Chapter570RxDrugPricing_2020Feb4.docx;* Massachusetts Payer Reporting of Prescription Drug Rebates Data Specification Manual (Apr. 2020), *https://www.chiamass.gov/assets/docs/p/prescription-drug-rebate/Prescription-Drug-Rebate-Data-Specification-Manual-2020.pdf;* Minnesota Commerce Department, Public Pharmacy Benefit Manager (PBM) Transparency Report (Dec. 1, 2020), *https://mn.gov/commerce-stat/pdfs/pbm-transparency-report.pdf;* Texas Pharmaceutical Benefits Reporting (Dec. 2020): Health benefit plan issuer and Pharmacy benefit manager reporting forms, *https://www.tdi.texas.gov/health/documents/hbpi.pdf* and *https://www.tdi.texas.gov/health/documents/pbm.pdf.*

related data to state and federal regulators on a calendar-year basis. The Departments share the views of these commenters.

Student Market. In these interim final rules, for purposes of section 204 data submissions, the term ''student market'' has the meaning given in 45 CFR 158.103. Under 45 CFR 149.30, the definitions in 45 CFR 144.103 apply to the provisions of 45 CFR part 149 unless otherwise specified. The definitions of many terms in 45 CFR 144.103 and 45 CFR 158.103 are identical. However, the term ''student market'' is not defined in 45 CFR 144.103, but is defined in 45 CFR 158.103 as the market for student health insurance coverage. Consistency of the definition of ''student market'' in these interim final rules with the definition in 45 CFR 158.103 will enable the Departments to validate data quality and produce consistent analyses across data submitted under section 2718(a) of the PHS Act for purposes of MLR reporting and section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act for purposes of the section 204 public report.[14] Consistency with the definition of ''student market'' in 45 CFR 158.103 will also reduce compliance burdens for plans and issuers in the fully-insured markets, because plans and issuers subject to the requirements of 45 CFR part 158 have already created group size and market determination processes and have modified systems to track data using the definitions in 45 CFR 158.103 for purposes of MLR reporting. The Departments recognize that self-funded group health plans generally are not subject to as many requirements that are based on employer size as fully-insured group health plans. Consequently, self-funded plans are likely to face more challenges in determining employer size and providing that information to third-party administrators (TPAs) that submit data on behalf of self-funded plans. Therefore, reasonable approximations for employer size determinations of self-funded group health plans will be allowed. The instructions for the information collection instrument will provide examples of approximation methods that the Departments will consider to be reasonable.

FEHB Line of Business. In these interim final rules, the term ''FEHB line of business'' refers to all health benefits plans that are offered to eligible enrollees pursuant to a contract between an FEHB Program carrier and OPM. Such plans are Federal governmental plans offered pursuant to 5 U.S.C. chapter 89.

Market Segment. In these interim final rules, the term ''market segment'' means each of the following: The individual market (excluding the student market), the student market, the fully-insured small group market, the fully-insured large group market (excluding the FEHB line of business), self-funded plans offered by small employers, self-funded plans offered by large employers, and the FEHB line of business. Mixed-funded plans, which generally self-fund some health benefits and fully insure other health benefits, should attribute information reported to a market segment based on the source of funding for the benefits included in the report. For example, self-funded pharmacy benefits might be attributed to the market for self-funded group health plans offered by large employers while the reporting for the medical component of the same plan is attributed to the fully-insured large group market, if the medical benefits are funded through an insurance contract. ''Minimum premium'' plans and similar hybrid arrangements that mimic key aspects of fully-insured arrangements or that are required to comply with state laws regarding mandated benefits must be included in the fully-insured small group and large group market segments. ''Minimum premium'' plans generally feature regular fixed-premium payments and limit the plan sponsor's monthly or annual liability for claims, similar to fully-insured coverage. Finally, because student health insurance coverage is designed, marketed, and priced for a unique and narrower population than other individual health insurance coverage, collecting student market data separately for purposes of section 204 data submissions will allow the Departments to better analyze prescription drug usage and costs in this market. In addition, issuers of coverage subject to 45 CFR part 158 already track and report data for the student market policies separately from other individual market policies.

Enrollee. In these interim final rules, in the context of provisions of section 2799A–10(a) of the PHS Act, the term ''enrollee'' means an individual who is enrolled, within the meaning of 45 CFR 144.103, in group health insurance coverage, or an individual who is covered by individual health insurance coverage, at any time during the reference year, and includes dependents.

Life-years. In these interim final rules, the term ''life-years'' means the total number of months of coverage for participants and beneficiaries, or for enrollees, as applicable, divided by 12.

Brand Prescription Drug. In these interim final rules, the term ''brand prescription drug'' means a drug for which an application is approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)), or under section 351 of the PHS Act (42 U.S.C. 262), and that is generally marketed under a proprietary, trademark-protected name. The term ''brand prescription drug'' includes a drug with Emergency Use Authorization issued pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3), and that is generally marketed under a proprietary, trademark-protected name. The term ''brand prescription drug'' includes drugs that the U.S. Food and Drug Administration (FDA) determines to be interchangeable biosimilar products under sections 351(i)(3) and 351(k)(4) of the PHS Act (42 U.S.C. 262).

Prescription Drug or Drug. In these interim final rules, the term ''prescription drug'' or ''drug'' means a set of pharmaceutical products, including biologics, that have been assigned a National Drug Code (NDC) by FDA and are grouped by name and ingredient in the manner specified by the Departments.[15] The Departments anticipate specifying that pharmaceutical products must be grouped by name and active ingredient, separately for brand products and generic products or certain biosimilar products. Products with the same name and active ingredient will thus be considered, for the purpose of these interim final rules, to be the same prescription drug even if they have a different dosage strength, package size, mode of delivery, or, for generic products, different manufacturers.[16]

The Departments chose to group pharmaceutical products by name and ingredient because this approach will produce more meaningful top 50 and top 25 lists of prescription drugs. If products are not grouped according to name and ingredient, the same drug could occupy several spots on the top 50 or top 25 lists. For example, providers may prescribe a drug that comes in the form of pills in different strengths, such as 10 mg or 20 mg, or a drug may sometimes be dispensed as a 30-day supply and sometimes as a 90-

[14] All other relevant definitions in 45 CFR 158.103 have the same meaning or functional effect as the definitions in 45 CFR 144.103.

[15] *https://www.fda.gov/drugs/drug-approvals-and-databases/national-drug-code-directory.*

[16] This definition of the term ''prescription drug'' and ''drug'' and characterization of the term ''same prescription drug'' are used only for purposes of these interim final rules and are not intended to reflect or suggest any such definition or characterization of these terms by FDA.

day supply. In addition, several different companies may manufacture the same generic drug. If each variation of the drug were considered separately, the drug could occupy several spots on a top 50 list, which would be redundant and would not clearly indicate the full scope and variety of drugs in the top 50 list. Or, conversely, the variations could disperse the frequency across so many different products that the drug would not end up making the top 50 list despite its prevalence, even if it would be included in the list if categorized by ingredient or name.

This definition is consistent with stakeholder recommendations. Although a number of commenters responding to the RFI suggested that the Departments rely on the NDC with regard to the definition of ''prescription drug,'' the majority of commenters advised the Departments to classify prescription drugs according to characteristics such as the drug's name and active ingredient and not solely by the NDC, which distinguishes products by dosage strength, form of delivery, package size, and manufacturer. Commenters generally recommended that the Departments adopt a definition of ''prescription drug'' consistent with this approach to ensure that different formulations and dosages of the same drug do not appear on the top 50 lists multiple times. Commenters also suggested that the Departments either use a common commercially available database to group prescription drugs by name, active ingredient, and therapeutic class, or provide a new uniform mapping for how prescription drugs must be grouped and classified.

Therapeutic Class. In these interim final rules, the term ''therapeutic class'' means a group of pharmaceutical products that have similar mechanisms of action or treat the same types of conditions, grouped in the manner specified by the Departments in guidance.[17] The Departments may specify in guidance the technical specifications for how plans and issuers must classify drugs, and may specify that plans and issuers must do so according to a commonly available public or commercial therapeutic classification system that maps prescription drugs to therapeutic classes, a therapeutic classification system provided by the Departments through guidance, or a combination thereof. The Departments will require all plans and issuers to use the same classification system. This definition is consistent with stakeholder recommendations. Commenters responding to the questions in the RFI regarding the definition of ''therapeutic class'' advised that regulated entities use a variety of commercially available therapeutic classification systems. Many commenters urged the Departments to provide a uniform mapping system for therapeutic classes. Commenters generally requested that the Departments provide clear instructions and provide adequate implementation time, including by allowing plans and issuers to phase in adoption of a new uniform classification system.

Prescription Drug Rebates, Fees, and Other Remuneration. In these interim final rules, the term ''prescription drug rebates, fees, and other remuneration'' means all remuneration received by or on behalf of a plan or issuer, its administrator or service provider, including remuneration received by and on behalf of entities providing pharmacy benefit management services to the plan or issuer, with respect to prescription drugs prescribed to participants, beneficiaries, or enrollees in the plan or coverage, as applicable, regardless of the source of the remuneration (for example, pharmaceutical manufacturer, wholesaler, retail pharmacy, or vendor). Prescription drug rebates, fees, and other remuneration also include, for example, discounts, chargebacks or rebates, cash discounts, free goods contingent on a purchase agreement, up-front payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits. Prescription drug rebates, fees, and other remuneration include bona fide service fees. Bona fide service fees mean fees paid by a drug manufacturer to an entity providing pharmacy benefit management services to the plan or issuer that represent fair market value for a bona fide, itemized service actually performed on behalf of the manufacturer that the manufacturer would otherwise perform (or contract for) in the absence of the service arrangement, and that are not passed on in whole or in part to a client or customer of the entity, whether or not the entity takes title to the drug.

Some commenters responding to the RFI regarding the definition of prescription drug rebates, fees, and other remuneration recommended definitions that are identical or substantially similar to the definition of prescription drug rebates and other price concessions in the MLR regulations at 45 CFR 158.103 (which generally require issuers, among other requirements, to report premiums, prescription drug and medical expenses, and administrative expenses to HHS). Some commenters recommended that the definition include significantly more detailed illustrative examples. Many commenters encouraged the Departments to collect detailed information on the various types of prescription drug rebates, fees, and other remuneration, including at the level of detail consistent with the specifications for the data collection requirements under the Exchange Establishment rule[18] and the PBM Transparency rule[19] (which generally require certain entities to submit to HHS prescription drug data with respect to QHPs). In these interim final rules, the Departments are adopting a definition of prescription drug rebates, fees, and other remuneration that overlaps with the definition in the MLR regulations at 45 CFR 158.103 to the extent consistent with section 9825(a)(9) of the Code, section 725(a)(9) of ERISA, and section 2799A–10(a)(9) of the PHS Act. As the types of prescription drug rebates, fees, and other remuneration continue to evolve, the Departments intend to provide additional examples in the instructions for the information collection instrument as may be necessary. The Departments intend to specify the level of detail at which prescription drug rebates, fees, and other remuneration must be reported in section 204 data submissions in the instructions for the information collection instrument. The Departments intend to specify a level of detail that will assist plans, issuers, and other reporting entities in correctly determining the total amount of prescription drug rebates, fees, and other remuneration, and that will be generally consistent with the categories of rebates, fees, and other remuneration specified in the data collection requirements under the Exchange Establishment rule and the PBM Transparency rule.

A number of commenters urged the Departments to include bona fide service fees in the definition of ''prescription drug rebates, fees, and other remuneration,'' stating that the statute did not provide an exception for any fees paid by manufacturers to PBMs and other service providers, and that disclosure of these fees is necessary to ensure transparency and to ensure that rebates and other fees are not improperly mischaracterized as bona fide service fees. In contrast, other commenters urged the Departments to exclude bona fide service fees from the

[17] This definition of the term ''therapeutic class'' is used only for purposes of these interim final rules and is not intended to reflect or suggest any such definition or characterization of this term by FDA.

[18] 77 FR 18308 (March 27, 2012).

[19] 86 FR 24140 (May 5, 2021).

definition of ''prescription drug rebates, fees, and other remuneration,'' stating that these fees do not affect drug costs or impact premiums, and should be excluded for consistency with the requirements under the MLR rule, the Exchange Establishment rule and the PBM Transparency rule, as well as the definitions used by the Medicare and Medicaid programs. The Departments interpret section 9825(a)(9)–(10) of the Code, section 725(a)(9)–(10) of ERISA, and section 2799A–10(a)(9)–(10) of the PHS Act to require plans and issuers to report the total amount of rebates, fees, and any other remuneration, and separately, the extent to which rebates, fees, and any other remuneration impact premiums and out-of-pocket costs. The Departments note that section 9825(a)(9) of the Code, section 725(a)(9) of ERISA, and section 2799A–10(a)(9) of the PHS Act require plans and issuers to report rebates, fees, and any other remuneration paid by drug manufacturers to the plan or coverage or its administrators or service providers, with respect to prescription drugs prescribed to participants, beneficiaries, or enrollees, as applicable, in the plan or coverage, and do not provide for the exclusion of bona fide service fees or any other fees. However, the Departments recognize that bona fide service fees may not always be intended to directly affect the cost or utilization of specific prescription drugs, and generally are not passed through to plans and issuers or to participants, beneficiaries, and enrollees. Therefore, the Departments will require reporting of only the total amount of bona fide service fees, but will not require these fees to be reported separately for each therapeutic class or for each drug on the top 25 list. This approach will help reduce compliance burden by enabling plans, issuers, TPAs, and PBMs to leverage some of the reporting capabilities they have already built to meet the requirements of section 1150A of the Social Security Act, which requires QHP issuers, Medicare Advantage Organizations offering plans with Medicare Part D, and Part D plan sponsors and PBMs that manage prescription drug coverage under contracts with these entities to report certain prescription drug benefit and rebate information to HHS and to exclude bona fide service fees in such reporting.

A number of commenters urged the Departments to exclude drug manufacturer cost-sharing assistance to participants, beneficiaries, and enrollees, such as coupons and copay cards, from the definition of prescription drug rebates because these amounts are not credited to the plan or coverage or its administrators or service providers. The Departments agree with this view, and in these interim final rules, the definition of prescription drug rebates and other price concessions excludes drug manufacturer cost-sharing assistance provided to participants, beneficiaries, or enrollees, as applicable. However, to the extent these amounts impact total annual spending by health plans or issuers, or by participants, beneficiaries, and enrollees, these interim final rules include drug manufacturer cost-sharing assistance in the definition of ''total annual spending,'' as discussed in more detail later in this section of this preamble.

Dosage Unit. In these interim final rules, the term ''dosage unit'' means the smallest form in which a pharmaceutical product is administered or dispensed. Common dosage units include a pill, tablet, capsule, ampule, or measurement of grams or milliliters.[20]

Premium Amount. In these interim final rules, the term ''premium amount'' with respect to individual health insurance coverage and fully-insured group health plans has the meaning given to the term ''earned premium'' in 45 CFR 158.130, excluding the adjustments specified in 45 CFR 158.130(b)(5), which currently encompass payments and receipts related to the risk adjustment program that would not be relevant for purposes of the section 204 data submissions. Several commenters responding to the RFI requested that the Departments clarify how premiums must be reported for self-funded plans or recommended the use of premium equivalents to ensure consistent reporting between fully-insured and self-funded plans. To accurately capture the concept of premiums and the full costs of maintaining health coverage with respect to self-funded group health plans and other arrangements that do not rely exclusively or primarily on premiums, in these interim final rules, the term ''premium amount'' with respect to these plans includes premium equivalent amounts that represent the total cost of providing and maintaining coverage, such as the cost of claims, administrative costs, and stop-loss premiums.

Reporting Entity. In these interim final rules, the term ''reporting entity'' means an entity that submits some or all of the information required under these interim final rules to the Departments with respect to a plan or issuer. The term also includes entities, other than plans and issuers, that submit the information on behalf of plans and issuers, as allowed by these interim final rules. Many commenters responding to the RFI regarding potential types of reporting entities requested clarification as to which entities are responsible for section 204 data submissions. Commenters generally indicated that plans and issuers expect that issuers and TPAs will report the information on behalf of most group health plans, including self-funded group health plans. Therefore, the Departments are allowing multiple types of reporting entities to submit the required information to provide plans and issuers with flexibility and to reduce administrative burdens. Some commenters requested that the Departments require TPAs and PBMs to report the information to or on behalf of self-funded group health plans. Although the Departments understand that these entities will make the section 204 data submissions on behalf of most self-funded group health plans in the vast majority of cases, the Departments note that section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act make plans and issuers responsible for providing the required information to the Departments. Therefore, the Departments do not require TPAs and PBMs to submit the information.

In addition, many commenters urged the Departments to design a data collection system that would allow multiple reporting entities to submit different subsets of the required information with respect to the same plan or issuer. Commenters advised that a single reporting entity may not possess all of the information required to be reported under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act. For example, plans and issuers indicated that a significant amount of information on prescription drug rebates is generally maintained primarily by PBMs, while other information is only known to plan sponsors, issuers, and TPAs. Commenters also advised that a segmented data collection system would reduce compliance burden by reducing the need for the reporting entities to transfer the data among themselves before submitting it to the Departments. The Departments intend to build a data collection system that will allow multiple reporting entities to submit

[20] This definition of the term ''dosage unit '' is used only for purposes of these interim final rules and is not intended to reflect or suggest any such definition or characterization of this term by FDA.

different subsets of the required information with respect to the same plan or issuer.

Total Annual Spending. In these interim final rules, the term ''total annual spending'' means incurred claims, as that term is defined in 45 CFR 158.140, excluding the adjustments specified in 45 CFR 158.140(b)(1)(i), 45 CFR 158.140(b)(2)(iv), and 45 CFR 158.140(b)(4), and including cost sharing but net of prescription drug rebates, fees, and other remuneration. Consistent with the definition in 45 CFR 158.140, plans and issuers must calculate the components of incurred claims based on claims incurred during the reference year and paid through March 31 of the year immediately following the reference year. The adjustments specified in 45 CFR 158.140(b)(2)(iv) currently encompass claims payments recovered through fraud reduction efforts and thus do not constitute spending, while the adjustments specified in 45 CFR 158.140(b)(4) currently encompass payments and receipts related to the risk adjustment program that would not be relevant for purposes of the section 204 data submissions. The adjustments specified in 45 CFR 158.140(b)(1)(i) currently encompass prescription drug rebates and other price concessions as that term is defined in 45 CFR 158.103. However, the definition of prescription drug rebates, fees, and other remuneration adopted in these interim final rules differs in several ways from the definition of prescription drug rebates and other price concessions in 45 CFR 158.103. Similar to the definition in 45 CFR 158.140, total annual spending with respect to prescription drugs means the spending net of prescription drug rebates, fees, and other remuneration, as that term is defined in these interim final rules, in lieu of the adjustments specified in 45 CFR 158.140(b)(1)(i) for prescription drug rebates and other price concessions, as that term is defined in 45 CFR 158.103. The Departments are choosing this definition of incurred claims to be generally consistent with the financial reporting requirements in the MLR data collection under 45 CFR part 158, which will reduce compliance burdens for issuers and TPAs. Further, defining ''total annual spending'' to mean spending net of prescription drug rebates, fees, and other remuneration will enable the Departments to undertake more meaningful and accurate comparisons of the costs of different prescription drugs, by capturing the actual costs for different plans and issuers, as well as for the participants, beneficiaries, and enrollees, as applicable, of different plans and issuers.

In addition, as noted earlier in this section of this preamble regarding the definition of ''prescription drug rebates, fees, and other remuneration,'' a number of commenters that responded to the RFI urged the Departments to exclude drug manufacturer cost-sharing assistance to participants, beneficiaries, and enrollees, such as coupons and copay cards, from the definition of prescription drug rebates. Nonetheless, many commenters also urged the Departments to collect information regarding drug manufacturer cost-sharing assistance, particularly to the extent this assistance is excluded from the annual limitation on cost sharing, while a few commenters opposed collection of such information. The Departments note that section 9825(a)(7)(B) of the Code, section 725(a)(7)(B) of ERISA, and section 2799A–10(a)(7)(B) of the PHS Act direct plans and issuers to report information on prescription drug spending by the plan or coverage and by participants, beneficiaries, and enrollees, as applicable. To the extent drug manufacturer cost-sharing assistance reduces spending by the health plan or coverage or by participants, beneficiaries, and enrollees, and to the extent information regarding the amount of these reductions is available to plans, issuers, their administrators, or their service providers such as PBMs (for example, when the drug manufacturer cost-sharing assistance is excluded from the annual limitation on cost sharing) and thus can be reported to the Departments, the Departments intend to collect data on these reductions separately and incorporate such reductions into the analysis conducted for the section 204 public report.

The Departments seek comment on these definitions, including whether other terms should be defined.

C. Reporting Requirements

1. Reporting Requirements Related to Prescription Drug and Health Care Spending (26 CFR 54.9825–4T, 29 CFR 2590.725–2, and 45 CFR 149.720)

a. General Requirement

Section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act require plans and issuers to submit annually to the Departments certain information on prescription drug and health care spending, premiums, and enrollment under the plan or coverage. This general requirement is being codified at 26 CFR 54.9825–4T(a), 29 CFR 2590.725–2(a), and 45 CFR 149.720(a).

b. Timing and Form of Report

Section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act require plans and issuers to provide the first section 204 data submissions to the Departments not later than 1 year after the date of enactment of the CAA, which would be December 27, 2021, with respect to the plan or coverage in the previous plan year, and by June 1 of each year thereafter. In these interim final rules, consistent with the discussion in section II.A of this preamble regarding the definition of ''reference year,'' the Departments interpret these statutory provisions to require plans and issuers to submit calendar year 2020 information by December 27, 2021, calendar year 2021 information by June 1, 2022, calendar year 2022 information by June 1, 2023, and so forth. Therefore, these interim final rules provide that the report for the 2020 reference year must be submitted to the Secretaries of the Treasury, Labor, and HHS (Secretaries of the Departments) by December 27, 2021, and that beginning with the 2021 reference year, the report for each reference year is due by June 1 of the year following the reference year. These interim final rules also require that the report must be submitted in the form and manner prescribed jointly by the Secretaries of the Departments. These requirements are being codified at 26 CFR 54.9825–4T(b), 29 CFR 2590.725–2(b), and 45 CFR 149.720(b).

Stakeholders expressed significant concerns about the feasibility of complying with the data submission deadlines specified in the statute. Specifically, stakeholders explained that they would need between 6 months to a year to comply with the reporting requirements after: (1) These interim final rules are issued; (2) technical guidance is provided by the Departments (such as instructions for the information collection instrument); and (3) the specifications for the data collection system are published by the Departments. Stakeholders explained that they would need this time to modify contractual agreements to enable disclosure and transfer of the required data between various reporting entities; to develop internal processes and procedures; and to implement the identification, compilation, preparation, and validation of the required data. Stakeholders further noted that they are concurrently implementing measures to comply with numerous other complex requirements and near-term deadlines imposed by the other provisions in the

No Surprises Act and Title II of Division BB of the CAA, as well as the Transparency in Coverage final rule.[21]

As noted in *FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 49,* published by the Departments on August 20, 2021, the Departments recognize the significant operational challenges that regulated entities may face in meeting the initial deadlines for the section 204 data submissions.[22] Accordingly, the Departments are exercising discretion to defer enforcement in connection with the December 27, 2021 and the June 1, 2022 deadlines for the section 204 data submissions for the 2020 and 2021 reference years, respectively. More specifically, the Departments will not initiate enforcement action against a plan or issuer that does not report the required information by the first statutory deadline for reporting on December 27, 2021 or the second statutory deadline for reporting on June 1, 2022, and that instead submits the section 204 data submissions for the 2020 and 2021 reference years by December 27, 2022.[23] However, the Departments strongly encourage plans and issuers to start working to ensure that they are in a position to be able to report the required information with respect to the 2020 and 2021 reference years by December 27, 2022. The Departments further encourage plans and issuers that are able to submit the required information by either the December 27, 2021 or June 1, 2022 statutory deadlines to do so.

A number of commenters responding to the RFI additionally recommended that the Departments allow for a longer run-out period for prescription drug claims and rebates than allowed by the annual June 1 statutory deadline. Some commenters therefore recommended that the Departments establish regular reporting deadlines of between 4 and 18 months after the end of the reference year. The Departments recognize that longer run-out periods could lead to the submission of more accurate data, but note that section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act prescribe the annual reporting deadline of June 1. The Departments further note that the deadline for the section 204 data submissions must balance the need for accuracy with the need for timely access to the data and the statutory deadlines for the biannual section 204 public report. The Departments are confident that regulated entities will be able to produce reasonably accurate estimates of the payable and receivable prescription drug rebate, fee, and other remuneration amounts by the June 1 statutory deadlines, similar to how issuers and other reporting entities currently determine such amounts for other federal and state financial reporting purposes. However, to ensure that the Departments receive complete and accurate data and are able to evaluate the reliability of the estimates and trends, the Departments will also collect restated amounts for prescription drug rebates, fees, and other remuneration for the preceding reference year.

c. Transfer of Business

To capture meaningful and accurate information required under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act with respect to group or individual health insurance coverage provided by an issuer, these interim final rules require issuers that acquire a line or block of business from another issuer during a reference year to submit the required information and report for the acquired business, including for the part of the reference year that was prior to the acquisition. This requirement mirrors the existing requirements for issuers to report the premium, claims, and other expenditures with respect to purchased business for MLR data reporting purposes in 45 CFR 158.110(c). This requirement is being codified at 26 CFR 54.9825–4T(c), 29 CFR 2590.725–2(c), and 45 CFR 149.720(c).

The sale or transfer of blocks of policies between issuers is a common practice in the health insurance industry and could lead to inconsistencies in the reporting required under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act. For example, if part of the data for a given reference year with respect to a block of business were reported by the selling issuer, and the other part was reported by the acquiring issuer, the split reporting could result in distortions and inconsistencies in the list of the top 50 most frequently dispensed brand prescription drugs, the report on the impact of cost-sharing amounts, the report on average monthly premium amounts, and other required data elements. The Departments seek comment on whether these interim final rules should be amended through future rulemaking to require reporting of any data elements that would address the impact of mergers, splits, and similar transactions on prescription drug costs to the extent such transactions increase market concentration.

d. Reporting Entities and Special Rules To Prevent Unnecessary Duplication

As discussed in section II.B of this preamble regarding the definition of ''reporting entity,'' the Departments are allowing plans and issuers to satisfy their reporting obligations under these interim final rules by having third parties, such as issuers, TPAs, or PBMs, submit some or all of the required information on their behalf, provided a plan or issuer enters into a written agreement with the third party that is providing the information on its behalf in accordance with these interim final rules. The Departments expect that it will be rare for group health plans to report the required information on their own, but nothing in these interim final rules prohibits them from doing so.

For fully-insured group health plans, these interim final rules at 26 CFR 54.9825–4T(d)(1), 29 CFR 2590.725–2(d)(1), and 45 CFR 149.720(d)(1) provide that, to the extent coverage under a group health plan consists of group health insurance coverage, the plan may satisfy the section 204 data submission requirements if the plan requires the health insurance issuer offering the coverage to report the required information in compliance with these interim final rules, pursuant to a written agreement. Under this provision, if the issuer fails to report the required information, then the issuer, not the plan, violates the reporting requirements.

For both fully-insured and self-funded group health plans, as well as health insurance issuers offering group or individual health coverage, these interim final rules at 26 CFR 54.9825–4T(d)(2), 29 CFR 2590.725–2(d)(2), and

[21] 85 FR 72158 (Nov. 12, 2020).

[22] FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 49 (Aug. 20, 2021), Q12, available at *https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQs-Part-49.pdf.*

[23] Under section 2723 of the PHS Act, states have the opportunity to be the primary enforcers of section 2799A–10 of the PHS Act with respect to health insurance issuers. However, on September 16, 2021, the Departments and OPM published a proposed rule entitled, *Requirements Related to Air Ambulance Services, Agent and Broker Disclosures, and Provider Enforcement* (86 FR 51730), in which HHS proposed to have direct enforcement authority for newly enacted provisions of the PHS Act that require health insurance issuers to submit certain information to HHS or the Departments, including section 2799A–10 of the PHS Act, unless the state notifies HHS of its intent to enforce. HHS solicited comment on this approach. Public comments on this proposed rule were due by October 18, 2021. HHS is considering public comments and intends to address the issue of enforcement of section 2799A–10 of the PHS Act enforcement in the *Requirements Related to Air Ambulance Services, Agent and Broker Disclosures, and Provider Enforcement* final rule.

45 CFR 149.720(d)(2) provide that the plan or issuer may also satisfy the section 204 data submission requirements with respect to the required information that the plan or issuer, as applicable, requires another party (such as another issuer, a PBM, a TPA, or other third party) to report in compliance with these interim final rules, pursuant to a written agreement. Under this provision, if the third-party reporting entity fails to report the required information, the plan or issuer violates the reporting requirements.

The Departments solicit comment on this approach.

2. Required Information (26 CFR 54.9825–6T, 29 CFR 2590.725–4, and 45 CFR 149.740)

a. General Information

The provisions of these interim final rules that address the general information that plans and issuers must submit for each plan or coverage at the plan or coverage level are being codified at 26 CFR 54.9825–6T(a), 29 CFR 2590.725–4(a), and 45 CFR 149.740(a).

Plans and issuers must ensure that the information they report, or the information that is reported on their behalf, includes identifying information at the plan or coverage level, such as name and Federal Employer Identification Number (FEIN) and other relevant identification numbers, for plans, issuers, plan sponsors, and any other reporting entities. Plan- and coverage-level identifying information is necessary for the Departments to verify receipt of data from all plans and issuers subject to the section 204 data submission requirements. The identifying information will also allow the Departments to ensure that reporting entities do not submit duplicate information, and that different reporting entities do not reflect the data of the same health plan or coverage in different market segments when a plan or issuer engages multiple reporting entities to report information on its behalf. For example, if a self-funded group health plan engages a TPA to report health care spending and a PBM to report prescription drug spending, the Departments will need to verify that both reporting entities reported the data and included the data for the plan in the appropriate market segment. The identifying information will further enable the Departments to cross-reference the data to other data submitted by plans and issuers to the Departments, such as the MLR data submitted by issuers to HHS and the Form 5500 Annual Returns/Reports of Employee Benefit Plan data submitted by group health plans to DOL and the Department of the Treasury.

In addition, plans and issuers must ensure that the information they report, or that is reported on their behalf, includes the following data elements, which are required by section 9825(a)(1)–(3) of the Code, section 725(a)(1)–(3) of ERISA, and section 2799A–10(a)(1)–(3) of the PHS Act, at the plan level, regardless of whether they submit the other required information at the aggregate level, as described in section II.C.3. of this preamble: (1) The beginning and end dates of the plan year that ended on or before the last day of the reference year; (2) the number of participants, beneficiaries, and enrollees, as applicable, covered on the last day of the reference year; and (3) each state in which the plan or coverage is offered. The number of participants, beneficiaries, and enrollees, as applicable, can be measured in multiple ways, such as the average number over the course of a year, or a number at a point in time, such as at the beginning or end of the year, all of which convey different and valuable information. To ensure data consistency, these interim final rules require plans and issuers to report at the plan level the number of participants, beneficiaries, and enrollees, as applicable, covered only on the last day of the reference year. This approach will provide the Departments with the most recent information regarding enrollment at the plan level. To reduce the reporting burdens, these interim rules require plans and issuers to report the life-years attributable to the participants, beneficiaries, and enrollees, as applicable, over the course of the reference year only in total, at the state and market segment aggregate level, as described in section II.C.3. of this preamble. This approach will provide enrollment metrics that are most relevant to the other data elements collected at the aggregate level and will enable the Departments to analyze trends such as average annual spending per person. Issuers subject to MLR reporting requirements under 45 CFR part 158 will be able to leverage the life-years they compile at the state and market segment level for MLR reporting purposes.

In accordance with the requirements in section 9825(b) of the Code, section 725(b) of ERISA, and section 2799A–10(b) of the PHS Act regarding the treatment of plan-specific information in the section 204 public report, the Departments will not publicly disclose this information in a manner by which any plan can be identified.

b. Health Care Spending

Section 9825(a)(7) of the Code, section 725(a)(7) of ERISA, and section 2799A–10(a)(7) of the PHS Act require plans and issuers to report the total annual spending on health care services, broken down by the types of cost, including: (1) Hospital costs; (2) health care provider and clinical service costs, for primary care and specialty care separately; (3) costs for prescription drugs; and (4) other medical costs, including wellness services. For prescription drug spending, plans and issuers must report separately the costs incurred by the plan or coverage and the costs incurred by participants, beneficiaries, and enrollees, as applicable. The provisions related to these requirements are being codified at 26 CFR 54.9825–6T(b)(4) through (5), 29 CFR 2590.725–4(b)(4) through (5), and 45 CFR 149.740(b)(4) through (5).

Stakeholders requested that the Departments provide specific instructions for which expenses must be reported in each category. Several commenters responding to the RFI made technical suggestions regarding how the Departments should specify these expense categories. These interim final rules set forth general requirements, and the Departments intend to provide detailed technical guidance in the instructions to the information collection instrument regarding reporting by health care service type that aligns with these general requirements and provides examples of the costs that should be reported in each category. To promote consistency and reduce the reporting burden, the Departments may leverage specific data elements used in the MLR Annual Reporting Form and the Unified Rate Review Template that issuers file with HHS.[24] The Departments solicit comments on the use of MLR and rate review definitions of health care spending cost elements.

Many commenters responding to the RFI urged the Departments to exclude prescription drugs covered under the hospital or medical benefit from the section 204 data submissions due to the complexity of obtaining these data, longer run-out periods associated with these drugs, and differences in the relevant pricing mechanisms and underlying cost drivers (such as different supply chains and procurement mechanisms). Commenters

[24] *See, e.g., https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/2019-MLR-Form-Instructions.pdf* and *https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/URR_v5.3-instructions.pdf.*

additionally noted that these drugs may be subject to different cost-sharing requirements than drugs dispensed by retail or mail-order pharmacies, and may present consumers with fewer opportunities to choose among drugs. The Departments acknowledge these concerns, but note that section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act do not create an exemption for prescription drugs covered under a plan's or coverage's hospital or medical benefit. The Departments further note that prescription drugs covered under a hospital or medical benefit constitute a significant proportion of the total prescription drug spending in the U.S., and include some of the more costly drugs. Therefore, these interim final rules require reporting of the total annual spending on prescription drugs administered in a hospital, clinic, provider's office, or other provider setting and covered under the hospital or medical benefit of a plan or coverage (which may be a subset of, and already reported with, the total spending on hospital or other medical costs), separately from the total annual spending on drugs covered under the pharmacy benefit of a plan or coverage. Separate reporting of spending on drugs covered under the pharmacy benefit and on drugs covered under the hospital or medical benefit will assist the Departments in evaluating prescription drug trends with respect to the setting in which the drugs are administered. However, in recognition of stakeholders' concerns regarding the compliance burdens associated with reporting information on drugs covered under the hospital or medical benefit, these interim final rules do not, at this time, require plans and issuers to report data elements other than total annual spending, as required under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act, such as the top 50 and top 25 lists, for drugs covered under the hospital or medical benefit. Instead, these data elements should reflect only the drugs covered under the pharmacy benefit. Once the Departments begin to receive the section 204 data submissions and have the opportunity to evaluate the prescription drug data, the Departments will further review and analyze the merits of this approach and may modify the provisions regarding the information to be collected on drugs covered under the hospital or medical benefit in future rulemaking. Finally, the Departments recognize that for drugs covered under the hospital or medical benefit, the cost of the prescription drugs included in some bundled payment arrangements and other alternative payment arrangements may not be readily available to the plan or issuer. In these situations, the plan or issuer is required to separately report the total annual spending attributable to the prescription drugs included in the bundle or other alternative payment arrangement in good faith and to the best of its ability. The Departments seek comment on all aspects of collecting only some of the information on drugs covered under the hospital or medical benefit. The Departments also seek comment on whether reporting flexibilities for drugs included in bundled and other alternative payment arrangements may contribute to prescription drug spending increases or facilitate anti-competitive practices.

These interim final rules require plans and issuers to separately report total annual spending on health care services by the plan or coverage, and total annual spending on health care services by participants, beneficiaries, and enrollees, as applicable. Collecting total annual spending on health care services at this level of detail will ensure consistency with the other data elements required by section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act, such as total annual spending on prescription drugs and average monthly premium amounts, which are collected separately with respect to a plan or coverage and with respect to participants, beneficiaries, and enrollees, as applicable. Consistency across the data elements will enhance the usability of the data and enable the Departments to conduct meaningful data analysis. These interim final rules additionally require plans and issuers to report, for each drug in the top 50 and top 25 lists, as well as for each therapeutic class, prescription drug spending and utilization, including: (1) Total annual spending by the plan or coverage; (2) total annual spending by participants, beneficiaries, and enrollees enrolled in the plan or coverage, as applicable; (3) the number of participants, beneficiaries, and enrollees, as applicable, with a paid prescription drug claim; (4) total dosage units dispensed; and (5) the number of paid claims. The Departments intend to collect cost-sharing amounts to obtain the total annual spending by participants, beneficiaries, and enrollees, as applicable. Inclusion of identical data elements in each of the top 50 and top 25 lists and the therapeutic class list will streamline reporting and reduce compliance burdens. Collecting these amounts for each of the top 50 and top 25 lists, as well as for each therapeutic class, will enable the Departments to include in the section 204 public report an analysis regarding the overlap (or lack thereof) and the causes of any such overlap, among the lists of the most frequently dispensed drugs, the most costly drugs, the drugs with the greatest cost increases, and the drugs generating the greatest amount of rebates. This analysis may include analysis of the differences and similarities in these five spending and utilization data elements across drugs in the top 50, top 25, and the therapeutic class lists. This analysis may further include analysis of how prescription drug spending increases are distributed among plans and issuers as compared to the participants, beneficiaries, and enrollees. The total annual spending on prescription drugs and total dosage units dispensed will enable the Departments to conduct the required analysis of prescription drug pricing trends for purposes of the section 204 public report, and to compare trends across multiple data sources as well as between publicly and privately-sponsored health coverage. The number of paid claims and the unique number of individuals with paid prescription drug claims will allow the Departments to compute average per person cost sharing, and evaluate the average impact, if any, of prescription drug spending increases and rebates on participants, beneficiaries, and enrollees, as well as analyze whether spending increases are driven by increases in drug prices or utilization. The Departments seek comment on the use of identical prescription drug data elements for each of the top 50 and top 25 lists and the therapeutic class list.

c. Premium Amounts

Section 9825(a)(8) of the Code, section 725(a)(8) of ERISA, and section 2799A–10(a)(8) of the PHS Act require plans and issuers to report the average monthly premium paid by employers on behalf of participants, beneficiaries, and enrollees, as applicable, as well as the average monthly premium paid by participants, beneficiaries, and enrollees, as applicable. The provisions related to this requirement are being codified at 26 CFR 54.9825–6T(b)(6), 29 CFR 2590.725–4(b)(6), and 45 CFR 149.740(b)(6).

Stakeholders expressed concerns about this requirement. Employers expressed concern that reporting this information would be burdensome and suggested that the Departments utilize the information regarding the tax-deductible portion of premiums shown

on the Forms W–2. Issuers and TPAs expressed concern that information regarding the employer and participant, beneficiary, and enrollee contributions to premiums is currently only known to employers, and that it would be time-consuming and burdensome for issuers and TPAs to obtain this information from employers. Issuers and TPAs also anticipated that some employers may not want to disclose this information to issuers and TPAs. Issuers and TPAs requested that the Departments allow them to report estimated average monthly premium amounts based on a sample of employers or based on publicly available survey data.

The Departments acknowledge these concerns but note that plans and issuers are required to report this information under section 9825(a)(8) of the Code, section 725(a)(8) of ERISA, and section 2799A–10(a)(8) of the PHS Act. Furthermore, the Departments are of the view that the information on the trends in the employer versus employee contributions to premium amounts is integral to analyzing the extent to which the impact of prescription drug costs on premiums affects employers versus employees. Plans, employers, participants, beneficiaries, and enrollees experience premium increases driven by increases in prescription drug spending or, conversely, premium decreases driven by prescription drug rebates, proportionately to their share of total premium amounts, as well as the changes in this proportion over time. Existing data on premium amounts paid by employers versus by participants, beneficiaries, and enrollees are not complete for each state and market segment defined in these interim final rules. Furthermore, premium information shown on the Forms W–2 includes information related to plans that are not subject to these interim final rules (such as account-based group health plans). Therefore, these interim final rules require plans and issuers to submit the actual average monthly premium amounts separately with respect to payments by employers on behalf of participants, beneficiaries, and enrollees, and payments by participants, beneficiaries, and enrollees.

For purposes of these interim final rules, to accurately capture premium amounts with respect to all types of group health plan sponsors, the average monthly premium amount paid by employers on behalf of participants, beneficiaries, and enrollees, as applicable, includes premium amounts paid by plan sponsors that do not directly employ individuals (for example, employee organizations or employer groups and associations acting in the interest of their members and considered an ''employer'' within the meaning of section 3(5) of ERISA) but that nonetheless make payments of premiums or premium equivalents on behalf of participants, beneficiaries, and enrollees, as applicable.

These interim final rules also require plans and issuers to report total annual premium amounts and the total number of life-years. Section 9825(a)(9)–(10) of the Code, section 725(a)(9)–(10) of ERISA, and section 2799A–10(a)(9)—(10) of the PHS Act require plans and issuers to report any impact on premiums and reductions in premiums and out-of-pocket costs associated with rebates, fees, or other remuneration paid by drug manufacturers to the plan or coverage or its administrators or service providers. In addition, the section 204 public report required by section 9825(b) of the Code, section 725(b) of ERISA, and section 2799A–10(b) of the PHS Act must include information on the role of prescription drug costs in contributing to premium increases or decreases. Collecting total annual premium amount information will provide the Departments with important context to understand the impact of rebates, fees, and other remuneration. For example, if the impact of rebates, fees, and other remuneration resulted in a premium decrease of $100,000 for the reference year, it is important for the Departments to know whether the reduction is based on total annual premium amounts of $1,000,000 or $10,000,000. Similarly, collection of the total number of life-years will enable the Departments to estimate the combined average premium, as well as to estimate an average impact at the per person level for the participants, beneficiaries, and enrollees, as applicable, whose premiums or out-of-pocket costs may be affected by prescription drug costs and prescription drug rebates, fees, and other remuneration.

The Departments seek comment on all aspects of the data submission requirements regarding premium amounts.

d. Top 50 Drug Lists

Section 9825(a)(4)–(6) of the Code, section 725(a)(4)–(6) of ERISA, and section 2799A–10(a)(4)—(6) of the PHS Act require plans and issuers to report, respectively: (1) The 50 brand prescription drugs most frequently dispensed by pharmacies for claims paid by the plan or coverage, and the total number of paid claims for each such drug; (2) the 50 most costly prescription drugs with respect to the plan or coverage by total annual spending, and the annual amount spent by the plan or coverage for each such drug; and (3) the 50 prescription drugs with the greatest increase in plan or coverage expenditures over the plan year preceding the plan year that is the subject of the report, and, for each such drug, the change in amounts expended by the plan or coverage in each such plan year. The provisions related to these requirements are being codified at 26 CFR 54.9825–6T(b)(1) through (3), 29 CFR 2590.725–4(b)(1) through (3), and 45 CFR 149.740(b)(1) through (3).

In accordance with these interim final rules, the top 50 drugs must be determined separately for each aggregation level described in 26 CFR 54.9825–5T, 29 CFR 2590.725–3, and 45 CFR 149.730, as described in section II.C.3 of this preamble. For example, if an issuer acts as the reporting entity, has health insurance business or acts as a TPA in multiple states and market segments, and aggregates the data at the state and market segment level, then the issuer must prepare the three top 50 lists for each market segment within each state. Each of these lists must be based on the combined experience of all plans or policies included in the relevant aggregation. The Departments expect that it will be rare for self-funded plans to report these lists on their own using their own claims experience to determine the top 50 drugs, but to the extent a self-funded plan does so, any TPA that administers benefits for the plan should not include that plan's experience in the TPA's aggregated report.

As noted in section II.C.2.b. of this preamble, at this time, to simplify reporting and analysis and to reduce the reporting burden, these interim final rules require the information on the top 50 lists to include only the drugs covered under the pharmacy benefit of a plan or coverage, and exclude drugs administered in a hospital, clinic, provider's office, or other provider setting and covered under the hospital or medical benefit of a plan or coverage. Stakeholders requested that drugs covered under the hospital or medical benefit be excluded from the section 204 data submissions because these drugs may have different supply chains and procurement mechanisms, be subject to different pricing mechanisms and cost-sharing requirements than drugs dispensed by retail or mail-order pharmacies, and may present consumers with fewer opportunities to choose among drugs. As a result, the dispensing frequency, total spending, and prescription drug rebates, which are used to rank the top 50 and top 25 lists, are likely to be different for drugs covered under the pharmacy benefit and

for drugs covered under the hospital or medical benefit. Consequently, combining drugs covered under the pharmacy benefit with the hospital or medical benefit could lead to distorted ranking of the top 50 lists. Commenters responding to the RFI further pointed to the operational challenges of combining the data on drugs covered under the pharmacy benefit and the hospital or medical benefit to produce the top 50 lists, given that these data come from separate sources and may be reported by different reporting entities. The Departments will continue to review the validity of this approach and whether it adequately fulfills the objectives of section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act, and the Departments may modify the reporting requirements for the top 50 lists to include drugs covered under the hospital or medical benefit, or to require separate top 50 lists for drugs covered under the pharmacy benefit and under the hospital or medical benefit, in future rulemaking. The Departments solicit comment on this approach.

Top 50 Most Frequently Dispensed Brand Prescription Drugs. Plans, issuers, and other reporting entities must determine the most frequently dispensed brand prescription drugs based on the total number of paid claims for prescriptions filled during the reference year for each drug.

For each of the top 50 most frequently dispensed brand prescription drugs, the section 204 data submission must include the data elements listed in 26 CFR 54.9825–6T(b)(5), 29 CFR 2590.725–4(b)(5), and 45 CFR 149.740(b)(5) (required prescription drug data elements), which include: (1) Total annual spending by the plan or coverage; (2) total annual spending by participants, beneficiaries, and enrollees enrolled in the plan or coverage, as applicable; (3) the number of participants, beneficiaries, and enrollees, as applicable, with a paid prescription drug claim; (4) total dosage units dispensed; and (5) the number of paid claims. The rationale for collecting the required prescription drug data elements for each of the top 50 most frequently dispensed brand prescription drugs is described in section II.C.2.b. of this preamble.

Top 50 Most Costly Drugs. Plans, issuers, and other reporting entities must determine the 50 most costly drugs based on total annual spending per drug. Total annual spending, as defined in these interim final rules and as described in section II.B. of this preamble, must be net of prescription drug rebates, fees, and other remuneration and must include cost sharing as well as, to the extent available, drug manufacturer cost-sharing assistance. For each of the top 50 most costly drugs, the section 204 data submissions must include the required prescription drug data elements. The statute requires reporting of the top 50 most costly drugs by total annual spending with respect to the plan or coverage, which the Departments interpret to mean all spending under the plan or coverage, including both amounts spent by the plan or coverage as well as cost sharing and other amounts paid by participants, beneficiaries, and enrollees. The statute additionally requires reporting of the amounts spent only by the plan or coverage for each such drug. Because cost sharing generally corresponds to the difference between total annual spending and the amounts spent by the plan or coverage, the Departments chose to capture the amounts spent by the plan or coverage through requiring reporting of the total cost sharing paid under the plan or coverage. Reporting of total cost sharing will provide the Departments with information equivalent to that specified in the statute but will be more convenient for data analysis. The rationale for collecting the required prescription drug data elements for each of the top 50 drugs with the highest total annual spending is described in section II.C.2.b. of this preamble.

Top 50 Drugs with the Greatest Increase in Expenditures. Plans, issuers, and other reporting entities must determine the top 50 drugs with the greatest increase in expenditures based on the dollar amount of the increase in total annual spending over the preceding year. The statute requires reporting of the top 50 drugs with the greatest year-over-year increase in plan expenditures, which the Departments interpret to mean all spending under the plan or coverage, including both amounts spent by the plan or coverage as well as cost sharing and other amounts paid by participants, beneficiaries, and enrollees. This interpretation is consistent with the interpretation of the reporting methodology for the top 50 most costly drugs. A number of commenters responding to the RFI recommended that the Departments define the increase in expenditures based on the absolute amount of the increase rather than the percentage increase because the former value would enable the Departments to analyze which drugs are driving the increases in total spending on prescription drugs and would provide the Departments a better sense of the magnitude of the increases in this spending. The Departments agree with this rationale.

For each of the top 50 drugs with the greatest increase in expenditures, the section 204 data submissions must include: (1) The required prescription drug data elements for the year immediately preceding the reference year; and (2) the required prescription drug data elements for the reference year. The rationale for collecting the information on the year-over-year changes in the required prescription drug data elements for each of the top 50 drugs with the greatest increases in expenditures is described in section II.C.2.b. of this preamble. Only drugs that were approved for marketing and/or issued an Emergency Use Authorization by FDA for the entire year immediately preceding the reference year and for the entire reference year should be included in this top 50 list.[25] This approach will ensure that the cost increase is based on year-over-year changes and is not distorted by the inclusion of new drugs released in the market later in a calendar year.

The Departments seek comment on all aspects of the data submission requirements regarding the top 50 drug lists.

e. Prescription Drug Rebates, Fees, and Other Remuneration

Section 9825(a)(9) of the Code, section 725(a)(9) of ERISA, and section 2799A–10(a)(9) of the PHS Act require plans and issuers to report prescription drug rebates, fees, and any other remuneration paid by drug manufacturers to the plan or coverage or its administrators or service providers, with respect to prescription drugs prescribed to participants, beneficiaries, or enrollees, as applicable, in the plan or coverage. The statute requires these amounts to be reported for each therapeutic class of drugs, as well as for each of the 25 drugs that yielded the highest amount of rebates and other remuneration under the plan or coverage from drug manufacturers during the plan year.[26] The provisions related to these requirements are being codified at 26 CFR 54.9825–6T(b)(7) through (9), 29 CFR 2590.725–4(b)(7) through (9), and 45 CFR 149.740(b)(7) through (9).

[25] This includes an Emergency Use Authorization issued pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3) for an unapproved use of an otherwise-approved drug.

[26] As discussed in section II.B. of this preamble, in this instance, the Departments are interpreting ''plan year'' to mean ''reference year.''

As discussed in section II.B. of this preamble regarding the definition of ''prescription drug rebates, fees, and other remuneration,'' the Departments intend to generally align the categories of rebates, fees, and other remuneration in the section 204 data submissions with the categories specified in the data collection requirements under the Exchange Establishment rule [27] and the PBM Transparency rule [28] to reduce compliance burdens by allowing reporting entities to leverage some of the reporting capabilities they have already built to meet the requirements of these other HHS rules. For consistency with the Exchange Establishment rule and the PBM Transparency rule, these interim final rules further require reporting of total prescription drug rebates, fees, and other remuneration with respect to amounts passed through to the plan or issuer, amounts passed through to participants, beneficiaries, or enrollees, as applicable, and amounts retained by the PBM. Similarly, consistent with the information collected under the Exchange Establishment rule and the PBM Transparency rule, these interim final rules require reporting of the difference between total amounts that the plan or issuer pays the PBM and total amounts that the PBM pays pharmacies. One commenter responding to the RFI opposed collection of the difference between total amounts that the plan or issuer pays the PBM and total amounts that the PBM pays pharmacies, as well as collection of other details regarding prescription drug rebates, fees, and other remuneration consistent with the Exchange Establishment rule and the PBM Transparency rule; however, the commenter also recommended using the same definition for prescription drug rebates, fees, and other remuneration as used in the Exchange Establishment rule and the PBM Transparency rule. In contrast, several other commenters expressed concern with the impact on the market participants and on prescription drug pricing of the difference between total amounts that the plan or issuer pays the PBM and total amounts that the PBM pays pharmacies, and recommended that the Departments collect this information. The Departments are of the view that collection of this information is integral to the Departments' ability to analyze prescription drug reimbursements, pricing trends, and the impact of prescription drug rebates, fees, and other remuneration on premiums and cost sharing for purposes of developing the section 204 public report. This information will inform the Departments' analyses because, similar to prescription drug rebates, fees, and other remuneration, the difference between total amounts that the plan or issuer pays the PBM and total amounts that the PBM pays pharmacies is a factor that contributes to the differences between the payments for prescription drugs made by plans, issuers, enrollees, participants, and beneficiaries, and the portion of those payments captured by pharmacies and drug manufacturers, and thus impacts the cost of prescription drugs to plans, issuers, enrollees, participants, and beneficiaries. However, similar to bona fide service fees, these interim final rules provide for the submission of these amounts only in total and not at the drug or therapeutic class level. This approach will help reduce compliance burden by enabling plans, issuers, TPAs, and PBMs to leverage some of the reporting capabilities they have already built to meet the requirements of section 1150A of the Social Security Act, and will ensure that the information will be collected only to the extent that the Departments currently view that as necessary for their analysis. Last, the rationale for collecting the required prescription drug data elements for each therapeutic class and for each of the top 25 drugs that yielded the highest amount of rebates is described in section II.C.2.b. of this preamble.

Section 9825(a)(9)–(10) of the Code, section 725(a)(9)–(10) of ERISA, and section 2799A–10(a)(9)—(10) of the PHS Act additionally require plans and issuers to report the impact of the prescription drug rebates, fees, and other remuneration from drug manufacturers on premiums and out-of-pocket costs. For internal consistency, these interim final rules capture the impact on out-of-pocket costs by requiring reporting of the impact of prescription drug rebates, fees, and other remuneration on cost sharing. A number of commenters responding to the RFI indicated that plans and issuers may not know or be able to quantify the impact of prescription drug rebates on premiums or cost sharing. These commenters recommended that the Departments allow plans and issuers to provide qualitative descriptions of how prescription drug rebates, fees, and other remuneration generally provide savings to participants, beneficiaries, and enrollees, instead of attempting to collect drug-level impact amounts. The Departments intend to design the information collection instrument in a manner that would enable plans and issuers to provide both quantitative and qualitative information regarding the impact of prescription drug rebates on premiums and cost sharing.

The Departments seek comment on all aspects of the data submission requirements regarding prescription drug rebates, fees, and other remuneration.

3. Aggregate Reporting (26 CFR 54.9825–5T, 29 CFR 2590.725–3, and 45 CFR 149.730)

a. General Requirement

Section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act require plans and issuers to submit the information in section 204 data submissions to the Departments ''with respect to the health plan or coverage.'' Some of the information described in these statutory provisions pertains specifically to each group health plan, such as the beginning and end dates of the plan year, the number of participants, beneficiaries, and enrollees, as applicable, and each state where the plan or coverage is offered. However, the Departments are of the view that section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act do not strictly prescribe that every data element outlined in these provisions must be reported separately by each unique group health plan. After careful consideration of whether aggregate or plan-level information would be more appropriate to facilitate development of the section 204 public report as well as feedback received from stakeholders, the Departments have determined that plans and issuers (or other entities reporting on their behalf) may submit the majority of the information required under these interim final rules on an aggregate basis. The only plan-level information collected will be the following: (1) Identifying information for plans and issuers and other reporting entities; (2) the beginning and end dates of the plan year that ended on or before the last day of the reference year; (3) the number of participants, beneficiaries, or enrollees, as applicable, covered on the last day of the reference year; and (4) each state in which a plan or coverage is offered.

There are several reasons for collecting the majority of the information in the section 204 data submissions on an aggregate basis.

First, collecting aggregate data is necessary for the Departments to be able to draw conclusions about market trends for purposes of developing a meaningful and accurate section 204 public report. The Departments would

[27] 77 FR 18308 (Mar. 27, 2012).

[28] 86 FR 24140 (May 5, 2021).

not be able to accurately combine plan-specific top 50 lists to determine aggregate prescription drug trends within market segments, within states, and across the country. The Departments would not be able to accurately combine plan-specific top 50 lists because the statute only requires plans and issuers to report information for the top 50 drugs and not for all drugs. As a result, the Departments would not have access to the utilization and spending information for drugs that may not make the top 50 lists of every group health plan, but which may have higher combined utilization or spending across all group health plans than the drugs appearing on the plan-specific top 50 lists. Consequently, collection of plan-specific data could impair the Departments' ability to comply with the statutory requirement to produce the section 204 public report on prescription drug reimbursement and pricing trends. As a simplified example of the problems with collecting plan-specific data, suppose that the statute requires reporting of only the top 3 most frequently dispensed brand prescription drugs, rather than the top 50 drugs. Also, suppose that there is only one issuer offering two plans in a specific state and market segment. For Plan One, the four brand prescription drugs with the highest number of paid claims are Drug A with 100 claims, Drug B with 80 claims, Drug C with 75 claims, and Drug Z with 70 claims. For Plan Two, the four brand prescription drugs with the highest number of paid claims are Drug D with 110 claims, Drug E with 105 claims, Drug F with 90 claims, and Drug Z with 85 claims. If the Departments collected the top 3 brand prescription drugs at the plan level, Drug Z would be missing from the issuer's submission because it is not in the top 3 list for either plan. However, if the issuer aggregated the data at the state and market segment level before submitting it, Drug Z would have 155 paid claims and the Departments would correctly identify it as the most frequently dispensed drug in this state and market segment.

The inability to correctly identify trends in prescription drug reimbursements, pricing, and impact on premiums from the plan-specific data would inhibit the Departments' ability to comply with the requirements in section 9825(b) of the Code, section 725(b) of ERISA, and 2799A–10(b) of the PHS Act to develop and issue a public report on these trends. Collecting aggregate data will significantly reduce the possibility of such scenarios.

In addition, the data underlying the top 50 lists need to be of sufficient size for the Departments to be able to draw conclusions about market trends for purposes of developing a meaningful and accurate section 204 public report. The majority of group health plans have a relatively small number of participants, beneficiaries, or enrollees. If the Departments were to collect the top 50 lists separately for each group health plan, most of these lists would be based on small sample sizes and consequently could provide a distorted view of the market. This is because plan-specific lists would tend to be driven by the utilization of specific participants, beneficiaries, or enrollees of a given plan, which may not be representative of the market and may obscure broader trends. For example, a top 50 list for a plan with five participants and beneficiaries may contain only two steroid drugs, both purchased by a single participant to treat a skin condition. These drugs would appear as the first and second drugs on this plan-specific list. The top 50 list for another small employer plan may contain only three drugs—two drugs used to treat a rare autoimmune disease of one participant, and another drug used to manage post-surgery pain of another participant—which would likewise appear as the first, second, and third drugs on that plan-specific list. However, neither of these plan-specific lists is likely to be representative of the broader market; and, as described in the preceding paragraph, the Departments would not be able to combine the data from plan-specific top 50 lists in the manner needed to arrive at accurate totals for any given drug across states, market segments, or the country.

Another reason to collect aggregate data is to protect personally identifiable information and protected health information. Many comments received in response to the RFI stated that collection of plan-level data would raise significant privacy concerns because, as illustrated in the example above, it would not be difficult to discern which drugs and which claims were attributable to specific participants, beneficiaries, or enrollees in plan-level data. These comments argued that aggregate reporting would reduce the likelihood of collecting and transmitting personally identifiable information and protected health information, and thus the risk of inadvertent or inappropriate disclosure. The Departments share this concern and agree that aggregate reporting will better ensure that personally identifiable information and protected health information are protected from disclosure. Specifically, allowing aggregation of data will provide a larger population sample of participants, beneficiaries, or enrollees from which the data are drawn so that it is difficult to determine if a prescription drug or therapeutic class can be associated with a specific individual. In addition, HHS, which will collect the information on behalf of the Departments and OPM, intends to collect and maintain the information using information technology (IT) systems that are designed to meet all of the security standards protocols established under federal law or by HHS that are relevant to such information.[29] The Departments and OPM will further analyze the collected information to evaluate whether additional steps may be taken to ensure consumer privacy.

An additional reason to collect aggregate data is that prescription drug rebates, fees, and other remuneration generally are not negotiated separately for each plan; rather, they tend to be driven by sales volume and other considerations at the PBM level. Therefore, it is the Departments' understanding that plan-specific prescription drug rebate data generally is rarely available. Consequently, plan-specific lists of prescription drug rebates for each therapeutic class and for the top 25 drugs with the highest amount of rebates largely would be based on allocation calculations, and therefore plan-specific data would create little value beyond that created by aggregated reporting. Plan-specific lists might have some value for plans, but for purposes of the Departments' analysis of the data for the section 204 public report, there is no compelling policy reason to require plans and issuers to engage in a complex and burdensome allocation exercise, particularly because lists based on allocation calculations would not provide useful information about any specific plan.

Last, the overwhelming majority of commenters on the RFI encouraged the Departments to adopt an aggregate approach to data collection. They noted that an aggregate approach would be significantly less burdensome and urged the Departments to collect data at the highest possible aggregation level. They also raised similar concerns as those described earlier in this section of this

[29] HHS' enterprise-wide information security and privacy program was launched in FY 2003, to help protect HHS against potential IT threats and vulnerabilities. The program ensures compliance with federal mandates and legislation, including the Federal Information Security Management Act and the President's Management Agenda. The HHS Cybersecurity Program plays an important role in protecting HHS's ability to provide mission-critical operations. In addition, the HHS Cybersecurity Program is the cornerstone of the HHS IT Strategic Plan.

preamble regarding small sample sizes, usability of plan-specific data, and disclosure of personally identifiable information and protected health information. In addition, stakeholders noted that some cost elements are not tracked separately for each group health plan. Some commenters did, however, identify potential benefits of plan-specific reporting of data. One commenter noted the increased transparency that would result from plans receiving plan-specific information about prescription drugs from PBMs. The commenter also stated that plan-specific reporting would be more valuable for identifying trends than overly aggregated data. Other commenters noted that certain reporting requirements under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act are plan-specific and asserted that aggregated reporting would present operational challenges if, for example, a TPA were the reporting entity for all of the required information and it serviced different types of plans but did not have access to all of the required information for each plan. One commenter had concerns about plans being held responsible for the TPA's or PBM's failure to accurately report aggregated data.

The Departments are of the view that collection of aggregate data will substantially reduce the burdens for both the reporting entities and the federal government. The Departments estimate that reporting every data element separately for each group health plan would require plans and issuers to prepare and submit a combined total of several million reports. In contrast, reporting aggregate data would result in a combined total of approximately 2,000 reports, requiring plans and issuers to spend significantly less effort and fewer resources on calculations, validation, submission, and storage of the data while still providing a sufficiently large data pool from which to identify trends and variations in prescription drug use and costs. To the extent a TPA is the reporting entity for all of the required information for numerous plans but does not have access to all of the required information for each plan, it can either obtain it from the plan or require the plan to submit that information. As noted in this preamble, plans may need to revise their services agreements with TPAs to address liability for and the accuracy of the information that the TPA or PBM reports and the ways in which the plan can review such reporting to confirm its accuracy.

The smaller number of aggregate data reports submitted to the Departments would also reduce the Departments' burden for collecting, storing, securing, and analyzing the data.

For these reasons, these interim final rules require data to be aggregated in the section 204 data submissions for the reference year at the state and market segment levels. This general requirement is being codified at 26 CFR 54.9825–5T(a), 29 CFR 2590.725–3(a), and 45 CFR 149.730(a). Within each state and market segment, the data of fully-insured plans may be aggregated according to the issuer of the coverage provided to these plans or the FEHB carrier, as applicable, that acts as a reporting entity for these plans. The data of self-funded plans may be aggregated according to the TPA that acts as a reporting entity for these plans. The Departments are of the view that overall, aggregation at the reporting entity, state, and market segment level will capture statistics based on sufficiently large pools of underlying data while also providing a sufficient level of detail for the analysis and reporting required under section 9825(b) of the Code, section 725(b) of ERISA, and section 2799A–10(b) of the PHS Act, and is therefore the optimal aggregation level to enable the Departments to draw meaningful conclusions from the data. Aggregation at the state level will allow for the analysis of geographic variations in prescription drug trends. Aggregation at the market segment level will also allow for the analysis of variations in prescription drug trends among certain distinct populations subject to distinct plan and coverage design considerations, such as employees of small and large employers. Aggregation at the reporting entity level will allow for consistency in the data with respect to cost drivers such as negotiated rates for the provider networks used by a particular issuer or TPA, or the formulary design and prescription drug rebate agreements utilized by a particular PBM. For health insurance coverage, aggregation at the reporting entity, state, and market segment levels is also largely consistent with the aggregation rules for the MLR data collection in 45 CFR 158.120, which will minimize the health care spending reporting burden for issuers.

The Departments are of the view that, at this time, the clear benefits of the aggregate data approach outweigh the potential drawbacks. However, the Departments solicit comment on the general use and the specific aspects of this data aggregation approach versus a plan-specific data collection approach. In addition, after the Departments begin to receive section 204 data submissions and have the opportunity to evaluate the efficacy and adequacy of the aggregate data approach, the Departments will further review and analyze the merits of this approach and may modify the approach in future rulemaking if necessary or appropriate.

b. Aggregation by Reporting Entity

The requirements related to aggregation by reporting entity are being codified at 26 CFR 54.9825–5T(b), 29 CFR 2590.725–3(b), and 45 CFR 149.730(b). Specifically, 26 CFR 54.9825–5T(b)(1), 29 CFR 2590.725–3(b)(1), and 45 CFR 149.730(b)(1) provide that if a reporting entity submits data on behalf of more than one group health plan in a state and market segment, the reporting entity may aggregate the data required in 26 CFR 54.9825–6T(b), 29 CFR 2590.725–4(b), and 45 CFR 149.740(b) for the group health plans for each market segment in the state.

As discussed in sections II.C.3.a. and II.B. of this preamble, the Departments intend to make available a data collection system that will allow multiple reporting entities to submit different subsets of the required information for a single plan or issuer. These interim rules at 26 CFR 54.9825–5T(b)(2)(i), 29 CFR 2590.725–3(b)(2)(i), and 45 CFR 149.730(b)(2)(i) provide that if multiple reporting entities submit the required data related to one or more plans or issuers in a state and market segment, the data submitted by each of these reporting entities may not be aggregated at a less granular level than the aggregation level used by the reporting entity that submits the data on total annual spending on health care services in 26 CFR 54.9825–6T(b)(4), 29 CFR 2590.725–4(b)(4), and 45 CFR 149.740(b)(4) on behalf of these plans or issuers. Under this approach, the data may not, for example, be aggregated at a less granular level than the aggregation level used by the issuer providing the coverage to fully-insured plans, the TPA acting as a reporting entity for self-funded plans, or the plan sponsor acting as a reporting entity for the self-funded plans it sponsors.

For example, if a TPA is the reporting entity for the total annual spending on health care data for 20 self-funded plans in a state and market segment and aggregates the data of those plans, and a PBM is the reporting entity for the top 25 list for the same 20 self-funded plans, then the PBM must aggregate the data of only these 20 self-funded plans in the state and market segment to produce the top 25 list for these 20 self-funded

plans. If the PBM also serves as the top 25 list reporting entity for 30 other self-funded plans that utilize a different TPA for the section 204 data submission, then the PBM must additionally aggregate the data of only these 30 other self-funded plans in the state and market segment and produce a separate top 25 list for these 30 self-funded plans. However, the PBM cannot aggregate the data for all 50 self-funded plans to produce and submit a single top 25 list for the state and market segment. Conversely, a single data submission by a TPA may be associated with more than one corresponding data submission by several PBMs if the self-funded group health plans for which the TPA acts as a reporting entity do not all utilize the same PBM. Based on the Departments' estimate, discussed in section V of this preamble, that 473 issuers and 205 TPAs, but only 66 PBMs, will be involved in making section 204 data submissions, the Departments estimate that it is highly likely that a single PBM would submit data that complement data submissions of many issuers and TPAs. As a result, if a PBM aggregated data across multiple issuers and TPAs, this could significantly reduce the consistency between the prescription drug and rebate data submitted by the PBM and the health care spending, premium, and enrollment data submitted by issuers and TPAs. However, based on the estimated number of issuers, TPAs, and PBMs, the Departments anticipate that it is significantly less likely that multiple PBMs would submit data that complement the data submission of a single issuer or TPA. Therefore, the Departments are of the view that the disadvantage of the modest inconsistencies that may result from the approach adopted in these interim final rules is outweighed by the benefit of reduced compliance burdens. The Departments solicit comment on this aggregation approach.

These interim final rules additionally provide that the Departments may specify in guidance alternative or additional aggregation methods for data submitted by multiple reporting entities. In choosing alternative or additional aggregation methods, the Departments will seek to reduce compliance burdens for the reporting entities while ensuring that the aggregated data facilitate the development of the biannual public report required under section 9825(b) of the Code, section 725(b) of ERISA, and section 2799A–10(b) of the PHS Act. For example, the Departments may choose to allow data submitted by affiliated issuers to be aggregated at the holding group level within a state and market segment. Aggregation at the holding group level may further reduce compliance burden, but may obscure differences between different business models, such as preferred provider organizations and health maintenance organizations. The Departments may also choose to allow data submitted by PBMs to be aggregated at a higher level than at the level of each issuer and TPA. Aggregation of prescription drug and rebate data at the PBM level may likewise reduce compliance burdens and may enable more robust trend analysis. However, as discussed previously in this section of this preamble, this approach could significantly reduce the consistency between the prescription drug and rebate data and the health care spending, premium, and enrollment data, potentially impairing some of the analyses the Departments intend to undertake for purposes of the section 204 public report. The Departments will issue any such guidance sufficiently in advance of the data submission deadline to enable plans, issuers, and other reporting entities to adjust their processes. The Departments seek comment on which alternative aggregation methods should be considered and their respective merits and drawbacks.

As noted in section II.C.3.a. of this preamble, data submitted by reporting entities that are issuers, TPAs, or other plan service providers must be aggregated at the state and market segment level. For example, if an issuer is the reporting entity, the issuer must report the data separately for each state where it offered coverage, and within each state must aggregate the data separately for the individual market (excluding student policies), the student market, the fully-insured small group market, the fully-insured large group market (excluding FEHB plans), and the FEHB line of business, as applicable. If the issuer also provides TPA services to self-funded group health plans in the same state, the issuer must additionally aggregate the data separately for all of the self-funded plans offered by small employers and all of the self-funded plans offered by large employers for which the issuer acts as a TPA and as the reporting entity in the state.

In addition, these interim final rules at 26 CFR 54.9825–5T(b)(3), 29 CFR 2590.725–3(b)(3), and 45 CFR 149.730(b)(3) provide that when a group health plan, regardless of funding type, involves health coverage obtained from two affiliated issuers, one, often a health maintenance organization, providing in-network coverage only and the second, usually a preferred provider or similar organization, providing out-of-network coverage only, then for purposes of aggregating data at the reporting entity level, the plan's out-of-network experience may be treated as if it were all related to the contract provided by the in-network issuer. This approach ensures that in this situation the experience of employees of a single employer can be aggregated under a single reporting issuer in the same section 204 data submission, which is a reasonable approach because the coverage is priced and marketed to group health plans as one single product. In addition, this provision enables issuers to leverage existing reporting processes that they use for purposes of MLR reporting under 45 CFR part 158.

The Departments solicit comment on all aspects of the data aggregation by reporting entity approach.

c. Aggregation by State

The provisions related to aggregation by state are being codified at 26 CFR 54.9825–5T(c), 29 CFR 2590.725–3(c), and 45 CFR 149.730(c).

These interim final rules at 26 CFR 54.9825–5T(c)(1), 29 CFR 2590.725–3(c)(1), and 45 CFR 149.730(c)(1) and 26 CFR 54.9825–5T(c)(2), 29 CFR 2590.725–3(c)(2), and 45 CFR 149.730(c)(2) specify, respectively, that for purposes of aggregating data at the state level, the experience of fully-insured coverage must be attributed to the state where the contract was issued, while the experience of self-funded group health plans must be attributed to the state where the plan sponsor has its principal place of business, with certain exceptions. These requirements will ensure consistent reporting across plans, issuers, and other reporting entities, and are similar to the requirements in 45 CFR 158.120 for the MLR data collection. Attribution of experience to a state in this manner, rather than, for example, to the state where the individual obtaining health care services or prescription drugs works or resides, will significantly reduce the reporting burden because the data elements required in these interim final rules generally are not tracked based on the situs of the individual. The Departments are of the view that attribution of experience to a state in this manner is unlikely to significantly affect the data trends at the state level given that the Departments expect most if not all reporting entities to aggregate the required data, which will mitigate the possibility of an outsized impact of any given plan's experience on the top 50 lists and trends in a state.

Individuals sometimes obtain, and employers sometimes provide, health coverage through associations, trusts, or multiple employer welfare arrangements (MEWAs). Coverage issued through an association, but not in connection with a group health plan, is not group health insurance coverage for purposes of the PHS Act and is instead individual market coverage. These interim final rules at 26 CFR 54.9825–5T(c)(3), 29 CFR 2590.725–3(c)(3), and 45 CFR 149.730(c)(3) provide that the experience of individual market business sold through an association must be attributed to the issue state of the certificate of coverage. For employment-based association coverage subject to ERISA, group health plans may exist at the individual employer level (a non-plan MEWA) or at the association level, if the association qualifies as an employer under ERISA section 3(5) (a plan MEWA).[30] These interim final rules at 26 CFR 54.9825–5T(c)(4), 29 CFR 2590.725–3(c)(4), and 45 CFR 149.730(c)(4) provide that the experience of health coverage provided through a group trust or a MEWA must be attributed to the state where the individual employer (if the plan is at the individual employer level) or the association (if the association qualifies as an employer under ERISA section 3(5)), respectively, has its principal place of business or the state where the association is incorporated, if the association has no principal place of business.

These provisions apply in the same manner to group health plans covering employees in multiple states. For example, the experience of a fully-insured group health plan covering employees in multiple states must be attributed to the state in which the contract for health insurance coverage is issued or delivered as stated in the contract (except for coverage provided through an association). If the plan contracted for coverage with a different issuer in each state, then the relevant experience must be attributed to each of these states. Similarly, the experience of a self-funded group health plan providing benefits to employees in multiple states must be attributed to the state in which the plan sponsor has its principal place of business (or, in the case of an association with no principal place of business, the state where the association is incorporated), as applicable.

The Departments solicit comments on all aspects of the data aggregation by state approach.

III. Overview of the Interim Final Rules—Office of Personnel Management

A. Authority for Data Collection

OPM solicited comments on the capability of FEHB carriers to complete this reporting and if there should be any considerations taken into account specific to reporting by FEHB carriers. A few comments raised concerns about OPM's authority to require this reporting or questioned whether it was appropriate to apply section 204 to FEHB carriers.

Under 5 U.S.C. 8910(a), OPM must make a continuing study of the operation and administration of the FEHB Program, including surveys and reports on FEHB plans and on the experience of these plans. Under 5 U.S.C. 8910(b), each contract between OPM and an FEHB carrier must contain provisions requiring carriers to furnish such reasonable reports as OPM deems necessary to carry out its functions under the FEHB Act. Accordingly, OPM's contract with each FEHB carrier requires the carrier to furnish reports that OPM finds necessary to properly administer the FEHB Program.[31] In addition, 5 U.S.C. 8910(c) requires government agencies to furnish OPM with such information and reports as may be necessary to enable OPM to administer the FEHB Program. On the basis of this statutory authority, OPM will require FEHB carriers to report information about pharmacy benefits and health care spending, consistent with section 204 of Title II of Division BB of the CAA and the Departments' interim final rules. In response to comments requesting clarification of carriers' reporting responsibilities, OPM has worked with the Departments to facilitate carriers' reporting by establishing that where an entity does not possess all of the information required to be reported, another reporting entity may be responsible for the data submission on the carriers' behalf. Reporting by FEHB carriers is expected to help accomplish the CAA's intended purposes of achieving national health data transparency and lowering costs both for the FEHB Program and for the health benefits industry.

B. Reporting and Display of Data

Several RFI commenters also raised concerns about duplicative reporting or requested that OPM reconcile its current reporting requirements with any reporting required under section 204 of Title II of Division BB of the CAA. While OPM does require its FEHB carriers to submit certain data directly to OPM, the specific type of reporting diverges from section 204 of Title II of Division BB of the CAA in terms of the nature of the reporting as well as its purpose.

The OPM interim final rules amend existing 5 CFR 890.114(a) to include references to the Department of the Treasury, DOL, and HHS interim final rules to clarify that, pursuant to 5 U.S.C. 8910, FEHB carriers are required to report prescription drug and health care spending as set forth in those regulations with respect to FEHB carriers in the same manner as those provisions apply to a group health plan or health insurance issuer offering group or individual health insurance coverage, subject to 5 U.S.C. 8902(m)(1) and the provisions of the carrier's contract. As provided at 5 CFR 890.114(f), the OPM Director will coordinate with the Departments in matters regarding FEHB carriers' reporting on prescription drug and health care spending, and with respect to oversight of reporting by FEHB carriers. Carriers must report FEHB plan prescription drug and health care spending data to the Departments as a part of the section 204 collection of information consistent with 45 CFR 149.720. Carriers will need to include the information identified in 45 CFR 149.740 and aggregate the data consistent with 45 CFR 149.730.

Several corrections have been made to 5 CFR 890.114. First, paragraph (a) has been revised to remove inadvertently added cross-references to 26 CFR 54.9816–7T and 29 CFR 2590.716–7, which relate to the Department of the Treasury's and DOL's complaints processes. Second, paragraph (d)(1) has been revised to change the phrase ''intent to initiate'' to ''initiation of'' the Federal IDR process. Third, paragraph (d)(2) has been revised so that cross-references to 26 CFR 54.9816–8T(c)(4)(vi)(A)(*1*), 29 CFR 2590.716–8(c)(4)(vi)(A)(*1*), and 45 CFR 149.510(c)(4)(vi)(A)(*1*) now cite paragraph (vii) instead (vi), and the term ''misrepresentation'' now reads ''material misrepresentation.''

[30] Under ERISA section 3(5), an employer is ''any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan; and includes a group or association of employers acting for an employer in such capacity.'' For more information, see Multiple Employer Welfare Arrangements under the Employee Retirement Income Security Act (ERISA): A Guide to Federal and State Regulation, available at *https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/publications/mewa-under-erisa-a-guide-to-federal-and-state-regulation.pdf*.

[31] In addition to this statutory authority and parallel contract language, FEHB carrier contracts incorporate FEHB regulations found at 5 CFR parts 890 through 894. As part of this rulemaking, OPM amends FEHB regulations to direct carriers to comply with requirements of 45 CFR 149.710 through 149.740.

IV. Waiver of Proposed Rulemaking

Section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act authorize the Secretaries of the Departments to promulgate any interim final rules that they determine are appropriate to carry out the provisions of chapter 100 of the Code, part 7 of subtitle B of title I of ERISA, and title XXVII of the PHS Act. Consistent with the provisions at section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act, the Secretaries of the Departments and the OPM Director have determined that it is appropriate to issue these interim final rules to enable regulated entities sufficient time to design processes and systems necessary to comply with the data submission requirements of section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act, and to enable the Departments to comply with the public reporting requirements of section 9825(b) of the Code, section 725(b) of ERISA, and section 2799A–10(b) of the PHS Act, as explained further in this section of this preamble. Although these provisions constitute the Departments' primary authority for issuing these interim final rules, the Departments also note that section 553(b) of the Administrative Procedure Act (5 U.S.C. 551, *et seq.*) (APA), provides that a general notice of proposed rulemaking is not required when an agency for good cause finds that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. In addition, subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA) requires a 60-day delay in the effective date for major rules unless an agency finds good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, in which case the rule shall take effect at such time as the agency determines. 5 U.S.C. 801(a)(3), 808(2). The Secretaries of the Departments and the OPM Director have determined that these interim final rules meet the exception to the default requirement of notice and comment rulemaking under section 553(b) of the APA. Specifically, the Secretaries of the Departments and the OPM Director have determined that it would be impracticable and contrary to the public interest to delay putting the provisions in these interim final rules in place until a full public notice and comment process has been completed, as explained further in this section of this preamble. The Secretaries of the Departments and the OPM Director also find that there is good cause to waive the delay in effective date for these interim final rules.

The time period between enactment of the CAA and the date by which plans and issuers must comply with the provisions of section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act, as added by the CAA, is insufficient to permit the Departments and OPM to pursue notice and comment rulemaking. The CAA was enacted on December 27, 2020. Section 204 of Title II of Division BB of the CAA requires plans and issuers to begin submitting the required prescription drug and health care spending information to the Departments by December 27, 2021, and to submit this information by June 1 of each year thereafter. Due to the novelty and complexity of the requirements in section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act, the Departments and OPM determined it necessary to issue an RFI to inform the Departments' and OPM's implementation of the statutory requirements through rulemaking. Following an analysis of the statutory provisions, the technical and regulatory issues surrounding the concepts, definitions, and reporting related to prescription drugs, and industry practices related to prescription drug costs and data reporting processes and capabilities, among other things, the Departments and OPM published the RFI on June 23, 2021 with a 30-day comment period.[32]

In their responses to the RFI, regulated entities and other interested parties indicated that they would need significant time to come into compliance after final rules implementing the requirements in section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act are issued. In implementing these requirements, these interim final rules require plans, issuers, and FEHB carriers to establish complex internal data compilation and reporting processes, and may require plans, issuers, FEHB carriers, TPAs, PBMs, and drug manufacturers to modify various contracts and arrangements and to coordinate data compilation and sharing among themselves in order to enable submission of complete and accurate data to the Departments in accordance with the requirements in these interim final rules. All of these entities will require time to implement the changes necessary to comply with these new requirements. In response to the RFI, although several commenters stated that they would be able to submit the required data 6 months after the Departments and OPM published the final rules, the instructions for the information collection instrument, and the technical specifications for the data collection system, the overwhelming majority of commenters advised that they would need 12 months to comply. Commenters advised that they could not begin renegotiating contracts and investing in the necessary IT systems modifications prior to the final rules, the instructions for the information collection instrument, and the technical specifications for the data collection system being issued.

In recognition of stakeholders' concerns about the feasibility of meeting the first two statutory reporting deadlines of December 27, 2021 and June 1, 2022, as discussed in section II.C.1.b. of this preamble, the Departments are exercising discretion to not initiate enforcement actions against plans or issuers that submit the section 204 data submissions for the 2020 and 2021 reference years by December 27, 2022. Although this deferred enforcement may have allowed for the promulgation of regulations with notice and comment before the Departments would consider taking enforcement action, doing so nonetheless would not have provided sufficient time for the regulated entities to come into compliance with the requirements by December 27, 2022. Issuing these rules as proposed rules would have resulted in the final rules and final technical specifications becoming available to the regulated entities no earlier than June 2022, leaving them only 6 months—well short of the 12 months that most commenters advised is necessary—to complete the complex tasks required to come into compliance. In addition, deferred enforcement does not alter the statutory deadlines, and therefore the Departments must promulgate final rules that become effective no later than December 27, 2021, and must promulgate final rules timely to enable plans and issuers to rely on these rules and adhere to the law by the December 27, 2021 and June 1, 2022 statutory deadlines. The Departments strongly encourage plans and issuers that are able to submit the required information by either the December 27, 2021 or June 1, 2022 statutory deadlines to do so.

Further, although deferring enforcement for an additional period of time beyond December 27, 2022 could have provided sufficient time to issue these rules as proposed rules, the Departments are of the view that any additional delays in collecting the

[32] 86 FR 32813.

information required under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act would be inappropriate and contrary to the public interest. First, section 9825(b) of the Code, section 725(b) of ERISA, and section 2799A–10(b) of the PHS Act require the Departments to publish biannual section 204 public reports, with the first such report due no later than 18 months after the date on which the first section 204 data submission is required. Consequently, deferring enforcement further than December 27, 2022 would foreclose the Departments' ability to prepare and timely publish the first section 204 public report. Thus, the Departments are of the view that additional delays related to the section 204 data submissions would risk causing undue and cascading delays in the publication of the section 204 public reports, potentially delaying important legislative and policymaking initiatives that may be spurred by the section 204 public reports and depriving the public of the benefit of any such initiatives. Second, any additional delays related to the section 204 data submissions could require plans and issuers to submit 3, rather than 2, years of data at once (for example, if the Departments were to defer enforcement until June 1, 2023—the statutory deadline for submission of the 2022 data—then plans and issuers would have to submit the data for 2020, 2021, and 2022 by that date). This would place a significant burden on plans and issuers and would lead to lower-quality 2022 data because plans, issuers, and other reporting entities would lose the opportunity to incorporate lessons learned from preparation and submission of the 2020 and 2021 data, and the Departments would lose the ability to provide feedback or guidance to the regulated entities based on challenges or inconsistencies identified in the 2020 and 2021 data submissions.

In addition, the Departments will require time to design, build, and test a fully operational data collection system, which cannot be done prior to the definitions and requirements in these interim final rules being finalized. The reporting entities will in turn require time to familiarize themselves with the data collection system and to adapt their processes to the technical specifications prescribed for the data collection system. Therefore, issuing these rules as interim final rules, rather than as proposed rules, will allow the Departments to develop and operationalize the data collection system and will allow the reporting entities to provide feedback on the design of this system to the Departments and to incorporate the specifications of the data collection system into their processes.

It is therefore necessary, appropriate, and in the public interest that plans, issuers, FEHB carriers, TPAs, PBMs, and the Departments have certainty regarding the standards of these requirements in order to begin implementation. Accordingly, to allow plans, issuers, FEHB carriers, TPAs, PBMs, and the Departments sufficient time to implement these new requirements and any changes necessary to comply with these new requirements, these interim final rules must be published and available to the public well in advance of the December 27, 2022 enforcement date for the initial data collection. Allowing time for a full notice and comment process prior to the requirements taking effect would not provide sufficient time for the reporting entities to comply with the requirements, and would risk collection of inaccurate and low-quality data, thwarting the statute's objective of producing an actionable section 204 public report on prescription drug pricing and its impact on premiums.

Finally, although these interim final rules reflect public comments submitted in response to the RFI, the Departments and OPM intend to expeditiously and thoroughly review and analyze the public comments that will be submitted on the specific provisions of these interim final rules, as well as any additional feedback that may be provided by reporting entities and other stakeholders following publication of these interim final rules and the information collection requirements. The Departments and OPM intend to promptly issue final rules based on these public comments.

For the foregoing reasons, the Departments and OPM have determined that it is necessary, appropriate, and in the public interest to issue these interim final rules to allow regulated entities to timely comply with the statutory data submission requirements. The Departments and OPM have further determined that it would be impracticable and contrary to the public interest to engage in full notice and comment rulemaking before putting these interim final rules into effect.

V. Regulatory Impact Analysis

A. Summary

These interim final rules implement the provisions of section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act as enacted by section 204 of Title II of Division BB of the CAA. These provisions are applicable to group health plans and health insurance issuers offering group or individual health insurance coverage. These interim final rules implement section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act, which increase transparency by requiring plans and issuers to annually submit to the Departments information about prescription drugs and health care spending.

Section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act require plans and issuers to submit certain information to the Departments on prescription drug and health care spending, including, but not limited to, average monthly premium amounts (paid by participants, beneficiaries, and enrollees and paid by employers on behalf of participants, beneficiaries, and enrollees, as applicable), and the number of participants, beneficiaries, and enrollees, as applicable, with respect to the plan or coverage in the previous plan year. Additionally, plans and issuers must report prescription drug rebates, fees, and any other remuneration paid by drug manufacturers and any impact on premiums and out-of-pocket costs associated with these rebates, fees, or other remuneration. Pursuant to 5 U.S.C. 8910, OPM is joining the Departments to require the submission of prescription drug and health care spending data from FEHB plans in the same manner as plans and issuers must provide such data under section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act. The Departments and OPM highlight that nothing prevents a TPA or a PBM from reporting the required information on behalf of plans, issuers, and FEHB carriers, or the subset of the required information that is available to them.

Section 9825(b) of the Code, section 725(b) of ERISA, and section 2799A–10(b) of the PHS Act require the Departments to publish on the internet biannual reports on prescription drug reimbursements under group health plans and group and individual health insurance coverage, prescription drug pricing trends, and the role of prescription drug costs in contributing to premium increases or decreases under these plans or coverage, aggregated in such a way that no drug or plan specific information is made public.

The Departments and OPM have examined the effects of these interim final rules as required by Executive Order 13563 (76 FR 3821, January 21,

2011, Improving Regulation and Regulatory Review); Executive Order 12866 (58 FR 51735, October 4, 1993, Regulatory Planning and Review); the Regulatory Flexibility Act (September 19, 1980, Pub. L. 96–354); section 1102(b) of the Social Security Act (42 U.S.C. 1102(b)); section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995, Pub. L. 104–4); Executive Order 13132 (64 FR 43255, August 10, 1999, Federalism); and the Congressional Review Act (5 U.S.C. 804(2)).

B. Executive Order 12866 and 13563

Executive Order 12866 directs agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. A regulatory impact analysis (RIA) must be prepared for rules with economically significant effects ($100 million or more in any 1 year).

Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

An RIA must be prepared for major rules with economically significant effects (for example, $100 million or more in any one year), and a ''significant'' regulatory action is subject to review by the Office of Management and Budget (OMB). The Departments anticipate that this regulatory action is likely to have economic impacts of $100 million or more in at least 1 year, and thus meets the definition of a ''significant rule'' under Executive Order 12866. Therefore, the Departments and OPM have provided an assessment of the potential costs, benefits, and transfers associated with these interim final rules. In accordance with the provisions of Executive Order 12866, these interim final rules were reviewed by OMB.

1. Need for Regulatory Action

There is currently limited information available about how prescription drug costs influence premiums and out-of-pocket costs. There is also limited information available on the prescription drug rebates, fees, and other remuneration paid by drug manufacturers to plans and issuers (or to their administrators or service providers) and the impact of these reimbursements on premiums and out-of-pocket costs. The data submission requirements in these interim final rules will provide the Departments and OPM with a better understanding of prescription drug and health care spending in the United States. Further, these interim final rules are necessary to meet the statutory requirements of section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act.

Plans, issuers, FEHB carriers, and other reporting entities will incur costs related to the data submission requirements set forth in these interim final rules. However, in accordance with Executive Order 12866, the Departments determined that the benefits of these interim final rules justify the costs.

2. Summary of Impacts

In accordance with OMB Circular A–4, Table 1 depicts an accounting statement summarizing the Departments' and OPM's assessment of the benefits, costs, and transfers associated with these interim final rules. The Departments and OPM are unable to quantify all benefits, costs, and transfers associated with these interim final rules but have sought, where possible, to describe these non-quantified impacts below. The effects in Table 1 reflect non-quantified impacts and estimated direct monetary costs resulting from the data submission requirements in these interim final rules.

TABLE 1—ACCOUNTING STATEMENT

Benefits:

Qualitative:

- Production of a dataset that satisfies the requirements in section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act and informs the development of the section 204 public reports, which will increase transparency about prescription drugs and health care spending and potentially promote more competitive health care markets.
- The ability of the Departments and OPM to identify the factors contributing to changes in plan expenditures, including prescription drug costs, hospital costs, health care provider and clinical service costs, and other medical costs, which may inform future policymaking that addresses health care costs.
- The ability of the Departments and OPM to identify the most frequently dispensed brand prescription drugs and the most costly prescription drugs covered by plans and issuers and the corresponding expenditures, which may inform future policymaking that addresses prescription drug costs.
- Improved understanding of prescription drug pricing trends by the Departments and OPM.
- Improved understanding by the public and the Departments and OPM of the impact of prescription drug rebates, fees, and other remuneration paid by drug manufacturers to plans, issuers, or FEHB carriers (or to their administrators or service providers) on premiums and out-of-pocket costs.
- Potential to inform Congress and shape future policymaking that could benefit consumers and employers.

Costs	Estimate (million)	Year dollar	Discount rate (percent)	Period covered
Annualized Monetized ($/year)	$363.63	2021	7	2021–2025
	361.09	2021	3	2021–2025

Quantitative:

Costs	Estimate (million)	Year dollar	Discount rate (percent)	Period covered
• One-time costs to issuers, FEHB carriers, TPAs, and PBMs to design, develop, and implement needed IT systems changes and submit required information, in 2022, estimated to be approximately $1,034 million. • One-time costs to issuers, FEHB carriers, TPAs, and PBMs to update and maintain their IT systems and submit required information in 2023, estimated to be approximately $290 million. • Annual recurring costs to issuers, FEHB carriers, TPAs, and PBMs to maintain their IT systems and report data in 2024, and yearly thereafter, estimated to be approximately $211 million. • One-time costs to issuers, FEHB carriers, TPAs, and PBMs to prepare standard operating procedures and provide training to staff, in 2022, estimated to be approximately $4.7 million. • One-time costs to issuers, FEHB carriers, TPAs, and PBMs to modify existing contracts, in 2022, estimated to be approximately $8 million. • Costs to the federal government to build and maintain a system to receive, store, and analyze data submitted by issuers, FEHB carriers, TPAs, and PBMs, and to prepare section 204 reports, of approximately $4.4 million in 2021, $8.5 million in 2022, $7.3 million in 2023, $7.4 million in 2024, and $7.9 million in 2025.				
Transfers:				
Non-Quantified: • Potential transfers from providers, facilities, pharmaceutical manufacturers, and PBMs to plans, issuers, and FEHB carriers if plans, issuers, and FEHB carriers are able to achieve greater negotiating power due to improved understanding of prescription drug costs.				

a. Benefits

The reporting requirements in these interim final rules will lead to the development of a dataset that satisfies the requirements in section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act. This dataset will inform the development of the biannual section 204 public reports by the Departments regarding prescription drug and health care spending.

The prescription drug and health care spending data collection and the resultant section 204 public reports will benefit plans, issuers, FEHB carriers, employers, and policymakers by advancing their understanding of prescription drug costs and the impact of prescription drug rebates, fees, and other remuneration on premiums and out-of-pocket costs. Consumers could potentially benefit from the section 204 public reports if plans, issuers, and FEHB carriers are able to negotiate lower prescription drug prices and those reductions are passed on to the consumer in the form of reduced out-of-pocket costs and lower premiums. The section 204 data submissions will allow the Departments and OPM to identify the most frequently dispensed brand prescription drugs and the costliest prescription drugs covered by plans, issuers, and FEHB carriers along with the prescription drugs that have contributed to the greatest annual increases in plan expenditures, and the prescription drugs that have generated the highest prescription drug rebates, fees, and other remuneration. These reports will provide the Departments and OPM with an improved understanding of prescription drug costs. The dataset will also allow the Departments and OPM to identify other major drivers of increases in health care spending, including hospital costs, primary and specialty health care provider and clinical service costs, and other medical costs. The data may also allow the Departments and OPM to examine variation in health care costs across the country.

Policymakers will be able to use the information provided in the section 204 public reports to set policies that may result in lower premiums, reduced out-of-pocket costs, and decreased labor costs. Policymakers will also be able to use this information to set policies that may promote transparency and more competition in health care and prescription drug markets, consistent with the goals of Executive Order 14036.

b. Costs

The Departments and OPM estimate the burden to report the information will be the time and effort necessary for plans, issuers, FEHB carriers, and other reporting entities to submit the required information in the required format to the Departments. The Departments and OPM assume that issuers, TPAs, and PBMs will submit the required information on behalf of group health plans or FEHB carriers. The Departments and OPM acknowledge that TPAs and PBMs are likely to pass on any related costs to plans, issuers, and FEHB carriers. The Departments and OPM estimate there are 473 health insurance issuers offering individual and group health insurance,[33] 205 TPAs [34] (generally submitting on behalf of self-funded group health plans), 46 FEHB carriers, and 66 PBMs [35] (submitting on behalf of plans, issuers, and FEHB carriers) that will submit the required information annually. The Departments and OPM assume that all costs will be incurred in 2022 and beyond, since reporting entities are unlikely to begin implementation in the last month of 2021. The costs related to these information collection requirements are estimated to be $1,033,758,440 in 2022, $289,786,640 in 2023, and $211,128, 360 in 2024 and onward, as discussed in detail later in section V.D. (Paperwork Reduction Act) of this preamble. These total costs have a tendency toward overestimation because the estimate does not reflect process efficiencies for FEHB carriers that are also issuers.

Issuers, FEHB carriers, TPAs, and PBMs will incur additional costs related to the data submission. To estimate these costs, the Departments and OPM used data from the Bureau of Labor Statistics (BLS) to derive average labor costs (including a 100 percent increase for fringe benefits and overhead).[36] As explained in section V.D.1. (Paperwork Reduction Act) of this preamble, the Departments and OPM used a different data set to estimate costs related to the information collection requirements.

[33] Based on data from MLR annual reports for the 2019 MLR reporting year, available at *https://www.cms.gov/CCIIO/Resources/Data-Resources/mlr.*

[34] Estimates for Non-issuer TPAs are based on data derived from the 2016 Benefit Year reinsurance program contributions.

[35] Source: National Association of Insurance Commissioners, last updated on March 16, 2021. Available at *https://content.naic.org/cipr_topics/topic_pharmacy_benefit_managers.htm.*

[36] May 2020 Bureau of Labor Statistics, Occupational Employment Statistics, National Occupational Employment and Wage Estimates, available at *https://www.bls.gov/oes/current/oes_nat.htm.*

TABLE 2—ADJUSTED HOURLY WAGE RATES

Occupation title	Occupational code	Mean hourly wage ($/hour)	Fringe benefits and overhead ($/hour)	Adjusted hourly wage ($/hour)
Chief Executives	11–1011	$95.12	$95.12	$190.24
General and Operations Managers	11–1021	60.45	60.45	120.90
Computer and Information Systems Managers	11–3021	77.76	77.76	155.52
Lawyers	23–1011	71.59	71.59	143.18
Paralegals and Legal Assistants	23–2011	27.22	27.22	54.44
Executive Secretaries and Executive Administrative Assistants	43–6011	31.36	31.36	62.72
Legal Secretaries and Administrative Assistants	43–6012	25.36	25.36	50.72
Business Operations Specialists	13–1198	40.53	40.53	81.06
Computer Programmers	15–1251	45.98	45.98	91.96
Secretaries and Administrative Assistants	43–6014	19.43	19.43	38.86

Issuers, FEHB carriers, TPAs, and PBMs will incur costs associated with contract modifications regarding these reporting requirements. The Departments and OPM assume that each of the 473 issuers, 46 FEHB carriers, and 205 TPAs will need to modify or enter into contracts with PBMs for the PBMs to provide information on prescription drug rebates, or other required information, that is generally maintained primarily by PBMs. The Departments and OPM estimate that a total of 724 contracts will be modified. The Departments assume that the contract modifications will involve the time of chief executives, general and operations managers, lawyers, paralegals and legal assistants, executive secretaries and executive administrative assistants, and legal secretaries and administrative assistants from both entities. The adjusted hourly wages (which incorporate a 100 percent markup for fringe benefits and overhead costs) for those involved in contract modifications are presented in Table 2.

The Departments and OPM estimate that in order to negotiate contract revisions between issuers, FEHB carriers, TPAs, and their PBMs, for each issuer, FEHB carrier, TPA, and PBM, a chief executive will need 1 hour, general and operations managers will need 2 hours, lawyers will need 20 hours, paralegals will need 20 hours, administrative assistants will need 2 hours, and legal secretaries will need 20 hours for a total of 65 hours, at a cost of approximately $5,524 for each entity negotiating a contract revision. The total burden related to each contract negotiation between issuers, FEHB carriers, TPAs, and their PBMs is estimated to be 130 hours, with an associated cost of approximately $11,049. The total burden for all 724 contract modifications is estimated to be approximately 94,120 hours, with an associated cost of approximately $7,999,157.[37] The Departments and OPM assume that this cost will be incurred in 2022. The calculations and the total burden and cost associated with these contract modifications are presented in Table 3. The Departments and OPM seek comment on these estimates.

TABLE 3—BURDEN AND COSTS TO ISSUERS, FEHB CARRIERS, TPAS, AND PBMS ASSOCIATED WITH CONTRACT MODIFICATIONS

Occupation	2022		
	Adjusted hourly wage ($/hour)	Time (hours)	Estimated labor cost
Chief Executives	$190.24	1	$190.24
General and Operations Managers	120.90	2	241.80
Lawyers	143.18	20	2,863.60
Paralegals and Legal Assistants	54.44	20	1,088.80
Executive Secretaries and Executive Administrative Assistants	62.72	2	125.44
Legal Secretaries and Administrative Assistants	50.72	20	1,014.40
Burden and Cost for Each Issuer, FEHB Carrier, TPA, and PBM		65	5,524.28
Total Burden and Cost for Each Contract Negotiation Between an Issuer, FEHB Carrier, or TPA and Their PBM		130	11,048.56
Total Burden and Cost for All Contract Negotiations		94,120	7,999,157.44

[37] The total hour burden and equivalent cost of burden were calculated as follows: Burden Hours per Contract Modification × Number of Contract Modifications = Total Burden Hours (130 × 724 = 94,120); Total Cost per Contract Modification × Number of Contract Modifications = Equivalent Total Cost ($11,049 × 724 = $7,999,157).

All reporting entities will incur costs associated with developing standard operating procedures and training staff responsible for submitting the required data. The Departments and OPM assume that each of the 473 issuers, 46 FEHB carriers, 205 TPAs, and 66 PBMs will require the time of general and operations managers, computer and information systems managers, business operation specialists, computer programmers, and secretaries and administrative assistants to develop new standard operating procedures and deliver or receive training. The adjusted hourly wages for those involved in these changes in standard operating procedures and training requirements are presented in Table 2.

The Departments and OPM estimate that for each issuer, FEHB carrier, TPA, and PBM, it will take 8 hours for general managers, 8 hours for information system managers, 40 hours for business operation specialists, 4 hours for computer programmers, and 4 hours for administrative assistants to prepare new standard operating procedures and train staff regarding the data submission requirements. The total burden for each issuer, FEHB carrier, TPA, and PBM will be 64 hours with an associated cost of approximately $5,977. The total estimated burden of changing standard operating procedures and training staff for all 790 issuers, FEHB carriers, TPAs, and PBMs is 50,560 hours, with an associated equivalent cost of $4,721,862.[38] The Departments and OPM assume that this cost will be incurred in 2022. The calculations and the total burden and cost associated with developing standard operating procedures and training staff are presented in Table 4. The Departments and OPM seek comment on these estimates.

TABLE 4—BURDEN AND COSTS TO ISSUERS, FEHB CARRIERS, TPAS, AND PBMS ASSOCIATED WITH DEVELOPING STANDARD OPERATING PROCEDURES AND TRAINING STAFF

Occupation	2022		
	Adjusted hourly wage ($/hour)	Time (hours)	Estimated labor cost
General and Operations Managers	$120.90	8	$967.20
Computer and Information Systems Managers	155.52	8	1,244.16
Project Management Specialists and Business Operations Specialists, All Other	81.06	40	3,242.40
Computer Programmers	91.96	4	367.84
Secretaries and Administrative Assistants, Except Legal, Medical, and Executive	38.86	4	155.44
Burden and Cost for Each Issuer, FEHB Carrier, TPA, and PBM		64	5,977.04
Total Burden and Cost Associated with Developing Standard Operating Procedures and Training Staff		50,560	4,721,861.60

The federal government will incur costs of approximately $4.4 million in 2021, $8.5 million in 2022, $7.3 million in 2023, $7.4 million in 2024, and $7.9 million in 2025 to build and maintain a system to receive and store the information submitted by issuers, FEHB carriers, TPAs, and PBMs, to analyze the data, and to prepare section 204 public reports.

c. Transfers

These interim final rules could potentially lead to transfers from providers, facilities, pharmaceutical manufacturers, and/or PBMs to plans, issuers, and FEHB carriers if plans, issuers, and FEHB carriers are able to achieve greater negotiating power because of improved understanding of prescription drug costs. If consumers are able to make informed plan selections or prescription drug purchases in response to improved understanding of prescription drug costs (including trends in prescription drug prices and the impact of pharmaceutical manufacturer rebates, fees, and other remuneration on premiums and out-of-pocket costs), these interim final rules could also potentially lead to transfers from pharmaceutical manufacturers, PBMs, and/or plans, issuers, and FEHB carriers to consumers in the form of lower prescription drug prices. The Departments and OPM seek comment on any potential transfers that may occur as a result of the data submission requirements in these interim final rules.

C. Regulatory Alternatives

In developing these interim final rules, the Departments considered various alternative approaches.

Aggregation. The Departments and OPM considered requiring plans, issuers, and FEHB carriers to submit all of the required information on a plan-by-plan basis, rather than allowing reporting entities to submit aggregated data. However, as explained in section II.C.3. of this preamble, this approach would impose a large administrative burden on regulated entities and would also result in less accurate and meaningful top 50 and top 25 lists, which would inhibit the Departments' ability to produce accurate and meaningful section 204 public reports as required by the statute. Collecting the top 50 lists separately for each group health plan could produce a distorted view of the market due to the small sample sizes that would underlie these top 50 lists, and due to the Departments' inability to combine data from such plan-specific top 50 lists to determine aggregate prescription drug and rebate trends nationwide and within market segments. Collecting the top 25 rebate list for each group health plan would produce an inaccurate view of rebates, fees, and other remuneration as these rebates are not provided at the individual prescription level, and often not even at the plan level; thus, TPAs and issuers would have to speculate as to actual amounts of rebates and any price concessions for each plan. In addition, this approach would be inconsistent with the approach taken in other HHS data collections. Further, collecting plan-level, drug-specific data would increase the likelihood of collecting and transmitting patient health data and personally identifiable information, and the attendant risk of inadvertent or inappropriate disclosure of this information.

[38] The total hour burden and equivalent cost of burden were calculated as follows: Burden Hours per Entity × Number of Entities = Total Burden Hours (64 × 790 = 50,560); Total Cost per Entity × Number of Entities = Equivalent Total Cost ($5,977 × 790 = $4,721,862).

However, as noted in section II.C.3. of this preamble, the Departments and OPM will continue to review the merits of this alternative approach and may modify the approach to aggregation in future rulemaking.

Plan Year. The Departments and OPM considered requiring plans, issuers, and FEHB carriers to submit the required data by plan or coverage year determined according to the effective dates of each plan or policy. However, this approach is inconsistent with other HHS data collections and would limit the Departments' ability to compare trends among group and individual market segments, public- and private-sponsored health coverage, and multiple data sources. Evaluation of market trends is important both for policy development and for the required section 204 public report.

Definition of Drug. The Departments and OPM considered several different classification systems to define a drug for the purposes of section 204 data submissions. The NDC is very granular, containing information on the labeler, active ingredient, form, strength, and packaging of drugs, and would provide robust information if the Departments could collect data for every code. However, section 9825 of the Code, section 725 of ERISA, and section 2799A–10 of the PHS Act give the Departments authority to collect only the information on the top 50 or top 25 drugs, as applicable, by plan or coverage. Given this limited scope of the data collection, a lower level of granularity is preferable for obtaining the most representative information possible, since multiple variations of essentially the same drug [39] are unique NDCs. With access to only the top 50 NDCs, the Departments therefore would not have the data for all NDCs associated with a given prescription drug, and thus would not be able to consolidate the NDC information to identify meaningful trends in the prescription drug markets. The Departments and OPM also considered using the RxNorm Concept Unique Identifier (RxCUI), which is slightly less granular than the NDC, but RxCUI-level data collection suffers from many of the same limitations as NDC-level data collection, and commenters responding to the RFI overwhelmingly advised against collecting the data based on RxCUI because it is not widely used by reporting entities. Instead, many public reports, such as the 2020 Report to Congress on Prescription Drug Pricing prepared by the HHS Office of the Assistant Secretary for Planning and Evaluation (ASPE),[40] use a name and ingredient system that identifies drugs at a higher level, rather than granular systems such as NDC or RxCUI, to compare drug information across markets and across time. Most commenters responding to the RFI also recommended the use of a classification that would ensure that the same drug in various formulations or dosages would not appear on the top 50 lists multiple times, such as a classification based on name and ingredient. Ultimately, the Departments and OPM determined that the most useful data would be collected if prescription drug information is grouped by name and ingredient.

Most Costly Drugs. The Departments and OPM considered requiring plans, issuers, and FEHB carriers to rank the 50 most costly drugs based on spending per dosage unit rather than based on total annual spending. Per-unit spending would reflect drug prices and capture in the top 50 list the cost of the drug without the influence of the number of times a drug was prescribed. In contrast, total spending may capture the top 50 list inexpensive generic drugs that are frequently prescribed and purchased. However, the statutory language suggests that in the section 204 data submission requirements, Congress sought to identify the drugs that drive the overall prescription drug expenditure in the United States, rather than the drugs with the highest unit prices. Ranking the top 50 most costly drugs by total annual spending will provide a more informative comparison to the top 25 drugs that yielded the highest amount of prescription drug rebates because both lists would be based on total, rather than per-unit, dollar amounts.

Leveraging Similar Data Collections under the PHS Act. The Departments analyzed the reporting requirements under several existing PHS Act provisions related to prescription drug and health care spending to determine whether any of the data required under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act are already available to the Departments pursuant to other reporting requirements. The data collection requirements under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act have some similarities to the requirements under section 2718(a) of the PHS Act implemented in the MLR rules,[41] as well as section 1150A of the Social Security Act, which is implemented in the Exchange Establishment rule and the PBM Transparency rule. However, there are several important distinctions.

Section 2718(a) of the PHS Act addresses clear accounting for the costs of health insurance coverage, including health care spending, and generally requires issuers to submit annual MLR reports to HHS. HHS implemented these reporting requirements in the MLR rules, codified at 45 CFR part 158. Similar to section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act, the MLR rules require issuers to report data on premiums [42] and claims, including prescription drug claims and rebates.[43] However, unlike the requirements in section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act, the MLR rules do not require that premiums be broken down by amounts paid by employers versus employees; do not break down health care spending costs, other than prescription drug costs, by type; do not break down prescription drug costs by amounts paid by the plan or issuer versus participants, beneficiaries, and enrollees; and do not require reporting of drug-level prescription drug and rebate data. Therefore, while the total amounts for certain items reported under section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act and the MLR rules may match, the amounts currently reported by issuers under the MLR rules cannot be used to satisfy all of the relevant requirements of section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act. Additionally, the MLR rules do not apply to self-funded group health plans (although issuers report certain aggregate information with respect to the experience of self-funded group health plans for which issuers provide administrative services), and data attributable to FEHB plans is not separated out under the MLR rules.

Section 1150A of the Social Security Act requires a health benefit plan or a PBM that manages prescription drug coverage under a contract with a QHP issuer to provide certain prescription drug information to the Secretary of

[39] This characterization is used only for purposes of these interim final rules and is not intended to reflect or suggest any such characterization by FDA.

[40] *https://aspe.hhs.gov/system/files/aspe-files/263451/2020-drug-pricing-report-congress-final.pdf.*

[41] 75 FR 74863 (Dec. 1, 2010); *see also* 76 FR 76573 (Dec. 7, 2011), 77 FR 28790 (May 16, 2012), 78 FR 15409 (Mar. 11, 2013), 79 FR 30339 (May 27, 2014), 80 FR 10749 (Feb. 27, 2015), 85 FR 29164 (May 14, 2020), 86 FR 24140 (May 5, 2021).

[42] 45 CFR 158.130.

[43] 45 CFR 158.140.

HHS.[44] This information includes: (a) The percentage of prescriptions dispensed through retail versus mail order pharmacies; (b) the percentage of prescriptions for generic drugs; (c) the amount and type of rebates, discounts, or price concessions (excluding bona fide service fees) that the PBM negotiates that are attributable to utilization under the plan; (d) the amount of rebates, discounts, or price concessions passed through to the plan sponsor; (e) the total number of prescriptions that were dispensed; and (f) the difference between the amount that the plan pays the PBM and the amount that the PBM pays pharmacies. HHS implemented these reporting requirements as they apply to QHP issuers in the Exchange Establishment rule,[45] and implemented these reporting requirements as they apply to PBMs in the PBM Transparency rule.[46]

Section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act, the Exchange Establishment rule, and the PBM Transparency rule require issuers to report some of the same information regarding prescription drug rebates. However, section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act apply to all plans and issuers, whereas the Exchange Establishment rule and the PBM Transparency rule only apply to individual and small group market QHPs and their PBMs. Therefore, reporting under the Exchange Establishment rule and PBM Transparency rule will not fully satisfy the relevant requirements of section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act. However, as discussed in section II.C.2.e. of the preamble, to reduce reporting burden, these interim final rules align collection of certain data elements in the section 204 data submissions with the data elements collected under the Exchange Establishment rule and the PBM Transparency rule.

D. Paperwork Reduction Act—Department of Health and Human Services

Under the Paperwork Reduction Act of 1995 (PRA), the Departments and OPM are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. These interim final rules contain information collection requirements (ICRs) that are subject to review by OMB. A description of these provisions is given in the following paragraphs with an estimate of the annual burden, summarized in Table 18. To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that the Departments and OPM solicit comment on:

- The need for the information collection and its usefulness in carrying out the proper functions of the agency;
- The accuracy of the Departments' estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The Departments and OPM are soliciting public comment on each of the required issues under section 3506(c)(2)(A) of the PRA for the following ICRs.

Contemporaneously with the publication of these interim final rules, HHS has submitted a request for a new ICR containing the information collection requirements for the prescription drug and health care spending requirements created by section 204 of Title II of Division BB of the CAA. HHS has requested emergency review and approval in accordance with 5 CFR 1320.13(a)(2)(i) and (iii) of the PRA. The Secretaries of the Departments and the OPM Director have determined that public harm is likely to result and the collection of information is likely to be delayed if normal clearance procedures are followed. The ICR will be available at *https://www.RegInfo.gov.*

The Departments and OPM will be requesting approval of the emergency review requests by the effective date of these interim final rules. The Departments and OPM will be seeking approval for the ICRs for 180 days, the maximum allowed for an ICR approved using an emergency review. These interim final rules also serve as the notice providing the public with a 60-day period to submit written comments on the ICRs as part of the normal clearance process under the PRA.

1. Wage Estimates

The Departments and OPM have chosen to use the Contract Awarded Labor Category (CALC) [47] database tool to derive the hourly rates for the burden and cost estimates in these interim final rules to derive estimates of costs related to the ICR. The Departments and OPM chose to use wages derived from the CALC database because, even though the BLS data set is valuable to economists, researchers, and others that would be interested in larger, more macro-trends in parts of the economy, the CALC data set is meant to help market research based on existing government contracts in determining how much a project/product will cost based on the required skill sets needed and it includes some occupation types that are not available in the BLS data set.

[44] QHPs are offered in the individual and small group markets. Section 1150A(a) of the Social Security Act also applies to Medicare Part D plans and Medicare Advantage plans offering a prescription drug plan, and PBMs that manage prescription drug coverage under contract with a prescription drug plan sponsor of a prescription drug plan or a Medicare Advantage organization offering a Medicare Advantage prescription drug plan.

[45] 77 FR 18308 (Mar. 27, 2012).

[46] 86 FR 24140 (May 5, 2021).

[47] The CALC tool (*https://calc.gsa.gov/*) was built to assist acquisition professionals with market research and price analysis for labor categories on multiple U.S. General Services Administration (GSA) & Veterans Administration (VA) contracts. Wages obtained from the CALC database are fully burdened to account for fringe benefits and overhead costs.

TABLE 5—CALC HOURLY WAGES USED IN BURDEN ESTIMATES

Occupation:	Hourly wage rate
Project Manager/Team Lead	$110
Scrum Master	110
Senior Business Analysis	134
Technical Architect/Sr. Developer	207
DevOps Engineer/Security Engineer	143
Application Developer	111

2. ICRs Regarding Reporting of Prescription Drug and Health Care Spending (45 CFR 149.720, 149.730, and 149.740)

As discussed in section II.C. of this preamble, section 9825(a) of the Code, section 725(a) of ERISA, and section 2799A–10(a) of the PHS Act require plans and issuers to annually submit to the Departments certain information about prescription drugs and health care spending, including, but not limited to, average monthly premium amounts, and the number of participants, beneficiaries, and enrollees, as applicable, with respect to the plan or coverage in the previous plan year. In these interim final rules, OPM also directs FEHB carriers to comply with these requirements with respect to an FEHB plan in the same manner as such provisions apply to a group health plan or health insurance issuer offering group or individual health insurance coverage. The burden estimates are based on the expected time and effort for reporting entities to prepare and submit the required data. The Departments assume that for self-funded group health plans, the costs will be incurred by TPAs and that prescription drug information will be submitted by PBMs on behalf of plans and issuers. Costs incurred by TPAs and PBMs are likely to be passed on to plans, issuers, and FEHB carriers. The Departments acknowledge that some large self-funded plans may seek to make needed IT changes and report the required information to HHS without the use or assistance of a TPA or other third-party entity. In those instances, the self-funded plan will directly incur the burden and cost to meet the requirements of these interim final rules. The Departments are unable to determine how many self-funded plans may choose to develop their IT systems and report the required information to HHS and seek comment as to the number of plans that may choose to do so. The Departments assume that all costs will be incurred in 2022 and beyond.

The Departments and OPM estimate there are 473 issuers and 46 FEHB carriers offering group and individual and health insurance coverage, 205 TPAs (generally on behalf of self-funded group health plans), and 66 PBMs (on behalf of plans, issuers, and FEHB carriers) that will submit the required data annually.

In 2022, reporting entities will incur a one-time cost to make changes to their IT systems to include the development of programs, processes, and systems for reporting the data. In 2023 and beyond, each entity will incur annual costs to update and maintain reporting capabilities and to report the required data to the Departments.

For issuers and FEHB carriers, the Departments and OPM estimate that in 2022, each issuer and FEHB carrier will incur a one-time first-year cost and hour burden to design, develop, and implement needed IT systems changes to collect and submit the required data to the Departments as set forth in these interim final rules, including obtaining employer and employee premium contributions from employers providing group health coverage. The Departments and OPM estimate that for each issuer and FEHB carrier, on average, it will take Project Managers/Team Leads 2,080 hours (at $110 per hour), Scrum Masters 1,560 hours (at $110 per hour), Senior Business Analysts 1,040 hours (at $134 per hour), Technical Architects/Sr. Developers 2,080 hours (at $207 per hour), Application Developers 2,080 hours (at $111 per hour), and DevOps Engineers/Security Engineers 520 hours (at $143 per hour) to complete this task. The Departments and OPM estimate the total burden per issuer will be approximately 9,360 hours, with an equivalent cost of approximately $1,275,560. For all 519 issuers and FEHB carriers, the total first-year burden is estimated to be 4,857,840 hours with an equivalent total cost of approximately $662,015,640.[48]

[48] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondent = Total Burden Hours (9,360 × 519 = 4,857,840). Total Cost per Respondent × Number of Respondents = Total Cost ($1,275,560 × 519 = $662,015,640).

TABLE 6—ESTIMATED TOTAL FIRST-YEAR COST AND HOUR BURDEN FOR ISSUERS AND FEHB CARRIERS TO DESIGN, DEVELOP AND IMPLEMENT NEEDED IT SYSTEM CHANGES AND SUBMIT REQUIRED DATA

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
519	519	9,360	4,857,840	$662,015,640

In addition to the one-time first-year cost and burden estimated in the previous section of this preamble, issuers and FEHB carriers will incur an additional one-time cost and burden in the second year of implementation to maintain and update their IT systems and to submit the required data to the Departments. The Departments and OPM estimate that for each issuer and FEHB carrier it will take Project Managers/Team Leads 520 hours (at $110 per hour), Scrum Masters 260 hours (at $110 per hour), Senior Business Analysts 260 hours (at $134 per hour), Technical Architects/Sr. Developers 520 hours (at $207 per hour), Application Developers 520 hours (at $111 per hour), and DevOps Engineers/Security Engineers 260 hours (at $143 per hour) to perform these tasks. The Departments and OPM estimate the total second-year burden for each issuer will be 2,340 hours, with an equivalent cost of approximately $323,180. For all 519 issuers and FEHB carriers, the total one-time second-year implementation and reporting burden is estimated to be 1,214,460 hours with an equivalent total cost of approximately $167,730,420. The cost and burden associated with the second year will be incurred in 2023.[49]

TABLE 7—ESTIMATED ONE-TIME SECOND-YEAR COST AND HOUR BURDEN FOR ISSUERS AND FEHB CARRIERS TO UPDATE AND MAINTAIN IT SYSTEMS AND SUBMIT REQUIRED DATA

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
519	519	2,340	1,214,460	$167,730,420

In addition to the one-time first-year and second-year costs and burdens estimated earlier in this section of this preamble, issuers and FEHB carriers will incur ongoing annual costs, to be incurred from 2024 onward, related to ensuring submission accuracy, providing quality assurance, conducting maintenance and making updates, enhancing or updating any needed security measures, and submitting the required data to the Departments. The Departments and OPM estimate that for each issuer and FEHB carrier it will take Project Managers/Team Leads 520 hours (at $110 per hour), Scrum Masters 260 hours (at $110 per hour), Senior Business Analyst 40 hours (at $134 per hour), Technical Architects/Sr. Developers 520 hours (at $207 per hour), Application Developers 260 hours (at $111 per hour), and DevOps Engineers/Security Engineers 260 hours (at $143 per hour) to perform these tasks. The total annual burden for each issuer and FEHB carrier will be 1,860 hours, with an equivalent cost of approximately $264,840. For all 519 issuers and FEHB carriers, the total annual maintenance and reporting burden is estimated to be 965,340 hours with an equivalent total cost of approximately $137,451,960.[50] The Departments and OPM consider this to be an upper-bound estimate and expect maintenance costs to decline in succeeding years as issuers gain efficiencies and experience in updating, managing, and submitting the required data.

TABLE 8—ESTIMATED ANNUAL COST AND HOUR BURDEN FOR MAINTENANCE AND REPORTING FOR ALL ISSUERS

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
519	519	1,860	965,340	$137,451,960

The Departments and OPM estimate the three-year average annual total burden for all 519 issuers and FEHB carriers to develop, build, and maintain needed IT systems changes to collect and aggregate the required data, and submit that data to the Departments, will be 2,345,880 hours with an average annual total cost of $322,399,340. The total annual burden for all respondents is likely overestimated because the estimate does not reflect process efficiencies for FEHB carriers that are also issuers. As HHS, DOL, the Department of the Treasury, and OPM share jurisdiction, HHS will account for 45 percent of the burden, or approximately 1,055,646 burden hours with an equivalent cost of approximately $145,079,703. The Departments and OPM seek comment on these estimates.

[49] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondent = Total Burden Hours (2,340 × 519 = 1,214,460). Total Cost per Respondent × Number of Respondents = Total Cost ($323,180 × 519 = $167,730,420).

[50] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondent = Total Burden Hours (1,860 × 519 = 965,340). Total Cost per Respondent × Number of Respondents = Total Cost ($264,840 × 519 = $137,451,960).

TABLE 9—ANNUAL BURDEN FOR ISSUERS AND FEHB CARRIERS IN THE INDIVIDUAL AND GROUP MARKETS

	Estimated number of respondents	Estimated number of responses	Burden per response (hours)	Total estimated annual burden (hours)	Total estimated labor cost ($)
2022	234	234	9,360	2,186,028	$297,907,038
2023	234	234	2,340	546,507	75,478,689
2024	234	234	1,860	434,403	61,853,382
Three-year average	234	234	4,520	1,055,646	145,079,703

For TPAs, the Departments and OPM estimate that in 2022, each TPA will incur a one-time first-year cost and burden to design, develop, and implement needed IT systems changes to collect and submit, generally on behalf of self-funded group health plans, the data required under these interim final rules, including obtaining employer and employee premium contributions from employers providing group health coverage. The Departments and OPM estimate that for each TPA, on average, it will take Project Managers/Team Leads 2,080 hours (at $110 per hour), Scrum Masters 1,560 hours (at $110 per hour), Senior Business Analysts 1,040 hours (at $134 per hour), Technical Architects/Sr. Developers 2,080 hours (at $207 per hour), Application Developers 2,080 hours (at $111 per hour), and DevOps Engineers/Security Engineers 520 hours (at $143 per hour) to complete this task. The Departments and OPM estimate the total burden per TPA will be approximately 9,360 hours, with an equivalent cost of approximately $1,275,560. For all 205 TPAs, the total one-time first-year implementation and reporting burden is estimated to be 1,918,800 hours with an equivalent total cost of approximately $261,489,800.[51]

TABLE 10—ESTIMATED TOTAL ONE-TIME FIRST-YEAR COST AND HOUR BURDEN FOR TPAS TO DESIGN, DEVELOP, AND IMPLEMENT NEEDED IT SYSTEMS CHANGES AND SUBMIT REQUIRED DATA

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
205	205	9,360	1,918,800	$261,489,800

In addition to the one-time first-year cost and burden estimated in the previous section of this preamble, TPAs will incur an additional one-time cost and burden in the second year of implementation to maintain and update their IT systems and to submit the data to the Departments. The Departments and OPM estimate that for each TPA it will take Project Managers/Team Leads 520 hours (at $110 per hour), Scrum Masters 260 hours (at $110 per hour), Senior Business Analysts 260 hours (at $134 per hour), Technical Architects/Sr. Developers 520 hours (at $207 per hour), Application Developers 520 hours (at $111 per hour), and DevOps Engineers/Security Engineers 260 hours (at $143 per hour) to perform these tasks. The total second-year burden for each TPA will be 2,340 hours, with an equivalent cost of approximately $323,180. For all 205 TPAs, the total one-time second-year implementation and reporting burden is estimated to be 479,700 hours with an equivalent total cost of approximately $66,251,900.[52] The cost and burden associated with the second year will be incurred in 2023.

TABLE 11—ESTIMATED ONE-TIME SECOND-YEAR COST AND HOUR BURDEN FOR TPAS TO UPDATE AND MAINTAIN IT SYSTEMS AND SUBMIT REQUIRED DATA

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
205	205	2,340	479,700	$66,251,900

In addition to one-time first-year and second-year costs and burdens estimated in the previous sections of this preamble, TPAs will incur ongoing annual costs, in 2024 and subsequent years, related to ensuring submission accuracy, providing quality assurance, conducting maintenance and making updates, enhancing or updating any needed security measures, and submitting the required data to the Departments. The Departments and OPM estimate that for each TPA it will take Project Managers/Team Leads 520 hours (at $110 per hour), Scrum Masters 260 hours (at $110 per hour), Senior Business Analysts 40 hours (at $134 per hour), Technical Architects/Sr. Developers 520 hours (at $207 per hour), Application Developers 260 hours (at $111 per hour), and DevOps Engineers/Security Engineers 260 hours (at $143 per hour) to perform these tasks. The total annual burden for each TPA will be 1,860 hours, with an equivalent cost of approximately $264,480. For all 205 TPAs, the total

[51] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondent = Total Burden Hours (9,360 × 205 = 1,918,800). Total Cost per Respondent × Number of Respondents = Total Cost ($1,275,560 × 205 = $261,489,800).

[52] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondent = Total Burden Hours (2,340 × 205 = 479,700). Total Cost per Respondent × Number of Respondents = Total Cost ($323,180 × 205 = $66,251,900).

annual ongoing maintenance and reporting burden is estimated to be 381,300 hours with an equivalent total cost of approximately $54,292,200.[53] The Departments and OPM consider this to be an upper-bound estimate and expect maintenance costs to decline in succeeding years as issuers gain efficiencies and experience in updating, managing, and submitting the required data.

TABLE 12—ESTIMATED ANNUAL COST AND HOUR BURDEN FOR MAINTENANCE AND REPORTING FOR ALL TPAS

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
205	205	1,860	381,300	$54,292,200

The Departments and OPM estimate the 3-year average annual total burden for all 205 TPAs to develop, build, and maintain needed IT systems changes to collect and aggregate the required data, and submit that data to the Departments, will be 926,600 hours with an average annual total cost of $127,344,633. As HHS, DOL, the Department of the Treasury, and OPM share jurisdiction, HHS will account for 45 percent of the burden, or approximately 416,970 burden hours with an equivalent cost of approximately $57,305,085. The Departments and OPM seek comment on these burden estimates.

TABLE 13—ANNUAL BURDEN FOR TPAS TO DEVELOP AND MAINTAIN NEEDED IT SYSTEMS CHANGES AND SUBMIT REQUIRED DATA

	Estimated number of respondents	Estimated number of responses	Burden per response (hours)	Total estimated annual burden (hours)	Total estimated labor cost ($)
2022	92	92	9,360	863,460	$117,670,410
2023	92	92	2,340	215,865	19,813,355
2024	92	92	1,860	171,585	24,431,490
Three-year Average	92	92	4,520	416,970	57,305,085

For PBMs, the Departments and OPM estimate that in 2022, each PBM will incur a one-time first-year cost and burden to design, develop, and implement needed IT systems changes to collect and submit, on behalf of plans and issuers, the data required under these interim final rules. The Departments and OPM estimate that for each PBM, on average, it will take Project Managers/Team Leads 2,080 hours (at $110 per hour), Scrum Masters 2,080 hours (at $110 per hour), Senior Business Analysts 1,560 hours (at $134 per hour), Technical Architects/Sr. Developers 2,080 hours (at $207 per hour), Application Developers 4,160 hours (at $111 per hour), and DevOps Engineers/Security Engineers 780 hours (at $143 per hour) to complete this task. The Departments and OPM estimate the total burden per PBM will be approximately 12,740 hours, with an equivalent cost of approximately $1,670,500. For all 66 PBMs, the total one-time first-year implementation and reporting burden is estimated to be 840,840 hours with an equivalent total cost of approximately $110,253,000.[54]

TABLE 14—ESTIMATED TOTAL ONE-TIME FIRST-YEAR COST AND HOUR BURDEN FOR PBMS TO DESIGN, DEVELOP, AND IMPLEMENT NEEDED IT SYSTEMS CHANGES AND SUBMIT REQUIRED DATA

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
66	66	12,740	840,840	$110,253,000

In addition to the one-time first-year cost and burden estimated in the previous section of this preamble, PBMs will incur additional one-time cost and burden in the second year of implementation to maintain and update their IT systems and to submit the required data to the Departments. The Departments and OPM estimate that for each PBM it will take Project Managers/Team Leads 1,040 hours (at $110 per hour), Scrum Master 1,040 hours (at $110 per hour), Senior Business Analysts 780 hours (at $134 per hour), Technical Architects/Sr. Developers 1,040 hours (at $207 per hour), Application Developers 2,340 hours (at $111 per hour), and DevOps Engineers/Security Engineers 260 hours (at $143 per hour) to perform these tasks. The total second-year burden for each PBM will be 6,500 hours, with an equivalent cost of approximately $845,520. For all 66 PBMs, the total one-time second-year implementation and reporting burden is estimated to be 429,000 hours with an

[53] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondent = Total Burden Hours (1,860 × 205 = 381,300). Total Cost per Respondent × Number of Respondents = Total Cost ($264,480 × 205 = $54,292,200).

[54] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondents = Total Burden Hours (12,740 × 66 = 840,840). Total Cost per Respondent × Number of Respondents = Total Cost ($1,670,500 × 66 = $110,253,000).

equivalent total cost of approximately $55,804,320.[55]

TABLE 15—ESTIMATED ONE-TIME SECOND-YEAR COST AND HOUR BURDEN FOR PBMS TO UPDATE AND MAINTAIN IT SYSTEMS AND SUBMIT REQUIRED DATA

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
66	66	6,500	429,000	$55,804,320

In addition to the one-time first-year and second-year costs and burdens estimated in the previous sections of this preamble, PBMs will incur ongoing annual costs related to ensuring submission accuracy, providing quality assurance, conducting maintenance and making updates, enhancing or updating any needed security measures, and submitting the required data to the Departments. The Departments and OPM estimate that for each PBM it will take Project Managers/Team Leads 520 hours (at $110 per hour), Scrum Masters 260 hours (at $110 per hour), Senior Business Analysts 40 hours (at $134 per hour), Technical Architects/Sr. Developers 520 hours (at $207 per hour), Application Developers 520 hours (at $111 per hour), and DevOps Engineers/Security Engineers 260 hours (at $143 per hour) to perform these tasks. The Departments and OPM estimate the total annual burden for each PBM will be 2,120 hours, with an equivalent cost of approximately $293,700. For all 66 PBMs, the total annual maintenance and submission burden is estimated to be 139,920 hours with an equivalent total cost of approximately $19,384,200.[56] The Departments and OPM consider this to be an upper-bound estimate and expect maintenance costs to decline in succeeding years as PBMs gain efficiencies and experience in updating, managing, and submitting the required data.

TABLE 16—ESTIMATED ANNUAL COST AND HOUR BURDEN FOR MAINTENANCE AND REPORTING FOR ALL PBMS

Number of respondents	Number of responses	Burden hours per respondent	Total burden hours	Total cost
66	66	2,120	139,920	$19,384,200

The Departments and OPM estimate the three-year average annual total burden for all 66 PBMs to develop, build, and maintain needed IT systems changes to collect and aggregate the required data, and submit that data to the Departments, will be 469,920 hours with an average annual total cost of $61,813,840. As HHS, DOL, the Department of the Treasury, and OPM share jurisdiction, HHS will account for 45 percent of the burden, or approximately 211,464 hours, with an equivalent cost of approximately $27,816,228. The Departments and OPM seek comment on these burden estimates.

TABLE 17—ANNUAL BURDEN FOR PBMS TO DEVELOP AND MAINTAIN NEEDED IT SYSTEMS CHANGES AND SUBMIT REQUIRED DATA

	Estimated number of respondents	Estimated number of responses	Burden per response (hours)	Total estimated annual burden (hours)	Total estimated labor cost ($)
2022	30	30	12,740	378,378	$49,613,850
2023	30	30	6,500	193,050	25,111,944
2024	30	30	2,120	62,964	8,722,890
Three-year Average	30	30	7,120	211,464	27,816,228

Plans will need to provide information on the average monthly premiums paid by participants, beneficiaries, and enrollees, as applicable, and paid by employers on behalf of participants, beneficiaries, and enrollees, as applicable, to issuers and TPAs, so that issuers and TPAs can report this information to the Departments on behalf of plans. This information is compiled by plans for other reporting purposes and should be readily available. The Departments and OPM assume that plans will be able to provide the information to issuers, FEHB carriers, and TPAs at minimal cost.

In developing the cost and burden estimates in this ICR, the Departments and OPM recognize that while there may be various reporting entities that submit the required information, IT development will require varying

[55] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondents = Total Burden Hours (6,500 × 66 = 429,000). Total Cost per Respondent × Number of Respondents = Total Cost ($845,520 × 66 = $55,804,320).

[56] Calculation of totals was done as follows: Burden Hours per Respondent × Number of Respondent = Total Burden Hours (2,120 × 66 = 139,920). Total Cost per Respondent × Number of Respondents = Total Cost ($293,700 × 66 = $19,384,200).

degrees of effort across the reporting entities. The Departments and OPM also recognize that some reporting entities will have mature in-house engineering teams and systems that can quickly respond to the requirements in these interim final rules, while others may have contracts with external firms and may require contract negotiation to develop and build the IT systems needed to meet the requirements. There may also be process efficiencies for issuers that are also FEHB carriers. Additionally, software and system maintenance will depend on various factors such as: The maturity of software in use; the ability to access data; software development resources or ability; any dependency upon third-party developers; the size of the reporting entity; and the number of plans. Due to these unknown factors, the estimates in these ICRs are the average cost and burden each entity will assume to develop and build an IT system from scratch. The Departments and OPM seek comment on these assumptions and what barriers reporting entities may face in developing their IT systems to meet the requirements in these interim final rules. HHS is seeking an OMB control number and approval for the proposed information collection (OMB control number: 0938–NEW (Prescription Drug and Health Care Spending (CMS–10788))).

3. Summary of Annual Burden Estimates for Information Collection Requirements

TABLE 18—ANNUAL RECORDKEEPING AND REPORTING REQUIREMENTS

Regulation	OMB control No.	Respondents	Responses	Burden per response (hours)	Total annual burden (hours)	Hourly labor cost of reporting	Total cost ($)
45 CFR 149.720, 730, 740—issuer	0938–NEW	234	234	4,520	1,055,646	$137	$145,079,703
45 CFR 149.720, 730, 740—TPA	0938–NEW	92	92	4,520	416,970	137	57,305,085
45 CFR 149.720, 730, 740—PBM	0938–NEW	30	30	7,120	211,464	132	27,816,228
Total		356	356		1,684,080		230,201,016

4. Submission of PRA-Related Comments

The Departments and OPM submitted a copy of these interim final rules to OMB for review of the rules' information collection and recordkeeping requirements. These requirements are not effective until they have been approved by OMB.

To obtain copies of the supporting statement and any related forms for the proposed collections discussed above, please visit *www.cms.hhs.gov/PaperworkReductionActof1995* or call the Reports Clearance Office at 410–786–1326.

The Departments and OPM invite public comments on these potential information collection requirements. If you wish to comment, please submit your comments electronically as specified in the ''Addresses'' section of these rules and identify the rule (CMS–9905–IFC) and the ICR's CFR citation.

ICR-related comments are due January 24, 2022.

E. Paperwork Reduction Act—Department of Labor, Department of the Treasury, and the Office of Personnel Management

As part of the continuing effort to reduce paperwork and respondent burden, the Departments and OPM conduct a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA. This process helps to ensure that the public understands the Departments' and OPM's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Departments and OPM can properly assess the impact of collection requirements on respondents.

Contemporaneously with the publication of these interim final rules, HHS as the host agency has submitted a request for a new common form ICR containing the information collection requirements for the prescription drug and health care spending requirements created by section 204 of Title II of Division BB of the CAA. Once HHS has obtained OMB approval for the information collection, DOL, the Department of the Treasury, and OPM will seek OMB approval to use the common form ICR by providing its agency-specific information to OMB.

Under the PRA, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number.

The information collections are summarized as follows:

1. ICRs Regarding Reporting of Prescription Drug and Health Care Spending (26 CFR 54.9825–1T—6T, 29 CFR 2590.725–1—4)

As discussed earlier in the HHS Paperwork Reduction Act section (V.D.2) of this preamble, issuers, FEHB carriers, TPAs, and PBMs will incur costs to submit the required information to the Departments. The Departments and OPM estimate the three-year average annual total burden, for all 519 issuers and FEHB carriers to develop, build, and maintain needed IT systems changes to collect and aggregate the required information, and submit that information to the Departments, will be 2,345,880 hours with an average annual total cost of $322,399,340. The three-year average annual total burden, for all 205 TPAs to develop, build, and maintain needed IT systems changes to collect and aggregate the required information, and submit that information to the Departments, is estimated to be 926,600 hours with an average annual total cost of $127,344,633. In addition, the three-year average annual total burden, for all 66 PBMs to develop, build, and maintain needed IT systems changes to collect and aggregate the required information, and submit that information to the Departments, will be 469,920 hours with an average annual total cost of $61,813,840. As DOL, the Department of the Treasury, OPM, and HHS share jurisdiction, HHS will account for 45 percent of the burden, DOL will account for 25 percent, the Department of the Treasury will account for 25 percent, and OPM will account for 5 percent. The burden accounted for by DOL and the Department of the Treasury each is presented in Table 19 and the burden accounted for by OPM is presented in Table 20.

TABLE 19—ANNUAL RECORDKEEPING AND REPORTING REQUIREMENTS FOR DOL AND THE DEPARTMENT OF THE TREASURY

Respondent	Number of respondents	Number of responses	Total annual burden (hours)	Total labor cost of reporting
FEHB carrier	130	130	586,470	$80,599,835
TPA	51	51	231,650	31,836,158
PBM	17	17	117,480	15,453,460
Total	198	198	935,600	127,889,453

Agency: DOL–EBSA, Treasury–IRS, OPM–FEHB.

Type of Review: New information collection.

Title: Reporting of Prescription Drug and Health Care Spending.

OMB Control Number: NEW.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Forms:

Estimated Total Respondents: 198.

Estimated Total Responses: 198.

Frequency of Response: Annual.

Estimated Total Burden Hours: 935,600 (DOL—425,273, Treasury—425,273, OPM—85,055).

Estimated Total Cost Burden: $127,889,453 (DOL—$58,131,570, Treasury—$58,131,570, OPM—$11,626,314).

TABLE 20—ANNUAL RECORDKEEPING AND REPORTING REQUIREMENTS FOR OPM

Respondent	Number of respondents	Number of responses	Total annual burden (hours)	Total labor cost of reporting
FEHB Carrier	26	26	117,294	$16,119,967
TPA	10	10	46,330	6,367,232
PBM	3	3	23,496	3,090,692
Total	39	39	187,120	25,577,891

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to analyze options for regulatory relief of small entities to prepare an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities, unless the head of the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. The RFA generally defines a ''small entity'' as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA), (2) a not-for-profit organization that is not dominant in its field, or (3) a small government jurisdiction with a population of less than 50,000. States and individuals are not included in the definition of ''small entity.'' HHS uses a change in revenues of more than 3 to 5 percent as its measure of significant economic impact on a substantial number of small entities. Individuals and states are not included in the definition of a small entity. These interim final rules are not preceded by a general proposed rule, and thus the requirements of the RFA do not apply.

G. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a proposed rule or any final rule for which a general proposed rule was published that includes any federal mandate that may result in expenditures in any 1 year by state, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2021, that threshold is approximately $158 million. These interim final rules were not preceded by a general proposed rule, and thus the requirements of UMRA do not apply.

H. Federalism

Executive Order 13132 outlines fundamental principles of federalism. It requires adherence to specific criteria by federal agencies in formulating and implementing policies that have ''substantial direct effects'' on the states, the relationship between the national government and states, or on the distribution of power and responsibilities among the various levels of government, including policies that impose direct costs on states or preempt state laws. Federal agencies promulgating regulations that have these federalism implications must consult with state and local officials, and describe the extent of their consultation and the nature of the concerns of state and local officials in the preamble to the interim final rules.

These interim final rules require plans, issuers, and FEHB carriers to submit prescription drug and health care spending data to the Departments, which will be used to inform a biannual public report that will be issued by the Departments regarding prescription drug reimbursements, trends, and impact on premiums. A number of states currently have laws, regulations, or guidance related to the reporting of prescription drug and health care spending data, although there is no consistency among these states in the data elements collected or the definitions used for those data elements. It is the Departments' and OPM's view that these interim final rules will not have substantial direct effects on states' ability to collect such prescription drug and health care spending data as the states may deem necessary. The rules do not impose direct costs on states or preempt state laws.

While developing these interim final rules, the Departments consulted with the states and attempted to balance the states' interests in regulating health insurance issuers with the need to ensure transparency in the prescription drug and health care market and collect data on a consistent basis in order to inform nationwide analyses. By doing

so, the Departments complied with the requirements of Executive Order 13132.

I. Congressional Review Act

These interim final rules are subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and will be transmitted to the Congress and to the Comptroller General for review in accordance with such provisions. Under the Congressional Review Act, the Office of Information and Regulatory Affairs designated these interim final rules as a ''major rule'' as that term is defined in 5 U.S.C. 804(2), because it is likely to result in an annual impact on the economy of $100 million or more.

Statutory Authority

The Office of Personnel Management regulations are adopted pursuant to the authority contained in 5 U.S.C. 8910 and 5 U.S.C. 8913.

The Department of the Treasury regulations are adopted pursuant to the authority contained in sections 7805 and 9833 of the Code.

The Department of Labor regulations are adopted pursuant to the authority contained in 29 U.S.C. 1002, 1135, 1182, 1185d, 1191a, 1191b, and 1191c; Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

The Department of Health and Human Services regulations are adopted pursuant to the authority contained in sections 2792 and 2799A–10 of the Public Health Service Act (42 U.S.C. 300gg–92 and 300gg–120).

Edward DeHarde,

Acting Associate Director, Healthcare and Insurance, Office of Personnel Management.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

Lily L. Batchelder,

Assistant Secretary of the Treasury (Tax Policy).

Signed at Washington, DC, this 12th day of November, 2021.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Dated: November 12, 2021.

Xavier Becerra,

Secretary, Department of Health and Human Services.

List of Subjects

5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Retirement.

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2510

Employee benefit plans, Pensions.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 149

Balance billing, Health care, Health insurance, Reporting and recordkeeping requirements, Surprise billing, State regulation of health insurance, Transparency in coverage.

OFFICE OF PERSONNEL MANAGEMENT

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.102 also issued under sections 11202(f), 11232(e), and 11246 (b) of Pub. L. 105–33, 111 Stat. 251; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521 (36 U.S.C. 5522); Sec. 890.112 also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604 (2 U.S.C. 2051); Sec. 890.113 also issued under section 1110 of Pub. L. 116–92, 133 Stat. 1198 (5 U.S.C. 8702 note); Sec. 890.301 also issued under section 311 of Pub. L. 111–3, 123 Stat. 64 (26 U.S.C. 9801); Sec. 890.302(b) also issued under section 1001 of Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029 (42 U.S.C. 300gg–14); Sec. 890.803 also issued under 50 U.S.C. 3516 (formerly 50 U.S.C. 403p) and 22 U.S.C. 4069c and 4069c–1; subpart L also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064 (5 U.S.C. 5561 note), as amended; and subpart M also issued under section 721 of Pub. L. 105–261 (10 U.S.C. 1108), 112 Stat. 2061.

■ 2. Amend § 890.114 by revising the section heading and paragraphs (a) and (d) and adding reserved paragraph (e) and paragraph (f) to read as follows:

§ 890.114 Surprise billing and transparency.

(a) A carrier must comply with requirements described in 26 CFR 54.9816–3T through 54.9816–6T, 54.9816–8T, 54.9817–1T, 54.9817–2T, 54.9822–1T, and 54.9825–3T through 6T; 29 CFR 2590.716–3 through 2590.716–6, 2590.716–8, 2590.717–1, 2590.717–2, 2590.722, 2590.725–1 through 2590.725–4; and 45 CFR 149.30, 149.110 through 149.140, 149.310, 149.510 and 520, and 149.710 through 149.740 in the same manner as such provisions apply to a group health plan or health insurance issuer offering group or individual health insurance coverage, subject to 5 U.S.C. 8902(m)(1), and the provisions of the carrier's contract. For purposes of application of such sections, all carriers are deemed to offer health benefits in the large group market.

* * * * *

(d)(1) In addition to notification to the Department per 26 CFR 54.9816–8T(b)(2)(iii), 29 CFR 2590.716–8(b)(2)(iii), and 45 CFR 149.510(b)(2)(iii), a carrier must notify the Director of its initiation of the Federal IDR process, or its receipt of written notice that a provider, facility, or provider of air ambulance services has initiated the Federal IDR process, upon sending or receiving such notice.

(2) The Director will coordinate with the Departments in resolving matters under 26 CFR 54.9816–8T(c)(4)(vii)(A)(*1*), 29 CFR 2590.716–8(c)(4)(vii)(A)(*1*), or 45 CFR 149.510(c)(4)(vii)(A)(*1*) where fraud or material misrepresentation are presented, and matters involving 26 CFR 54.9816–8T(c)(4)(vii)(A)(*2*), 29 CFR 2590.716–8(c)(4)(vii)(A)(*2*), and 45 CFR 149.510(c)(4)(vii)(A)(*2*). The Director will coordinate with the Departments in oversight of reports submitted by certified IDR entities with respect to carriers pursuant to 26 CFR 54.9816–8T(f), 29 CFR 2590.716–8(f), or 45 CFR 149.510(f).

(e) [Reserved]

(f) The Director will coordinate with the Departments in oversight of prescription drug and health care spending with respect to FEHB carriers pursuant to 45 CFR 149.710 through 149.740.

INTERNAL REVENUE SERVICE

Amendments to the Regulations

Accordingly, 26 CFR part 54 is amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 3.** The authority citation for part 54 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 4.** Sections 54.9825–1T through 54.9825–6T are added to read as follows:

Sec.

* * * * *

* * * * *

§ 54.9825–1T Basis and scope (temporary).

(a) *Basis.* This section and §§ 54.9825–2T through 54.9825–6T implement subchapter B of chapter 100 of the Internal Revenue Code of 1986.

(b) *Scope.* This part establishes standards for group health plans with respect to surprise medical bills, transparency in health care coverage, and additional patient protections.

§ 54.9825–2T Applicability (temporary).

(a) *In general.* The requirements in §§ 54.9825–4T through 54.9825–6T apply to group health plans (including grandfathered health plans as defined in § 54.9815–1251), except as specified in paragraph (b) of this section.

(b) *Exceptions.* The requirements in §§ 54.9825–4T through 54.9825–6T do not apply to the following:

(1) Excepted benefits as described in § 54.9831–1(c).

(2) Short-term, limited-duration insurance as defined in § 54.9801–2.

(3) Health reimbursement arrangements or other account-based group health plans as described in § 54.9815–2711(d).

§ 54.9825–3T Definitions (temporary).

The definitions in § 54.9816–3T apply to §§ 54.9825–4T through 54.9825–6T unless otherwise specified. In addition, for purposes of §§ 54.9825–4T through 54.9825–6T, the following definitions apply:

Brand prescription drug means a drug for which an application is approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)), or under section 351 of the PHS Act (42 U.S.C. 262), and that is generally marketed under a proprietary, trademark-protected name. The term ''brand prescription drug'' includes a drug with Emergency Use Authorization issued pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3), and that is generally marketed under a proprietary, trademark-protected name. The term ''brand prescription drug'' includes drugs that the U.S. Food and Drug Administration determines to be interchangeable biosimilar products under sections 351(i)(3) and 351(k)(4) of the PHS Act (42 U.S.C. 262).

Dosage unit means the smallest form in which a pharmaceutical product is administered or dispensed, such as a pill, tablet, capsule, ampule, or measurement of grams or milliliters.

Federal Employees Health Benefits (FEHB) line of business refers to all health benefit plans that are offered to eligible enrollees pursuant to a contract between the Office of Personnel Management and Federal Employees Health Benefits (FEHB) Program carriers. Such plans are Federal governmental plans offered pursuant to 5 U.S.C. chapter 89.

Life-years means the total number of months of coverage for participants and beneficiaries, as applicable, divided by 12.

Market segment means one of the following: The individual market (excluding the student market), the student market, the fully-insured small group market, the fully-insured large group market (excluding the FEHB line of business), self-funded plans offered by small employers, self-funded plans offered by large employers, and the FEHB line of business.

Premium amount means, with respect to individual health insurance coverage and fully-insured group health plans, earned premium as that term is defined in 45 CFR 158.130, excluding the adjustments specified in 45 CFR 158.130(b)(5). Premium amount means, with respect to self-funded group health plans and other arrangements that do not rely exclusively or primarily on payments of premiums as defined in 45 CFR 158.130, the premium equivalent amount representing the total cost of providing and maintaining coverage, including claims costs, administrative costs, and stop-loss premiums, as applicable.

Prescription drug (drug) means a set of pharmaceutical products that have been assigned a National Drug Code (NDC) by the Food and Drug Administration and are grouped by name and ingredient in the manner specified by the Secretary, jointly with the Secretary of Labor and the Secretary of Health and Human Services.

Prescription drug rebates, fees, and other remuneration means all remuneration received by or on behalf of a plan or issuer, its administrator or service provider, including remuneration received by and on behalf of entities providing pharmacy benefit management services to the plan or issuer, with respect to prescription drugs prescribed to participants and beneficiaries in the plan or coverage, as applicable, regardless of the source of the remuneration (for example, pharmaceutical manufacturer, wholesaler, retail pharmacy, or vendor). Prescription drug rebates, fees, and other remuneration also include, for example, discounts, chargebacks or rebates, cash discounts, free goods contingent on a purchase agreement, up-front payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits. Prescription drug rebates, fees, and other remuneration include bona fide service fees. Bona fide service fees mean fees paid by a drug manufacturer to an entity providing pharmacy benefit management services to the plan or issuer that represent fair market value for a bona fide, itemized service actually performed on behalf of the manufacturer that the manufacturer would otherwise perform (or contract for) in the absence of the service arrangement, and that are not passed on in whole or in part to a client or customer of the entity, whether or not the entity takes title to the drug.

Reference year means the calendar year immediately preceding the calendar year in which data submissions under this section are required.

Reporting entity means an entity that submits some or all of the information required under §§ 54.9825–4T through 54.9825–6T with respect to a plan or issuer, and that may be different from the plan or issuer that is subject to the requirements of §§ 54.9825–4T through 54.9825–6T.

Student market has the meaning given in 45 CFR 158.103.

Therapeutic class means a group of pharmaceutical products that have similar mechanisms of action or treat the same types of conditions, grouped in the manner specified by the Secretary, jointly with the Secretary of Labor and the Secretary of Health and Human Services, in guidance. The Secretary may require plans and issuers to classify drugs according to a commonly available public or commercial therapeutic classification system, a therapeutic classification system provided by the Secretary of Health and Human Services, or a combination thereof.

Total annual spending means incurred claims, as that term is defined in 45 CFR 158.140, excluding the adjustments specified in 45 CFR 158.140(b)(1)(i), (b)(2)(iv), and (b)(4), and including cost sharing. With respect to prescription drugs, total annual spending is net of prescription drug rebates, fees, and other remuneration.

§ 54.9825–4T Reporting requirements related to prescription drug and health care spending (temporary).

(a) *General requirement.* A group health plan or a health insurance issuer offering group health insurance coverage must submit an annual report to the Secretary, the Secretary of Health and Human Services, and the Secretary of Labor, on prescription drug and health care spending, premiums, and enrollment under the plan or coverage.

(b) *Timing and form of report.* The report for the 2020 reference year must be submitted to the Secretary by December 27, 2021. Beginning with the 2021 reference year, the report for each reference year is due by June 1 of the year following the reference year. The report must be submitted in the form and manner prescribed by the Secretary, jointly with the Secretary of Health and Human Services and the Secretary of Labor.

(c) *Transfer of business.* Issuers that acquire a line or block of business from another issuer during a reference year are responsible for submitting the information and report required by this section for the acquired business for that reference year, including for the part of the reference year that was prior to the acquisition.

(d) *Reporting entities and special rules to prevent unnecessary duplication*—(1) *Special rule for insured group health plans.* To the extent coverage under a group health plan consists of group health insurance coverage, the plan may satisfy the requirements of paragraph (a) of this section if the plan requires the health insurance issuer offering the coverage to report the information required by this section in compliance with this subpart pursuant to a written agreement. Accordingly, if a health insurance issuer and a group health plan sponsor enter into a written agreement under which the issuer agrees to provide the information required under paragraph (a) of this section in compliance with this section, and the issuer fails to do so, then the issuer, but not the plan, violates the reporting requirements of paragraph (a) of this section with respect to the relevant information.

(2) *Other contractual arrangements.* A group health plan or health insurance issuer offering group health insurance coverage may satisfy the requirements under paragraph (a) of this section by entering into a written agreement under which one or more other parties (such as health insurance issuers, pharmacy benefit managers, third-party administrators, or other third parties) report some or all of the information required under paragraph (a) of this section in compliance with this section. Notwithstanding the preceding sentence, if a group health plan or health insurance issuer chooses to enter into such an agreement and the party with which it contracts fails to provide the information in accordance with paragraph (a) of this section, the plan or issuer violates the reporting requirements of paragraph (a) of this section.

(e) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

§ 54.9825–5T Aggregate reporting (temporary).

(a) *General requirement.* A group health plan or a health insurance issuer offering group health insurance coverage must submit, or arrange to be submitted, the information required in § 54.9825–6T(b) separately for each State in which group health coverage or group health insurance coverage was provided in connection with the group health plan or by the health insurance issuer. The report must include the experience of all plans and policies in the State during the reference year covered by the report, and must include the experience separately for each market segment as defined in § 54.9825–3T.

(b) *Aggregation by reporting entity*—(1) *In general.* If a reporting entity submits data on behalf of more than one group health plan in a State and market segment, the reporting entity may aggregate the data required in § 54.9825–6T(b) for the group health plans for each market segment in the State.

(2) *Multiple reporting entities.* (i) If multiple reporting entities submit the required data related to one or more plans or issuers in a State and market segment, the data submitted by each of these reporting entities must not be aggregated at a less granular level than the aggregation level used by the reporting entity that submits the data on total annual spending on health care services, as required by § 54.9825–6T(b)(4), on behalf of these plans or issuers.

(ii) The Secretary, jointly with the Secretary of Health and Human Services and the Secretary of Labor, may specify in guidance alternative or additional aggregation methods for data submitted by multiple reporting entities, to ensure a balance between compliance burdens and a data aggregation level that facilitates the development of the biannual public report required under section 9825(b) of the Code.

(3) *Group health insurance coverage with dual contracts.* If a group health plan involves health insurance coverage obtained from two affiliated issuers, one providing in-network coverage only and the second providing out-of-network coverage only, the plan's out-of-network experience may be treated as if it were all related to the contract provided by the in-network issuer.

(c) *Aggregation by State.* (1) Experience with respect to each fully-insured policy must be included on the report for the State where the contract was issued, except as specified in paragraphs (c)(3) and (4) of this section.

(2) Experience with respect to each self-funded group health plan must be included on the report for the State where the plan sponsor has its principal place of business.

(3) For individual market business sold through an association, experience must be attributed to the issue State of the certificate of coverage.

(4) For health coverage provided to plans through a group trust or multiple employer welfare arrangement, the experience must be included in the report for the State where the employer (if the plan is sponsored at the individual employer level) or the association (if the association qualifies as an employer under ERISA section 3(5)) has its principal place of business or the state where the association is incorporated, in the case of an association with no principal place of business.

(d) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

§ 54.9825–6T Required information (temporary).

(a) *Information for each plan or coverage.* The report required under § 54.9825–4T must include the following information for each plan or coverage, at the plan or coverage level:

(1) The identifying information for plans, issuers, plan sponsors, and any other reporting entities.

(2) The beginning and end dates of the plan year that ended on or before the last day of the reference year.

(3) The number of participants and beneficiaries, as applicable, covered on the last day of the reference year.

(4) Each State in which the plan or coverage is offered.

(b) *Information for each state and market segment.* The report required under § 54.9825–4T must include the following information with respect to plans or coverage for each State and market segment for the reference year, unless otherwise specified:

(1) The 50 brand prescription drugs most frequently dispensed by pharmacies, and for each such drug, the

data elements listed in paragraph (b)(5) of this section. The most frequently dispensed drugs must be determined according to total number of paid claims for prescriptions filled during the reference year for each drug.

(2) The 50 most costly prescription drugs and for each such drug, the data elements listed in paragraph (b)(5) of this section. The most costly drugs must be determined according to total annual spending on each drug.

(3) The 50 prescription drugs with the greatest increase in expenditures between the year immediately preceding the reference year and the reference year, and for each such drug: The data elements listed in paragraph (b)(5) of this section for the year immediately preceding the reference year, and the data elements listed in paragraph (b)(5) of this section for the reference year. The drugs with the greatest increase in expenditures must be determined based on the increase in total annual spending from the year immediately preceding the reference year to the reference year. A drug must be approved for marketing or issued an Emergency Use Authorization by the Food and Drug Administration for the entirety of the year immediately preceding the reference year and for the entirety of the reference year to be included in the data submission as one of the drugs with the greatest increase in expenditures.

(4) Total annual spending on health care services by the plan or coverage and by participants and beneficiaries, as applicable, broken down by the type of costs, including—

(i) Hospital costs;

(ii) Health care provider and clinical service costs, for primary care and specialty care separately;

(iii) Costs for prescription drugs, separately for drugs covered by the plan's or issuer's pharmacy benefit and drugs covered by the plan's or issuer's hospital or medical benefit; and

(iv) Other medical costs, including wellness services.

(5) Prescription drug spending and utilization, including—

(i) Total annual spending by the plan or coverage;

(ii) Total annual spending by the participants and beneficiaries, as applicable, enrolled in the plan or coverage, as applicable;

(iii) The number of participants and beneficiaries, as applicable, with a paid prescription drug claim;

(iv) Total dosage units dispensed; and

(v) The number of paid claims.

(6) Premium amounts, including—

(i) Average monthly premium amount paid by employers and other plan sponsors on behalf of participants and beneficiaries, as applicable;

(ii) Average monthly premium amount paid by participants and beneficiaries, as applicable; and

(iii) Total annual premium amount and the total number of life-years.

(7) Prescription drug rebates, fees, and other remuneration, including—

(i) Total prescription drug rebates, fees, and other remuneration, and the difference between total amounts that the plan or issuer pays the entity providing pharmacy benefit management services to the plan or issuer and total amounts that such entity pays to pharmacies.

(ii) Prescription drug rebates, fees, and other remuneration, excluding bona fide service fees, broken down by the amounts passed through to the plan or issuer, the amounts passed through to participants and beneficiaries, as applicable, and the amounts retained by the entity providing pharmacy benefit management services to the plan or issuer; and the data elements listed in paragraph (b)(5) of this section—

(A) For each therapeutic class; and

(B) For each of the 25 prescription drugs with the greatest amount of total prescription drug rebates and other price concessions for the reference year.

(8) The method used to allocate prescription drug rebates, fees, and other remuneration, if applicable.

(9) The impact of prescription drug rebates, fees, and other remuneration on premium and cost sharing amounts.

(c) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Chapter XXV

For the reasons set forth in the preamble, the Department of Labor amends 29 CFR part 2590 as set forth below:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 5. The authority citation for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a–n, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L. 104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029; Division M, Pub. L. 113–235, 128 Stat. 2130; Pub. L. 116–260 134 Stat. 1182; Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

Subpart D—Surprise Billing and Transparency Requirements

■ 6. Section 2590.716–1 is amended by revising paragraph (a) to read as follows:

§ 2590.716–1 Basis and scope.

(a) *Basis.* Sections 2590.716–1 through 2590.725–4 implement sections 716–725 of ERISA.

* * * * *

■ 7. Section 2590.716–2 is amended by revising paragraph (a) and paragraph (b) introductory text to read as follows:

§ 2590.716–2 Applicability.

(a) *In general.* (1) The requirements in §§ 2590.716–4 through 2590.716–7, 2590.717–1, 2590.722, and 2590.725–1 through 2590.725–4 apply to group health plans and health insurance issuers offering group health insurance coverage (including grandfathered health plans as defined in § 2590.715–1251), except as specified in paragraph (b) of this section.

(2) The requirements in §§ 2590.716–8 and 2590.717–2 apply to certified IDR entities and group health plans and health insurance issuers offering group health insurance coverage (including grandfathered health plans as defined in § 2590.715–1251) except as specified in paragraph (b) of this section.

(b) *Exceptions.* The requirements in §§ 2590.716–4 through 2590.716–8, 2590.717–1, 2590.717–2, 2590.722, and 2590.725–1 through 2590.725–4 do not apply to the following:

* * * * *

■ 8. Add §§ 2590.725–1, 2590.725–2, 2590.725–3, and 2590.725–4 to read as follows:

Sec.

* * * * *

* * * * *

§ 2590.725–1 Definitions.

For purposes of this section, the following definitions apply in addition to the definitions in § 2590.716–3:

Brand prescription drug means a drug for which an application is approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)) or under section 351 of the Public Health Service Act (42 U.S.C. 262), and that is generally marketed under a proprietary, trademark-protected name. The term ''brand

prescription drug'' includes a drug with Emergency Use Authorization issued pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3), and that is generally marketed under a proprietary, trademark-protected name. The term ''brand prescription drug'' includes drugs that the U.S. Food and Drug Administration determines to be interchangeable biosimilar products under sections 351(i)(3) and 351(k)(4) of the PHS Act (42 U.S.C. 262).

Dosage unit means the smallest form in which a pharmaceutical product is administered or dispensed, such as a pill, tablet, capsule, ampule, or measurement of grams or milliliters.

Federal Employees Health Benefits (FEHB) line of business refers to all health benefit plans that are offered to eligible enrollees pursuant to a contract between the Office of Personnel Management and Federal Employees Health Benefits (FEHB) Program carriers. Such plans are Federal governmental plans offered pursuant to 5 U.S.C. chapter 89.

Life-years means the total number of months of coverage for participants and beneficiaries, as applicable, divided by 12.

Market segment means one of the following: The individual market (excluding the student market), the student market, the fully-insured small group market, the fully-insured large group market (excluding the FEHB line of business), self-funded plans offered by small employers, self-funded plans offered by large employers, and the FEHB line of business.

Premium amount means, with respect to fully-insured group health plans, earned premium as that term is defined in 45 CFR 158.130, excluding the adjustments specified in 45 CFR 158.130(b)(5). Premium amount means, with respect to self-funded group health plans and other arrangements that do not rely exclusively or primarily on payments of premiums as defined in 45 CFR 158.130, the premium equivalent amount representing the total cost of providing and maintaining coverage, including claims costs, administrative costs, and stop-loss premiums, as applicable.

Prescription drug (drug) means a set of pharmaceutical products that have been assigned a National Drug Code (NDC) by the Food and Drug Administration and are grouped by name and ingredient in the manner specified by the Secretary, jointly with the Secretary of the Treasury and the Secretary of Health and Human Services.

Prescription drug rebates, fees, and other remuneration means all remuneration received by or on behalf of a plan or issuer, its administrator or service provider, including remuneration received by and on behalf of entities providing pharmacy benefit management services to the plan or issuer, with respect to prescription drugs prescribed to participants or beneficiaries in the plan or coverage, as applicable, regardless of the source of the remuneration (for example, pharmaceutical manufacturer, wholesaler, retail pharmacy, or vendor). Prescription drug rebates, fees, and other remuneration also include, for example, discounts, chargebacks or rebates, cash discounts, free goods contingent on a purchase agreement, up-front payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits. Prescription drug rebates, fees, and other remuneration include bona fide service fees. Bona fide service fees mean fees paid by a drug manufacturer to an entity providing pharmacy benefit management services to the plan or issuer that represent fair market value for a bona fide, itemized service actually performed on behalf of the manufacturer that the manufacturer would otherwise perform (or contract for) in the absence of the service arrangement, and that are not passed on in whole or in part to a client or customer of the entity, whether or not the entity takes title to the drug.

Reference year means the calendar year immediately preceding the calendar year in which data submissions under this section are required.

Reporting entity means an entity that submits some or all of the information required under this section with respect to a plan or issuer, and that may be different from the plan or issuer that is subject to the requirements of this section.

Student market has the meaning given in 45 CFR 158.103.

Therapeutic class means a group of pharmaceutical products that have similar mechanisms of action or treat the same types of conditions, grouped in the manner specified by the Secretary, jointly with the Secretary of the Treasury and the Secretary of Health and Human Services, in guidance. The Secretary may require plans and issuers to classify drugs according to a commonly available public or commercial therapeutic classification system, a therapeutic classification system provided by the Secretary of Health and Human Services, or a combination thereof.

Total annual spending means incurred claims, as that term is defined in 45 CFR 158.140, excluding the adjustments specified in 45 CFR 158.140(b)(1)(i), (b)(2)(iv), and (b)(4), and including cost sharing. With respect to prescription drugs, total annual spending is net of prescription drug rebates, fees, and other remuneration.

§ 2590.725–2 Reporting requirements related to prescription drug and health care spending.

(a) *General requirement.* A group health plan or a health insurance issuer offering group health insurance coverage must submit an annual report to the Secretary, the Secretary of the Treasury, and the Secretary of Health and Human Services, on prescription drug and health care spending, premiums, and enrollment under the plan or coverage.

(b) *Timing and form of report.* The report for the 2020 reference year must be submitted to the Secretary by December 27, 2021. Beginning with the 2021 reference year, the report for each reference year is due by June 1 of the year following the reference year. The report must be submitted in the form and manner prescribed by the Secretary, jointly with the Secretary of the Treasury and the Secretary of Health and Human Services.

(c) *Transfer of business.* Issuers that acquire a line or block of business from another issuer during a reference year are responsible for submitting the information and report required by this section for the acquired business for that reference year, including for the part of the reference year that was prior to the acquisition.

(d) *Reporting entities and special rules to prevent unnecessary duplication*—(1) *Special rule for insured group health plans.* To the extent coverage under a group health plan consists of group health insurance coverage, the plan may satisfy the requirements of paragraph (a) of this section if the plan requires the health insurance issuer offering the coverage to report the information required by this section in compliance with this subpart pursuant to a written agreement. Accordingly, if a health insurance issuer and a group health plan sponsor enter into a written agreement under which the issuer agrees to provide the information required under paragraph (a) of this section in compliance with this section, and the issuer fails to do so, then the issuer, but not the plan, violates the reporting requirements of paragraph (a) of this section with respect to the relevant information.

(2) *Other contractual arrangements.* A group health plan or health insurance issuer offering group health insurance coverage may satisfy the requirements under paragraph (a) of this section by entering into a written agreement under which one or more other parties (such as health insurance issuers, pharmacy benefit managers, third-party administrators, or other third parties) report some or all of the information required under paragraph (a) of this section in compliance with this section. Notwithstanding the preceding sentence, if a group health plan or health insurance issuer chooses to enter into such an agreement and the party with which it contracts fails to provide the information in accordance with paragraph (a) of this section, the plan or issuer violates the reporting requirements of paragraph (a) of this section.

(e) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

§ 2590.725–3 Aggregate reporting.

(a) *General requirement.* A group health plan or a health insurance issuer offering group health insurance coverage must submit, or arrange to be submitted, the information required in § 2590.725–4(b) of this section separately for each State in which group health coverage or group health insurance coverage was provided in connection with the group health plan or by the health insurance issuer. The report must include the experience of all plans and policies in the State during the reference year covered by the report, and must include the experience separately for each market segment as defined in § 2590.725–1 of this section.

(b) *Aggregation by reporting entity*—(1) *In general.* If a reporting entity submits data on behalf of more than one group health plan in a State and market segment, the reporting entity may aggregate the data required in § 2590.725–4(b) of this section for the group health plans for each market segment in the State.

(2) *Multiple reporting entities.* (i) If multiple reporting entities submit the required data related to one or more plans or issuers in a State and market segment, the data submitted by each of these reporting entities must not be aggregated at a less granular level than the aggregation level used by the reporting entity that submits the data on total annual spending on health care services, as required by § 2590.725–4(b)(4), on behalf of these plans or issuers.

(ii) The Secretary, jointly with the Secretary of the Treasury and the Secretary of Health and Human Services, may specify in guidance alternative or additional aggregation methods for data submitted by multiple reporting entities, to ensure a balance between compliance burdens and a data aggregation level that facilitates the development of the biannual public report required under section 725(b) of ERISA.

(3) Group health insurance coverage with dual contracts. If a group health plan involves health insurance coverage obtained from two affiliated issuers, one providing in-network coverage only and the second providing out-of-network coverage only, the plan's out-of-network experience may be treated as if it were all related to the contract provided by the in-network issuer.

(c) *Aggregation by State.* (1) Experience with respect to each fully-insured policy must be included on the report for the State where the contract was issued, except as specified in paragraphs (c)(3) and (4) of this section.

(2) Experience with respect to each self-funded group health plan must be included on the report for the State where the plan sponsor has its principal place of business.

(3) For individual market business sold through an association, experience must be attributed to the issue State of the certificate of coverage.

(4) For health coverage provided to plans through a group trust or multiple employer welfare arrangement, the experience must be included in the report for the State where the employer (if the plan is sponsored at the individual employer level) or the association (if the association qualifies as an employer under ERISA section 3(5)) has its principal place of business or the state where the association is incorporated, in the case of an association with no principal place of business.

(d) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

§ 2590.725–4 Required information.

(a) *Information for each plan or coverage.* The report required under § 2590.725–2 must include the following information for each plan or coverage, at the plan or coverage level:

(1) The identifying information for plans, issuers, plan sponsors, and any other reporting entities.

(2) The beginning and end dates of the plan year that ended on or before the last day of the reference year.

(3) The number of participants and beneficiaries, as applicable, covered on the last day of the reference year.

(4) Each State in which the plan or coverage is offered.

(b) *Information for each state and market segment.* The report required under § 2590.725–2 must include the following information with respect to plans or coverage for each State and market segment for the reference year, unless otherwise specified:

(1) The 50 brand prescription drugs most frequently dispensed by pharmacies, and for each such drug, the data elements listed in paragraph (b)(5) of this section. The most frequently dispensed drugs must be determined according to total number of paid claims for prescriptions filled during the reference year for each drug.

(2) The 50 most costly prescription drugs and for each such drug, the data elements listed in paragraph (b)(5) of this section. The most costly drugs must be determined according to total annual spending on each drug.

(3) The 50 prescription drugs with the greatest increase in expenditures between the year immediately preceding the reference year and the reference year, and for each such drug: The data elements listed in paragraph (b)(5) of this section for the year immediately preceding the reference year, and the data elements listed in paragraph (b)(5) of this section for the reference year. The drugs with the greatest increase in expenditures must be determined based on the increase in total annual spending from the year immediately preceding the reference year to the reference year. A drug must be approved for marketing or issued an Emergency Use Authorization by the Food and Drug Administration for the entirety of the year immediately preceding the reference year and for the entirety of the reference year to be included in the data submission as one of the drugs with the greatest increase in expenditures.

(4) Total annual spending on health care services by the plan or coverage and by participants and beneficiaries, as applicable, broken down by the type of costs, including—

(i) Hospital costs;

(ii) Health care provider and clinical service costs, for primary care and specialty care separately;

(iii) Costs for prescription drugs, separately for drugs covered by the plan's or issuer's pharmacy benefit and drugs covered by the plan's or issuer's hospital or medical benefit; and

(iv) Other medical costs, including wellness services.

(5) Prescription drug spending and utilization, including—

(i) Total annual spending by the plan or coverage;

(ii) Total annual spending by the participants and beneficiaries, as applicable, enrolled in the plan or coverage, as applicable;

(iii) The number of participants and beneficiaries, as applicable, with a paid prescription drug claim;

(iv) Total dosage units dispensed; and

(v) The number of paid claims.

(6) Premium amounts, including—

(i) Average monthly premium amount paid by employers and other plan sponsors on behalf of participants and beneficiaries, as applicable;

(ii) Average monthly premium amount paid by participants and beneficiaries, as applicable; and

(iii) Total annual premium amount and the total number of life-years.

(7) Prescription drug rebates, fees, and other remuneration, including—

(i) Total prescription drug rebates, fees, and other remuneration, and the difference between total amounts that the plan or issuer pays the entity providing pharmacy benefit management services to the plan or issuer and total amounts that such entity pays to pharmacies.

(ii) Prescription drug rebates, fees, and other remuneration, excluding bona fide service fees, broken down by the amounts passed through to the plan or issuer, the amounts passed through to participants and beneficiaries, as applicable, and the amounts retained by the entity providing pharmacy benefit management services to the plan or issuer; and the data elements listed in paragraph (b)(5) of this section—

(A) For each therapeutic class; and

(B) For each of the 25 prescription drugs with the greatest amount of total prescription drug rebates and other price concessions for the reference year.

(8) The method used to allocate prescription drug rebates, fees, and other remuneration, if applicable.

(9) The impact of prescription drug rebates, fees, and other remuneration on premium and cost sharing amounts.

(c) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR part 149 as set forth below:

PART 149—SURPRISE BILLING AND TRANSPARENCY REQUIREMENTS

■ 9. The authority citation for part 149 continues to read as follows:

Authority: 42 U.S.C. 300gg–111 through 300gg–139, as amended.

■ 10. Amend § 149.20 by revising paragraph (a)(1) and paragraph (b) introductory text to read as follows:

§ 149.20 Applicability.

(a) * * *

(1) The requirements in subparts B, D, and H of this part apply to group health plans and health insurance issuers offering group or individual health insurance coverage (including grandfathered health plans as defined in § 147.140 of this subchapter), except as specified in paragraph (b) of this section.

* * * * *

(b) *Exceptions.* The requirements in subparts B, D, E, F, and H of this part do not apply to the following:

* * * * *

■ 11. Add subpart H to read as follows:

Subpart H—Prescription Drug and Health Care Spending

Sec.

149.710 Definitions.

149.720 Reporting Requirements Related to Prescription Drug and Health Care Spending.

149.730 Aggregate Reporting.

149.740 Required Information.

Subpart H—Prescription Drug and Health Care Spending

§ 149.710 Definitions.

For purposes of this subpart, the following definitions apply in addition to the definitions in § 149.30:

Brand prescription drug means a drug for which an application is approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)), or under section 351 of the PHS Act (42 U.S.C. 262), and that is generally marketed under a proprietary, trademark-protected name. The term ''brand prescription drug'' includes a drug with Emergency Use Authorization issued pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3), and that is generally marketed under a proprietary, trademark-protected name. The term ''brand prescription drug'' includes drugs that the U.S. Food and Drug Administration determines to be interchangeable biosimilar products under sections 351(i)(3) and 351(k)(4) of the PHS Act (42 U.S.C. 262).

Dosage unit means the smallest form in which a pharmaceutical product is administered or dispensed, such as a pill, tablet, capsule, ampule, or measurement of grams or milliliters.

Enrollee means an individual who is enrolled, within the meaning of § 144.103 of this subchapter, in group health insurance coverage, or an individual who is covered by individual health insurance coverage, at any time during the reference year, and includes dependents.

Federal Employees Health Benefits (FEHB) line of business refers to all health benefit plans that are offered to eligible enrollees pursuant to a contract between the Office of Personnel Management and Federal Employees Health Benefits (FEHB) Program carriers. Such plans are Federal governmental plans offered pursuant to 5 U.S.C. chapter 89.

Life-years means the total number of months of coverage for participants and beneficiaries, or for enrollees, as applicable, divided by 12.

Market segment means one of the following: The individual market (excluding the student market), the student market, the fully-insured small group market, the fully-insured large group market (excluding the FEHB line of business), self-funded plans offered by small employers, self-funded plans offered by large employers, and the FEHB line of business.

Premium amount means, with respect to individual health insurance coverage and fully-insured group health plans, earned premium as that term is defined in § 158.130 of this subchapter, excluding the adjustments specified in § 158.130(b)(5). Premium amount means, with respect to self-funded group health plans and other arrangements that do not rely exclusively or primarily on payments of premiums as defined in § 158.130 of this subchapter, the premium equivalent amount representing the total cost of providing and maintaining coverage, including claims costs, administrative costs, and stop-loss premiums, as applicable.

Prescription drug (drug) means a set of pharmaceutical products that have been assigned a National Drug Code (NDC) by the Food and Drug Administration and are grouped by name and ingredient in the manner specified by the Secretary, jointly with the Secretary of the Treasury and the Secretary of Labor.

Prescription drug rebates, fees, and other remuneration means all remuneration received by or on behalf of a plan or issuer, its administrator or service provider, including remuneration received by and on behalf of entities providing pharmacy benefit management services to the plan or issuer, with respect to prescription drugs prescribed to participants, beneficiaries, or enrollees in the plan or coverage, as applicable, regardless of the source of the remuneration (for example, pharmaceutical manufacturer,

wholesaler, retail pharmacy, or vendor). Prescription drug rebates, fees, and other remuneration also include, for example, discounts, chargebacks or rebates, cash discounts, free goods contingent on a purchase agreement, up-front payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits. Prescription drug rebates, fees, and other remuneration include bona fide service fees. Bona fide service fees mean fees paid by a drug manufacturer to an entity providing pharmacy benefit management services to the plan or issuer that represent fair market value for a bona fide, itemized service actually performed on behalf of the manufacturer that the manufacturer would otherwise perform (or contract for) in the absence of the service arrangement, and that are not passed on in whole or in part to a client or customer of the entity, whether or not the entity takes title to the drug.

Reference year means the calendar year immediately preceding the calendar year in which data submissions under this section are required.

Reporting entity means an entity that submits some or all of the information required under this subpart with respect to a plan or issuer, and that may be different from the plan or issuer that is subject to the requirements of this subpart.

Student market has the meaning given in § 158.103 of this subchapter.

Therapeutic class means a group of pharmaceutical products that have similar mechanisms of action or treat the same types of conditions, grouped in the manner specified by the Secretary, jointly with the Secretary of the Treasury and the Secretary of Labor, in guidance. The Secretary may require plans and issuers to classify drugs according to a commonly available public or commercial therapeutic classification system, a therapeutic classification system provided by the Secretary, or a combination thereof.

Total annual spending means incurred claims, as that term is defined in § 158.140 of this subchapter, excluding the adjustments specified in § 158.140(b)(1)(i), (b)(2)(iv), and (b)(4), and including cost sharing. With respect to prescription drugs, total annual spending is net of prescription drug rebates, fees, and other remuneration.

§ 149.720 Reporting requirements related to prescription drug and health care spending.

(a) *General requirement.* A group health plan or a health insurance issuer offering group or individual health insurance coverage must submit an annual report to the Secretary, the Secretary of the Treasury, and the Secretary of Labor, on prescription drug and health care spending, premiums, and enrollment under the plan or coverage.

(b) *Timing and form of report.* The report for the 2020 reference year must be submitted to the Secretary by December 27, 2021. Beginning with the 2021 reference year, the report for each reference year is due by June 1 of the year following the reference year. The report must be submitted in the form and manner prescribed by the Secretary, jointly with the Secretary of the Treasury and the Secretary of Labor.

(c) *Transfer of business.* Issuers that acquire a line or block of business from another issuer during a reference year are responsible for submitting the information and report required by this section for the acquired business for that reference year, including for the part of the reference year that was prior to the acquisition.

(d) *Reporting entities and special rules to prevent unnecessary duplication*—(1) *Special rule for insured group health plans.* To the extent coverage under a group health plan consists of group health insurance coverage, the plan may satisfy the requirements of paragraph (a) of this section if the plan requires the health insurance issuer offering the coverage to report the information required by this section in compliance with this subpart pursuant to a written agreement. Accordingly, if a health insurance issuer and a group health plan sponsor enter into a written agreement under which the issuer agrees to provide the information required under paragraph (a) of this section in compliance with this section, and the issuer fails to do so, then the issuer, but not the plan, violates the reporting requirements of paragraph (a) of this section with respect to the relevant information.

(2) *Other contractual arrangements.* A group health plan or health insurance issuer offering group or individual health insurance coverage may satisfy the requirements under paragraph (a) of this section by entering into a written agreement under which one or more other parties (such as health insurance issuers, pharmacy benefit managers, third-party administrators, or other third parties) report some or all of the information required under paragraph (a) of this section in compliance with this section. Notwithstanding the preceding sentence, if a group health plan or health insurance issuer chooses to enter into such an agreement and the party with which it contracts fails to provide the information in accordance with paragraph (a) of this section, the plan or issuer violates the reporting requirements of paragraph (a) of this section.

(e) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

§ 149.730 Aggregate reporting.

(a) *General requirement.* A group health plan or a health insurance issuer offering group or individual health insurance coverage must submit, or arrange to be submitted, the information required in § 149.740(b) separately for each State in which group health coverage or group or individual health insurance coverage was provided in connection with the group health plan or by the health insurance issuer. The report must include the experience of all plans and policies in the State during the reference year covered by the report, and must include the experience separately for each market segment as defined in § 149.710.

(b) *Aggregation by reporting entity*—(1) *In general.* If a reporting entity submits data on behalf of more than one group health plan in a State and market segment, the reporting entity may aggregate the data required in § 149.740(b) for the group health plans for each market segment in the State.

(2) *Multiple reporting entities.* (i) If multiple reporting entities submit the required data related to one or more plans or issuers in a State and market segment, the data submitted by each of these reporting entities must not be aggregated at a less granular level than the aggregation level used by the reporting entity that submits the data on total annual spending on health care services, as required by § 149.740(b)(4), on behalf of these plans or issuers.

(ii) The Secretary, jointly with the Secretary of the Treasury and the Secretary of Labor, may specify in guidance alternative or additional aggregation methods for data submitted by multiple reporting entities, to ensure a balance between compliance burdens and a data aggregation level that facilitates the development of the biannual public report required under section 2799A–10(b) of the PHS Act.

(3) *Group health insurance coverage with dual contracts.* If a group health plan involves health insurance coverage obtained from two affiliated issuers, one providing in-network coverage only and the second providing out-of-network coverage only, the plan's out-of-network experience may be treated as if it were all related to the contract provided by the in-network issuer.

(c) *Aggregation by State.* (1) Experience with respect to each fully-

insured policy must be included on the report for the State where the contract was issued, except as specified in paragraphs (c)(3) and (4) of this section.

(2) Experience with respect to each self-funded group health plan must be included on the report for the State where the plan sponsor has its principal place of business.

(3) For individual market business sold through an association, experience must be attributed to the issue State of the certificate of coverage.

(4) For health coverage provided to plans through a group trust or multiple employer welfare arrangement, the experience must be included in the report for the State where the employer (if the plan is sponsored at the individual employer level) or the association (if the association qualifies as an employer under ERISA section 3(5)) has its principal place of business or the State where the association is incorporated, in the case of an association with no principal place of business.

(d) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

§ 149.740 Required information.

(a) *Information for each plan or coverage.* The report required under § 149.720 must include the following information for each plan or coverage, at the plan or coverage level:

(1) The identifying information for plans, issuers, plan sponsors, and any other reporting entities.

(2) The beginning and end dates of the plan year that ended on or before the last day of the reference year.

(3) The number of participants, beneficiaries, and enrollees, as applicable, covered on the last day of the reference year.

(4) Each State in which the plan or coverage is offered.

(b) *Information for each state and market segment.* The report required under § 149.720 must include the following information with respect to plans or coverage for each State and market segment for the reference year, unless otherwise specified:

(1) The 50 brand prescription drugs most frequently dispensed by pharmacies, and for each such drug, the data elements listed in paragraph (b)(5) of this section. The most frequently dispensed drugs must be determined according to total number of paid claims for prescriptions filled during the reference year for each drug.

(2) The 50 most costly prescription drugs and for each such drug, the data elements listed in paragraph (b)(5) of this section. The most costly drugs must be determined according to total annual spending on each drug.

(3) The 50 prescription drugs with the greatest increase in expenditures between the year immediately preceding the reference year and the reference year, and for each such drug: The data elements listed in paragraph (b)(5) of this section for the year immediately preceding the reference year, and the data elements listed in paragraph (b)(5) of this section for the reference year. The drugs with the greatest increase in expenditures must be determined based on the increase in total annual spending from the year immediately preceding the reference year to the reference year. A drug must be approved for marketing or issued an Emergency Use Authorization by the Food and Drug Administration for the entirety of the year immediately preceding the reference year and for the entirety of the reference year to be included in the data submission as one of the drugs with the greatest increase in expenditures.

(4) Total annual spending on health care services by the plan or coverage and by participants, beneficiaries, and enrollees, as applicable, broken down by the type of costs, including—

(i) Hospital costs;

(ii) Health care provider and clinical service costs, for primary care and specialty care separately;

(iii) Costs for prescription drugs, separately for drugs covered by the plan's or issuer's pharmacy benefit and drugs covered by the plan's or issuer's hospital or medical benefit; and

(iv) Other medical costs, including wellness services.

(5) Prescription drug spending and utilization, including—

(i) Total annual spending by the plan or coverage;

(ii) Total annual spending by the participants, beneficiaries, and enrollees, as applicable, enrolled in the plan or coverage, as applicable;

(iii) The number of participants, beneficiaries, and enrollees, as applicable, with a paid prescription drug claim;

(iv) Total dosage units dispensed; and

(v) The number of paid claims.

(6) Premium amounts, including—

(i) Average monthly premium amount paid by employers and other plan sponsors on behalf of participants, beneficiaries, and enrollees, as applicable;

(ii) Average monthly premium amount paid by participants, beneficiaries, and enrollees, as applicable; and

(iii) Total annual premium amount and the total number of life-years.

(7) Prescription drug rebates, fees, and other remuneration, including—

(i) Total prescription drug rebates, fees, and other remuneration, and the difference between total amounts that the plan or issuer pays the entity providing pharmacy benefit management services to the plan or issuer and total amounts that such entity pays to pharmacies.

(ii) Prescription drug rebates, fees, and other remuneration, excluding bona fide service fees, broken down by the amounts passed through to the plan or issuer, the amounts passed through to participants, beneficiaries, and enrollees, as applicable, and the amounts retained by the entity providing pharmacy benefit management services to the plan or issuer; and the data elements listed in paragraph (b)(5) of this section—

(A) For each therapeutic class; and

(B) For each of the 25 prescription drugs with the greatest amount of total prescription drug rebates and other price concessions for the reference year.

(8) The method used to allocate prescription drug rebates, fees, and other remuneration, if applicable.

(9) The impact of prescription drug rebates, fees, and other remuneration on premium and cost sharing amounts.

(c) *Applicability date.* The provisions of this section are applicable beginning December 27, 2021.

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Part IV

Postal Service

Change in Rates and Classes of General Applicability for Competitive Products; Notice

POSTAL SERVICE

Change in Rates and Classes of General Applicability for Competitive Products

AGENCY: Postal Service™.

ACTION: Notice of a change in rates of general applicability for competitive products.

SUMMARY: This notice sets forth changes in rates of general applicability for competitive products.

DATES: Effective January 9, 2022.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: On November 9, 2021, pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established prices and classification changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2).

Ruth Stevenson,

Chief Counsel, Ethics and Legal Compliance.

Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 21–6)

November 9, 2021

Statement of Explanation and Justification

Pursuant to authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (''PAEA''), we establish new prices of general applicability for the Postal Service's shipping services (competitive products), and such changes in classifications as are necessary to define the new prices. The changes are described generally below, with a detailed description of the changes in the attachment. The attachment includes the draft Mail Classification Schedule sections with classification changes in legislative format, and new prices displayed in the price charts.

As shown in the nonpublic annex being filed under seal herewith, the changes we establish should enable each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. 3633(a)(3), which, as implemented by 39 CFR 3035.107(c), requires competitive products collectively to contribute a minimum of 10.0 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. 3633(a)(1)). We therefore find that the new prices are in accordance with 39 U.S.C. 3632–3633 and 39 CFR 3035.102.

I. Domestic Products

A. Priority Mail Express

Overall, the Priority Mail Express price change represents a 3.1 percent increase. The existing structure of zoned Retail, Commercial Base, and Commercial Plus price categories is maintained, with Commercial Base and Commercial Plus prices continuing to be set equal to each other. Dimensional weighting, which was introduced for all zones in 2019, will continue in 2022. New for 2022, a $1.50 fee will be assessed on commercial parcels that are greater than one cubic foot or with a length greater than 22 inches, if the customer did not provide dimensions or provided inaccurate dimensions in the electronic manifest file. Also new for 2022, a new series of nonstandard fees will be assessed on packages that cause the Postal Service to incur manual handling costs when the dimensions of the package exceed sortation requirements.

Retail prices will increase an average of 2.9 percent. The price for the Retail Flat Rate Envelope, a significant portion of all Priority Mail Express volume, will increase to $26.95, with the Legal Size and Padded Flat Rate Envelopes priced at $27.10 and $27.50, respectively.

The Commercial Base price category offers lower prices to customers who use online and other authorized postage payment methods. The Commercial Base prices will increase 4.3 percent on average. Commercial Base prices will, on average, reflect a 13.1 percent discount off of Retail prices.

The Commercial Plus price category has traditionally offered even lower prices to large-volume customers. Commercial Plus prices were matched to the Commercial Base prices in 2016 and will continue to be in 2022. For January, Commercial Plus prices as a whole will receive a 4.3 percent increase on average.

B. Priority Mail

On average, the Priority Mail prices will be increased by 3.1 percent. The existing structure of Priority Mail Retail, Commercial Base, and Commercial Plus price categories is maintained. Dimensional weighting, which was extended to all zones in 2019, will continue in 2022. New for 2022, a $1.50 fee will be assessed on commercial parcels that are greater than one cubic foot or with a length greater than 22 inches, if the customer did not provide dimensions or provided inaccurate dimensions in the electronic manifest file. Also new for 2022, a new series of nonstandard fees will be assessed on packages that cause the Postal Service to incur manual handling costs when the dimensions of the package exceed sortation requirements.

Retail prices will increase an average of 4.5 percent. Retail Flat Rate Box prices will be: Small, $9.45; Medium, $16.10; Large, $21.50 and Large APO/FPO/DPO, $20.00. Thus, the Large APO/FPO/DPO Flat Rate Box will be $1.50 less than the Large Flat Rate Box. The regular Flat Rate Envelope will be priced at $8.95, with the Legal Size and Padded Flat Rate Envelopes priced at $9.25 and $9.65, respectively.

The Commercial Base price category offers lower prices to customers using authorized postage payment methods. The Commercial Base prices will increase 2.7 percent on average. Commercial Base prices will, on average, reflect a 17.9 percent discount off of Retail prices.

Commercial Plus offers the same weight-rated and flat-rates prices as Commercial Base, but offers the additional rate categories of Cubic and Priority Mail Open & Distribute (PMOD) to customers who meet a higher volume commitment. For January, Commercial Plus prices as a whole will receive a 1.2 percent increase and will average 18.6 percent off Retail prices. While the prices for Commercial Plus are the same as Commercial Base, the percent change is different because of profile mail mix differences for the two categories.

C. Parcel Select

On average, Parcel Select prices as a whole will increase 5.5 percent. Prices for destination-entered non-Lightweight Parcel Select, the Postal Service's bulk ground shipping product, will decrease 11.1 percent on average. For destination delivery unit (DDU) entered parcels, the average price increase is 6.1 percent. For destination sectional center facility (DSCF) destination entered parcels, the average price decrease is 10.4 percent. New prices for machinable DSCF destination entered parcels that are unsorted are being introduced in 2022. For destination network distribution center (DNDC) parcels, the average price decrease is 23.1 percent. Prices for Parcel Select Lightweight will increase by 7.4 percent on average. Parcel Select Ground will see a 12.1 percent price decrease on average. Dimensional weighting, which was introduced for all zones in 2019, will continue in 2022.

New for 2022, a $1.50 fee will be assessed on commercial parcels that are greater than one cubic foot or with a length greater than 22 inches, if the customer did not provide dimensions or provided inaccurate dimensions in the electronic manifest file. Also new for 2022, a new series of nonstandard fees will be assessed on packages that cause the Postal Service to incur manual handling costs when the dimensions of the package exceed sortation requirements.

Finally, the Postal Service will introduce USPS Connect Local, a new offering under Parcel Select designed to give neighborhood businesses enhanced access to the postal network at the local level to deliver products same-day or next-day if served by their local delivery unit. Sunday delivery will be available for an additional fee, and customers must have a valid customer agreement with the Postal Service on file to participate.

D. Parcel Return Service

Parcel Return Service prices will have an overall price increase of 4.9 percent on average. Prices for parcels retrieved at a return sectional center facility (RSCF) will increase by 4.9 percent, and prices for parcels picked up at a return delivery unit (RDU) will increase 4.9 percent.

E. First-Class Package Service

First-Class Package Service (FCPS) continues to be positioned as a lightweight (less than one pound) offering primarily used by businesses for fulfillment purposes. In 2017, First-Class Mail Parcels were transferred to the competitive product list and renamed First-Class Package Service—Retail (FCPS–Retail), and in 2019, the FCPS–Retail and FCPS–Commercial price categories were given zone-based pricing. Overall, FCPS prices will increase 8.8 percent on average, with a 9.0 percent increase for FCPS–Retail and a 8.8 percent increase for FCPS–Commercial. New for 2022, a new series of nonstandard fees will be assessed on retail packages that cause the Postal Service to incur manual handling costs when the dimensions of the package exceed sortation requirements.

F. USPS Retail Ground

USPS Retail Ground prices will decrease 7.4 percent overall on average, but the product is expected to continue to cover its costs in 2022. The price decrease is designed to address overpricing in certain zones and win more volume in 2022. New for 2022, prices for Zones 1–4 will be differentiated from Priority Mail, and customers shipping in those zones will no longer default to Priority Mail service. Also new for 2022, a new series of nonstandard fees will be assessed on packages that cause the Postal Service to incur manual handling costs when the dimensions of the package exceed sortation requirements.

G. Domestic Extra Services

Premium Forwarding Service (PFS) prices will increase 5.1 percent on average in 2022. The retail counter enrollment fee will increase to $23.90. The online enrollment option, introduced in 2014, will now be available for $21.95. The weekly reshipment fee will increase to $23.90. PFS Local, which was introduced in 2019 for P.O. Box customers, will have an increase in the reshipment fee to $23.90. Prices for Adult Signature service will increase to $8.50 for the basic service and $8.75 for the person-specific service. Address Enhancement Service price increases will vary depending on the particular rate element, to ensure adequate cost coverage. The RDI API rates within Address Enhancement Services will be removed because the interface application is obsolete. Competitive Post Office Box prices will be increasing 18.2 percent on average, within the existing price ranges. Package Intercept Service will increase 4.6 percent, to $15.95. The Pickup On Demand fee will remain at $25.00 for 2022. Premium Data Retention and Retrieval Service, which was introduced in 2020, will have a 51.5 percent price decrease in 2022, and the list of products eligible for the service will expand.

II. International Products

A. Expedited Services

International expedited services include Global Express Guaranteed (GXG) and Priority Mail Express International (PMEI). Overall, GXG prices will rise by 2.3 percent, and PMEI will be subject to an overall 3.2 percent increase. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting may still be made available to customers through negotiated service agreements.

B. Priority Mail International

The overall increase for Priority Mail International (PMI) will be 3.7 percent. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting may still be made available to customers through negotiated service agreements.

C. International Priority Airmail and International Surface Air Lift

Published prices for International Priority Airmail (IPA) and International Surface Air Lift (ISAL) will increase by 4.9 percent and 8.2 percent, respectively. Within ISAL and IPA, ISAL M-Bag published prices will increase by 2.9 percent while IPA M-Bags published prices will remain unchanged.

D. Airmail M-Bags

The published prices for Airmail M-Bags will increase by 5.0 percent.

E. First-Class Package International Service™

The overall increase for First-Class Package International Service (FCPIS) prices will be 4.2 percent. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting will still be made available to customers through negotiated service agreements.

F. International Ancillary Services and Special Services

Prices for several international ancillary services will be increased, with an overall increase of 5.0 percent. However, some services will be increased above average to ensure cost coverage, including International Postal Money Orders and Money Transfer Service, which will increase by 15.8 percent.

Order

The changes in prices and classes set forth herein shall be effective at 12:01 a.m. on January 9, 2022. We direct the Secretary to have this decision published in the **Federal Register** in accordance with 39 U.S.C. 3632(b)(2), and direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors:

Ron A. Bloom,

Chairman, Board of Governors.

UNITED STATES POSTAL SERVICE OFFICE OF THE BOARD OF GOVERNORS

Certification of Governors' Vote on Governors' Decision No. 21–6

Consistent with 39 U.S.C. 3632(a), I hereby certify that, on November 9, 2021, the Governors voted on adopting Governors' Decision No. 21–6, and that a majority of the Governors then holding office voted in favor of that Decision.

Dated: November 9, 2021.

Michael J. Elston,

Secretary of the Board of Governors.

BILLING CODE 7710–12–P

PART B

COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

2100 Domestic Products

* * *

2105 Priority Mail Express

* * *

2105.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Pickup On Demand Service
- Sunday/Holiday Delivery
- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Collect On Delivery (1505.7)
  - Priority Mail Express Insurance (1505.9)
  - Return Receipt (1505.13)
  - Special Handling (1505.18)
- Competitive Ancillary Services (2645)
  - Adult Signature (2645.1)
  - Package Intercept Service (2645.2)
  - Premium Data Retention and Retrieval Service (USPS Tracking Plus) (2645.3)

2105.6 Prices

Retail Priority Mail Express Zone/Weight

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	26.95	27.20	29.20	33.25	35.70	38.10	40.90	56.00
1	27.40	29.60	33.55	39.75	43.05	45.70	48.45	66.30
2	27.85	32.00	37.90	46.30	50.35	53.30	56.00	76.60
3	28.35	34.35	42.30	52.80	57.70	60.95	63.50	86.95
4	28.80	36.75	46.65	59.35	65.00	68.55	71.05	97.25
5	29.25	39.15	51.00	65.85	72.35	76.15	78.60	107.55
6	32.20	43.00	56.60	72.35	79.05	83.40	86.05	117.75
7	35.20	46.85	62.25	78.80	85.75	90.65	93.50	127.95
8	38.15	50.65	67.85	85.30	92.45	97.85	100.95	138.15
9	41.15	54.50	73.50	91.75	99.15	105.10	108.40	148.35
10	44.10	58.35	79.10	98.25	105.85	112.35	115.85	158.55
11	46.25	62.70	83.55	102.65	110.05	116.75	120.50	164.90
12	48.35	67.05	88.05	107.05	114.25	121.15	125.10	171.25
13	50.50	71.45	92.50	111.40	118.40	125.55	129.75	177.55
14	52.65	75.80	96.95	115.80	122.60	129.95	134.35	183.90
15	54.75	80.15	101.45	120.20	126.80	134.40	139.00	190.25
16	56.90	84.50	105.90	124.60	131.00	138.80	143.65	196.60
17	59.05	88.85	110.35	129.00	135.20	143.20	148.25	202.95
18	61.20	93.25	114.80	133.35	139.35	147.60	152.90	209.25
19	63.30	97.60	119.30	137.75	143.55	152.00	157.50	215.60
20	65.45	101.95	123.75	142.15	147.75	156.40	162.15	221.95
21	67.95	106.85	129.00	147.95	153.60	162.50	168.50	230.55
22	70.45	111.70	134.20	153.80	159.50	168.55	174.80	239.20
23	73.00	116.60	139.45	159.60	165.35	174.65	181.15	247.80
24	75.50	121.50	144.70	165.45	171.25	180.75	187.45	256.45
25	78.00	126.35	149.95	171.25	177.10	186.80	193.80	265.05

Retail Priority Mail Express Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
26	80.50	131.25	155.15	177.10	183.00	192.90	200.15	273.65
27	83.00	136.15	160.40	182.90	188.85	199.00	206.45	282.30
28	85.55	141.00	165.65	188.75	194.75	205.05	212.80	290.90
29	88.05	145.90	170.90	194.55	200.60	211.15	219.10	299.55
30	90.55	150.80	176.10	200.40	206.50	217.25	225.45	308.15
31	93.05	155.65	181.35	206.20	212.35	223.30	231.80	316.75
32	95.55	160.55	186.60	212.05	218.25	229.40	238.10	325.40
33	98.10	165.45	191.85	217.85	224.10	235.50	244.45	334.00
34	100.60	170.30	197.05	223.70	230.00	241.55	250.75	342.65
35	103.10	175.20	202.30	229.50	235.85	247.65	257.10	351.25
36	105.80	179.90	207.65	235.65	242.30	254.30	264.00	360.75
37	108.10	184.30	213.10	241.60	248.75	261.00	271.05	370.10
38	110.60	189.05	218.45	247.70	254.95	267.40	277.70	379.40
39	113.35	193.60	223.95	253.65	260.80	273.55	284.55	388.75
40	115.75	198.00	229.40	259.80	267.20	280.05	291.55	398.25
41	118.35	203.25	236.55	267.75	275.85	289.10	300.65	409.45
42	120.50	207.90	242.00	273.65	282.35	295.70	307.50	418.85
43	123.30	212.40	247.25	279.70	288.60	302.15	314.40	428.35
44	125.55	217.05	252.80	285.75	294.75	308.65	321.35	437.55
45	127.95	221.65	258.05	291.60	301.05	315.15	328.35	447.20
46	130.40	226.10	263.80	297.75	307.35	321.50	335.15	456.50
47	133.20	230.70	269.10	303.75	313.75	328.15	342.10	465.90
48	135.40	235.50	274.40	309.60	320.05	334.60	349.00	475.35
49	137.90	239.85	279.95	315.60	326.60	341.30	355.85	484.85
50	140.80	244.60	285.40	321.70	332.70	347.60	362.75	494.15

Retail Priority Mail Express Zone/Weight (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	143.25	249.25	290.80	327.65	338.90	354.00	368.80	502.30
52	145.70	253.50	296.15	333.50	345.45	360.65	376.85	513.10
53	148.10	258.30	301.70	339.45	351.80	367.20	383.65	522.55
54	150.75	262.90	307.00	345.25	358.25	373.75	390.45	531.85
55	153.75	268.95	312.60	351.35	364.40	380.05	397.35	541.20
56	157.55	274.70	320.60	360.30	373.85	390.00	407.75	555.50
57	160.30	279.30	326.10	366.40	380.20	396.40	414.70	564.80
58	163.00	283.75	331.55	372.30	386.65	403.00	421.65	574.30
59	165.25	288.35	336.90	378.15	393.20	409.55	428.65	583.75
60	167.50	293.05	342.50	384.20	399.50	416.05	435.55	593.30
61	169.85	297.65	348.25	390.50	405.85	422.50	442.50	602.80
62	172.50	302.20	353.60	396.15	412.15	429.00	449.65	612.40
63	175.30	306.75	359.05	402.20	418.70	435.60	456.60	621.95
64	177.75	311.30	364.45	408.00	425.15	442.25	463.60	631.55
65	180.75	315.90	369.90	413.90	431.50	448.45	470.50	640.80
66	184.15	320.65	375.50	420.00	437.90	454.95	477.45	650.05
67	186.30	325.15	381.10	426.00	444.00	461.25	484.40	659.80
68	188.70	329.70	386.50	431.75	450.65	468.05	491.60	669.55
69	191.70	334.40	391.90	437.75	456.90	474.35	498.25	678.60
70	195.15	339.05	397.45	443.65	463.30	480.80	505.25	688.20

Retail Flat Rate Envelope

	($)
Retail Regular Flat Rate Envelope, per piece	26.95
Retail Legal Flat Rate Envelope, per piece	27.10
Retail Padded Flat Rate Envelope, per piece	27.50

Retail Dimensional Weight

In Zones 1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

Loyalty Program

Upon the initiation of the Loyalty Program, all USPS business customers who use Click-N-Ship will be automatically enrolled in the Basic tier of the Loyalty Program, thereby earning a $40 credit for every $500 combined spent at Priority Mail Express Retail and Priority Mail Retail rates.

Beginning on January 1, 2021, and on every January 1 thereafter, all USPS business customers who use Click-N-Ship will be enrolled in one of the following three tiers of the Loyalty Program, based on their combined shipping spend at Priority Mail Express Retail and Priority Mail Retail rates in the previous calendar year, as follows:

- Basic (no minimum spend):
  Earn $40 credit for every $500 spent
- Silver (at least $10,000 spend):
  Earn $50 credit for every $500 spent
- Gold (at least $20,000 spend):
  Qualify for Commercial Base Pricing

In the first year of the Loyalty Program, any new USPS business customer who uses Click-N-Ship will receive a one-time $40 “Welcome Bonus” credit upon shipping at least $500 combined at Priority Mail Express Retail and Priority Mail Retail rates.

All participants in the Loyalty Program will be eligible to receive an additional one-time $20 credit for shipping during the first two months of the program, which will be applied once participants ship at least $500 combined at Priority Mail Express Retail and Priority Mail Retail rates.

All credits must be redeemed within one year from the date of issuance.

Commercial Base Zone/Weight

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	23.50	24.05	25.80	28.80	30.95	33.15	35.95	48.90
1	23.75	26.00	29.50	34.05	36.85	39.30	42.15	57.30
2	24.05	28.00	33.20	39.30	42.75	45.45	48.35	65.70
3	24.30	29.95	36.90	44.60	48.65	51.60	54.50	74.10
4	24.60	31.95	40.60	49.85	54.55	57.75	60.70	82.50
5	24.85	33.90	44.30	55.10	60.45	63.90	66.90	90.90
6	27.40	37.25	49.20	60.60	66.15	70.05	73.35	99.65
7	29.95	40.65	54.15	66.10	71.85	76.25	79.80	108.35
8	32.50	44.00	59.05	71.65	77.50	82.40	86.20	117.10
9	35.05	47.40	64.00	77.15	83.20	88.60	92.65	125.80
10	37.60	50.75	68.90	82.65	88.90	94.75	99.10	134.55
11	39.60	54.80	73.10	86.95	93.00	99.10	103.75	140.85
12	41.55	58.85	77.30	91.20	97.15	103.45	108.35	147.15
13	43.55	62.90	81.45	95.50	101.25	107.80	113.00	153.45
14	45.55	66.95	85.65	99.75	105.40	112.15	117.60	159.75
15	47.50	71.00	89.85	104.05	109.50	116.50	122.25	166.10
16	49.50	75.00	94.05	108.35	113.60	120.85	126.85	172.40
17	51.50	79.05	98.25	112.60	117.75	125.20	131.45	178.70
18	53.50	83.10	102.40	116.90	121.85	129.55	136.10	185.00
19	55.45	87.15	106.60	121.15	126.00	133.90	140.70	191.30
20	57.45	91.20	110.80	125.45	130.10	138.25	145.35	197.60
21	59.70	95.70	115.45	130.45	135.20	143.55	150.90	205.10
22	62.00	100.20	120.10	135.50	140.25	148.80	156.45	212.60
23	64.25	104.70	124.75	140.50	145.35	154.10	162.05	220.15
24	66.55	109.20	129.40	145.55	150.45	159.40	167.60	227.65
25	68.80	113.70	134.05	150.55	155.50	164.65	173.15	235.15

Commercial Base Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
26	71.10	118.20	138.70	155.60	160.60	169.95	178.70	242.65
27	73.35	122.70	143.35	160.60	165.70	175.25	184.25	250.15
28	75.65	127.15	148.00	165.65	170.75	180.50	189.85	257.70
29	77.90	131.65	152.65	170.65	175.85	185.80	195.40	265.20
30	80.20	136.15	157.30	175.70	180.95	191.10	200.95	272.70
31	82.45	140.65	161.95	180.70	186.00	196.35	206.50	280.20
32	84.75	145.15	166.60	185.75	191.10	201.65	212.05	287.70
33	87.00	149.65	171.25	190.75	196.20	206.95	217.65	295.25
34	89.30	154.15	175.90	195.80	201.25	212.20	223.20	302.75
35	91.55	158.65	180.55	200.80	206.35	217.50	228.75	310.25
36	93.95	162.85	185.50	206.20	212.05	223.40	234.85	318.60
37	95.95	166.90	190.20	211.35	217.65	229.25	241.00	326.95
38	98.20	171.15	195.05	216.70	223.00	234.85	247.00	335.05
39	100.60	175.35	199.95	221.90	228.20	240.30	253.20	343.45
40	102.80	179.25	204.85	227.25	233.80	246.05	259.30	351.80
41	105.65	184.95	211.25	234.20	241.35	253.90	267.40	362.75
42	107.50	189.20	216.05	239.45	246.95	259.75	273.45	371.00
43	110.00	193.25	220.85	244.70	252.45	265.40	279.70	379.35
44	111.95	197.50	225.75	249.95	257.90	271.05	285.75	387.65
45	114.10	201.65	230.40	255.05	263.45	276.80	292.00	396.15
46	116.35	205.75	235.50	260.55	268.90	282.45	298.10	404.40
47	118.80	209.90	240.30	265.75	274.45	288.20	304.25	412.75
48	120.90	214.20	245.05	270.80	280.00	293.90	310.40	421.05
49	122.95	218.20	249.95	276.10	285.70	299.80	316.60	429.50
50	125.60	222.55	254.85	281.50	291.05	305.25	322.70	437.70

Commercial Base Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	127.80	226.80	259.65	286.60	296.50	310.95	327.95	444.90
52	130.05	230.75	264.40	291.75	302.30	316.80	335.05	454.55
53	132.10	235.05	269.35	297.05	307.80	322.50	341.15	462.80
54	134.50	239.25	274.10	302.10	313.30	328.25	347.30	471.15
55	137.15	244.75	279.15	307.45	318.80	333.80	353.35	479.40
56	141.20	251.15	286.35	315.30	327.05	342.40	362.70	492.00
57	143.65	255.40	291.25	320.55	332.60	348.10	368.85	500.30
58	146.15	259.40	296.05	325.65	338.35	353.95	375.05	508.70
59	148.15	263.60	300.90	330.90	344.00	359.70	381.20	517.10
60	150.15	267.85	305.85	336.10	349.55	365.40	387.40	525.50
61	152.25	272.15	310.95	341.55	355.10	371.10	393.60	533.90
62	154.65	276.25	315.70	346.55	360.65	376.65	399.90	542.45
63	157.20	280.45	320.60	351.80	366.25	382.55	406.15	550.90
64	159.30	284.60	325.40	356.90	371.90	388.25	412.35	559.30
65	162.00	288.85	330.25	362.10	377.45	393.80	418.45	567.60
66	165.00	293.15	335.30	367.45	383.00	399.65	424.60	575.85
67	166.90	297.30	340.20	372.70	388.40	405.10	430.85	584.40
68	169.10	301.50	345.05	377.75	394.25	411.10	437.15	593.05
69	171.80	305.80	349.90	382.90	399.70	416.65	443.10	601.10
70	174.95	309.95	354.85	388.10	405.30	422.30	449.35	609.55

Commercial Base Flat Rate Envelope

	($)
Commercial Base Regular Flat Rate Envelope, per piece	23.50
Commercial Base Legal Flat Rate Envelope, per piece	23.75
Commercial Base Padded Flat Rate Envelope, per piece	23.95

Commercial Base Dimensional Weight

In Zones 1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

Commercial Plus Zone/Weight

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	23.50	24.05	25.80	28.80	30.95	33.15	35.95	48.90
1	23.75	26.00	29.50	34.05	36.85	39.30	42.15	57.30
2	24.05	28.00	33.20	39.30	42.75	45.45	48.35	65.70
3	24.30	29.95	36.90	44.60	48.65	51.60	54.50	74.10
4	24.60	31.95	40.60	49.85	54.55	57.75	60.70	82.50
5	24.85	33.90	44.30	55.10	60.45	63.90	66.90	90.90
6	27.40	37.25	49.20	60.60	66.15	70.05	73.35	99.65
7	29.95	40.65	54.15	66.10	71.85	76.25	79.80	108.35
8	32.50	44.00	59.05	71.65	77.50	82.40	86.20	117.10
9	35.05	47.40	64.00	77.15	83.20	88.60	92.65	125.80
10	37.60	50.75	68.90	82.65	88.90	94.75	99.10	134.55
11	39.60	54.80	73.10	86.95	93.00	99.10	103.75	140.85
12	41.55	58.85	77.30	91.20	97.15	103.45	108.35	147.15
13	43.55	62.90	81.45	95.50	101.25	107.80	113.00	153.45
14	45.55	66.95	85.65	99.75	105.40	112.15	117.60	159.75
15	47.50	71.00	89.85	104.05	109.50	116.50	122.25	166.10
16	49.50	75.00	94.05	108.35	113.60	120.85	126.85	172.40
17	51.50	79.05	98.25	112.60	117.75	125.20	131.45	178.70
18	53.50	83.10	102.40	116.90	121.85	129.55	136.10	185.00
19	55.45	87.15	106.60	121.15	126.00	133.90	140.70	191.30
20	57.45	91.20	110.80	125.45	130.10	138.25	145.35	197.60
21	59.70	95.70	115.45	130.45	135.20	143.55	150.90	205.10
22	62.00	100.20	120.10	135.50	140.25	148.80	156.45	212.60
23	64.25	104.70	124.75	140.50	145.35	154.10	162.05	220.15
24	66.55	109.20	129.40	145.55	150.45	159.40	167.60	227.65
25	68.80	113.70	134.05	150.55	155.50	164.65	173.15	235.15

Commercial Plus Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
26	71.10	118.20	138.70	155.60	160.60	169.95	178.70	242.65
27	73.35	122.70	143.35	160.60	165.70	175.25	184.25	250.15
28	75.65	127.15	148.00	165.65	170.75	180.50	189.85	257.70
29	77.90	131.65	152.65	170.65	175.85	185.80	195.40	265.20
30	80.20	136.15	157.30	175.70	180.95	191.10	200.95	272.70
31	82.45	140.65	161.95	180.70	186.00	196.35	206.50	280.20
32	84.75	145.15	166.60	185.75	191.10	201.65	212.05	287.70
33	87.00	149.65	171.25	190.75	196.20	206.95	217.65	295.25
34	89.30	154.15	175.90	195.80	201.25	212.20	223.20	302.75
35	91.55	158.65	180.55	200.80	206.35	217.50	228.75	310.25
36	93.95	162.85	185.50	206.20	212.05	223.40	234.85	318.60
37	95.95	166.90	190.20	211.35	217.65	229.25	241.00	326.95
38	98.20	171.15	195.05	216.70	223.00	234.85	247.00	335.05
39	100.60	175.35	199.95	221.90	228.20	240.30	253.20	343.45
40	102.80	179.25	204.85	227.25	233.80	246.05	259.30	351.80
41	105.65	184.95	211.25	234.20	241.35	253.90	267.40	362.75
42	107.50	189.20	216.05	239.45	246.95	259.75	273.45	371.00
43	110.00	193.25	220.85	244.70	252.45	265.40	279.70	379.35
44	111.95	197.50	225.75	249.95	257.90	271.05	285.75	387.65
45	114.10	201.65	230.40	255.05	263.45	276.80	292.00	396.15
46	116.35	205.75	235.50	260.55	268.90	282.45	298.10	404.40
47	118.80	209.90	240.30	265.75	274.45	288.20	304.25	412.75
48	120.90	214.20	245.05	270.80	280.00	293.90	310.40	421.05
49	122.95	218.20	249.95	276.10	285.70	299.80	316.60	429.50
50	125.60	222.55	254.85	281.50	291.05	305.25	322.70	437.70

Commercial Plus Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	127.80	226.80	259.65	286.60	296.50	310.95	327.95	444.90
52	130.05	230.75	264.40	291.75	302.30	316.80	335.05	454.55
53	132.10	235.05	269.35	297.05	307.80	322.50	341.15	462.80
54	134.50	239.25	274.10	302.10	313.30	328.25	347.30	471.15
55	137.15	244.75	279.15	307.45	318.80	333.80	353.35	479.40
56	141.20	251.15	286.35	315.30	327.05	342.40	362.70	492.00
57	143.65	255.40	291.25	320.55	332.60	348.10	368.85	500.30
58	146.15	259.40	296.05	325.65	338.35	353.95	375.05	508.70
59	148.15	263.60	300.90	330.90	344.00	359.70	381.20	517.10
60	150.15	267.85	305.85	336.10	349.55	365.40	387.40	525.50
61	152.25	272.15	310.95	341.55	355.10	371.10	393.60	533.90
62	154.65	276.25	315.70	346.55	360.65	376.65	399.90	542.45
63	157.20	280.45	320.60	351.80	366.25	382.55	406.15	550.90
64	159.30	284.60	325.40	356.90	371.90	388.25	412.35	559.30
65	162.00	288.85	330.25	362.10	377.45	393.80	418.45	567.60
66	165.00	293.15	335.30	367.45	383.00	399.65	424.60	575.85
67	166.90	297.30	340.20	372.70	388.40	405.10	430.85	584.40
68	169.10	301.50	345.05	377.75	394.25	411.10	437.15	593.05
69	171.80	305.80	349.90	382.90	399.70	416.65	443.10	601.10
70	174.95	309.95	354.85	388.10	405.30	422.30	449.35	609.55

Commercial Plus Flat Rate Envelope

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	23.50
Commercial Plus Legal Flat Rate Envelope, per piece	23.75
Commercial Plus Padded Flat Rate Envelope, per piece	23.95

Commercial Plus Dimensional Weight

In Zones 1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

Pickup On Demand Service

Add $25.00 for each Pickup On Demand stop.

Sunday/Holiday Delivery

Add $12.50 for requesting Sunday or holiday delivery.

IMpb Noncompliance Fee

Add $0.25 for each IMpb-noncompliant parcel paying commercial prices, unless the eVS Unmanifested Fee was already assessed on that parcel.

eVS Unmanifested Fee

Add $0.25 for each unmanifested parcel paying commercial prices, unless the IMpb Noncompliance Fee was already assessed on that parcel.

Dimension Noncompliance Fee

Add $1.50 for commercial parcels that exceed 1 cubic foot or with a length greater than 22 inches, if the customer did not provide dimensions or provided inaccurate dimensions in the electronic manifest file.

Nonstandard Fees

Add the following fees to parcels that exceed certain dimensions, as specified below:

Entry:	Full Network	DSCF/DNDC	DDU
Length > 22”	$4.00	N/A	N/A
Length > 30”	$15.00	N/A	N/A
Cube > 2 cu. ft.	$15.00	N/A	N/A

2110 Priority Mail

* * *

2110.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Pickup On Demand Service

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Business Reply Mail (1505.3)
  - Certified Mail (1505.5)
  - Certificate of Mailing (1505.6)
  - Collect On Delivery (1505.7)
  - USPS Tracking (1505.8)
  - Insurance (1505.9)
  - Registered Mail (1505.12)
  - Return Receipt (1505.13)
  - Signature Confirmation (1505.17)
  - Special Handling (1505.18)

- Competitive Ancillary Services (2645)
  - Adult Signature (2645.1)
  - Package Intercept Service (2645.2)
  - Premium Data Retention and Retrieval Service (USPS Tracking Plus) (2645.3)

2110.6 Prices

Retail Priority Mail Zone/Weight

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
1	8.70	9.10	9.45	9.85	10.15	10.90	11.60	19.40
2	9.25	9.90	10.70	11.75	12.65	14.75	16.10	30.75
3	9.90	10.65	11.75	13.70	15.40	17.90	21.20	41.15
4	10.55	11.40	12.45	14.95	18.30	21.60	24.05	47.65
5	11.25	12.20	13.15	15.75	20.35	24.80	27.75	55.15
6	11.65	12.60	13.90	16.85	22.75	27.70	31.25	62.25
7	12.15	13.05	14.75	18.50	24.45	30.95	35.15	70.00
8	12.65	13.70	15.10	19.45	26.00	34.45	39.30	78.30
9	12.90	14.10	15.50	20.95	28.25	37.35	42.65	87.15
10	14.10	15.05	16.75	22.20	30.50	40.50	46.30	95.00
11	15.10	15.85	17.80	23.10	32.90	43.95	50.25	105.10
12	15.75	16.55	18.40	24.40	34.90	47.65	54.50	112.80
13	16.35	17.25	19.05	25.80	36.75	51.70	59.15	116.85
14	17.05	18.00	19.75	27.20	39.20	56.10	64.15	122.70
15	17.75	18.75	20.40	28.75	40.40	57.45	65.80	126.20
16	18.50	19.75	21.45	30.60	42.35	60.55	69.45	133.10
17	19.30	20.80	22.55	32.60	44.70	63.75	73.10	140.20
18	20.15	21.85	23.70	34.70	46.65	66.85	76.85	147.30
19	21.05	23.00	24.85	36.95	48.00	68.35	78.45	154.25
20	21.95	24.20	26.15	39.35	50.10	70.75	82.10	161.40
21	22.75	25.45	28.20	41.55	53.00	72.50	84.45	166.40
22	23.55	26.75	30.40	43.90	56.10	74.35	86.85	170.55
23	24.35	28.10	32.80	46.35	59.30	76.25	89.30	173.50
24	25.20	29.50	35.35	48.95	62.75	78.15	91.85	177.80
25	26.10	31.00	38.15	51.70	66.35	80.15	94.45	180.70

Retail Priority Mail Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
26	27.00	32.60	41.15	54.60	70.20	82.80	96.45	186.45
27	28.65	34.10	42.55	56.40	71.15	84.90	100.00	193.45
28	29.55	34.55	43.70	58.25	72.15	86.95	104.00	200.75
29	30.45	34.90	44.75	59.65	73.40	89.00	106.95	206.15
30	31.35	35.45	46.00	61.45	75.50	91.00	109.25	210.70
31	32.30	35.80	48.40	63.15	76.65	93.05	111.80	216.60
32	32.65	36.55	49.55	66.50	77.65	95.15	113.80	221.05
33	33.20	37.50	50.80	67.35	79.15	97.05	115.90	225.25
34	33.50	38.50	52.05	68.85	81.00	99.10	118.15	229.35
35	33.85	39.45	52.70	70.30	83.15	101.05	120.05	233.20
36	34.20	40.60	53.45	71.75	85.35	102.45	122.20	237.25
37	34.50	41.25	54.25	73.10	87.55	103.75	124.15	241.15
38	34.90	42.35	54.90	74.50	90.00	105.00	126.15	245.05
39	35.30	43.30	55.60	76.05	92.15	107.75	128.05	248.75
40	35.70	44.20	56.35	77.75	93.60	110.15	129.90	252.20
41	36.00	45.05	57.00	78.45	95.15	112.50	131.80	257.85
42	36.25	45.85	57.60	80.10	96.80	113.95	133.50	261.45
43	36.75	46.60	58.10	81.95	99.15	115.45	135.20	264.65
44	37.00	47.40	58.85	83.60	100.75	116.75	136.80	267.90
45	37.25	47.90	59.25	85.50	101.85	118.05	138.55	271.25
46	37.50	48.20	59.90	87.05	102.95	119.35	140.20	274.50
47	37.85	48.65	60.45	89.05	104.10	120.65	141.75	277.45
48	38.20	49.10	61.05	90.75	105.45	121.80	143.25	280.50
49	38.40	49.40	61.50	92.45	106.85	123.10	144.75	283.30
50	38.55	49.70	61.95	94.25	108.25	124.70	146.15	286.25

Retail Priority Mail Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	38.75	50.20	62.50	95.40	109.80	126.55	147.55	291.10
52	39.25	50.50	62.95	96.60	110.95	128.35	149.25	294.75
53	39.90	50.85	63.30	97.40	111.90	130.40	151.25	298.55
54	40.40	51.05	63.75	98.20	112.65	132.40	153.35	302.70
55	41.10	51.40	64.10	98.90	113.50	134.45	155.40	306.70
56	41.65	51.75	64.50	99.55	114.35	136.35	156.85	309.60
57	42.30	51.90	64.85	100.10	115.15	138.45	158.05	311.80
58	42.95	52.15	65.30	100.80	115.80	140.35	159.25	314.10
59	43.60	52.40	65.60	101.45	116.50	141.15	160.50	316.65
60	44.20	52.60	66.25	101.90	117.10	141.95	161.50	318.70
61	44.85	52.90	67.40	102.45	117.75	142.80	163.70	323.15
62	45.30	53.00	68.25	103.00	118.35	143.50	166.35	328.20
63	46.20	53.25	69.40	103.45	118.95	144.10	169.00	333.55
64	46.65	54.90	70.40	103.90	119.45	144.85	171.50	338.55
65	47.30	55.05	71.35	104.30	119.90	145.50	174.30	343.95
66	47.90	55.25	72.50	104.80	120.45	146.00	176.70	348.85
67	48.65	55.35	73.75	105.10	120.75	146.60	179.10	353.40
68	49.25	55.45	74.60	105.35	122.35	147.15	181.00	357.25
69	49.85	55.50	75.55	105.70	123.80	147.55	182.95	361.00
70	50.45	55.70	76.80	106.05	125.35	148.05	184.20	364.85

Retail Flat Rate Envelopes[1]

	($)
Retail Regular Flat Rate Envelope, per piece	8.95
Retail Legal Flat Rate Envelope, per piece	9.25
Retail Padded Flat Rate Envelope, per piece	9.65

Notes

1. The price for Regular, Legal, or Padded Flat Rate Envelopes also applies to sales of Regular, Legal, or Padded Flat Rate Envelopes, respectively, marked with Forever postage, at the time the envelopes are purchased.

Retail Flat Rate Boxes[1]

Size	Delivery to Domestic Address ($)	Delivery to APO/FPO/DPO Address ($)
Small Flat Rate Box	9.45	9.45
Medium Flat Rate Boxes	16.10	16.10
Large Flat Rate Boxes	21.50	20.00

Notes

1. The price for Small, Medium, or Large Flat Rate Boxes also applies to sales of Small, Medium, or Large Flat Rate Boxes, respectively, marked with Forever postage, at the time the boxes are purchased.

Regional Rate Boxes

Size	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	10.68	10.88	11.18	11.85	13.85	14.62	15.84	28.67
B	11.18	11.67	12.42	14.77	18.91	21.89	24.81	46.32

Retail Dimensional Weight

In Zones 1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

Loyalty Program

Upon the initiation of the Loyalty Program, all USPS business customers who use Click-N-Ship will be automatically enrolled in the Basic tier of the Loyalty Program, thereby earning a $40 credit for every $500 combined spent at Priority Mail Express Retail and Priority Mail Retail rates.

Beginning on January 1, 2021, and on every January 1 thereafter, all USPS business customers who use Click-N-Ship will be enrolled in one of the following three tiers of the Loyalty Program, based on their combined shipping spend at Priority Mail Express Retail and Priority Mail Retail rates in the previous calendar year, as follows:

- Basic (no minimum spend):
  Earn $40 credit for every $500 spent
- Silver (at least $10,000 spend):
  Earn $50 credit for every $500 spent
- Gold (at least $20,000 spend):
  Qualify for Commercial Base Pricing

In the first year of the Loyalty Program, any new USPS business customer who uses Click-N-Ship will receive a one-time $40 “Welcome Bonus” credit upon shipping at least $500 combined at Priority Mail Express Retail and Priority Mail Retail rates.

All participants in the Loyalty Program will be eligible to receive an additional one-time $20 credit for shipping during the first two months of the program, which will be applied once participants ship at least $500 combined at Priority Mail Express Retail and Priority Mail Retail rates.

All credits must be redeemed within one year from the date of issuance.

Commercial Base Priority Mail Zone/Weight

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
1	7.37	7.68	7.90	8.12	8.59	9.16	9.68	16.39
2	8.02	8.20	8.49	9.12	10.96	11.62	12.66	25.08
3	8.24	8.60	8.98	9.93	13.34	15.03	17.74	34.03
4	8.34	8.84	9.49	11.54	15.54	18.03	20.77	40.97
5	8.45	8.89	9.82	12.71	17.03	20.81	24.01	47.68
6	8.56	9.25	10.25	13.63	18.53	23.78	27.43	54.64
7	9.04	10.21	10.82	14.50	20.02	25.80	29.82	61.35
8	9.18	10.71	12.07	15.38	21.53	27.81	32.21	68.87
9	9.79	11.08	12.57	16.64	23.03	29.83	34.59	76.59
10	10.29	11.55	12.92	17.74	24.52	31.84	36.77	83.29
11	11.75	12.46	13.64	18.84	26.02	33.80	38.93	91.00
12	12.21	12.99	14.32	19.92	27.51	35.63	41.10	97.55
13	12.46	13.36	15.02	21.00	28.99	37.46	43.27	101.04
14	12.77	13.95	15.71	22.07	30.36	39.29	45.44	106.04
15	12.89	14.55	16.40	23.14	31.71	41.13	47.62	108.85
16	13.40	15.14	17.09	24.21	33.08	42.96	49.78	114.83
17	13.91	15.73	17.78	25.27	34.43	44.80	51.95	120.88
18	14.43	16.32	18.47	26.34	35.79	46.62	54.12	126.97
19	14.94	16.92	19.15	27.40	37.16	48.46	56.28	133.00
20	15.45	17.51	19.84	28.46	38.51	50.29	58.46	139.13
21	16.39	18.76	21.44	30.04	40.58	52.14	60.31	142.09
22	17.39	20.11	23.16	31.71	42.76	54.06	62.21	143.75
23	18.44	21.56	25.03	33.48	45.06	56.04	64.17	144.60
24	19.56	23.10	27.04	35.34	47.48	58.10	66.19	148.13
25	20.75	24.76	29.22	37.30	50.03	60.24	68.28	150.68

Commercial Base Priority Mail Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
26	23.72	29.46	37.96	49.42	62.94	74.61	85.90	155.40
27	25.16	30.81	40.31	53.92	63.81	76.51	89.10	161.28
28	25.95	31.23	41.47	55.35	64.70	78.34	92.66	167.33
29	26.75	31.56	42.61	56.10	65.81	80.19	95.28	171.80
30	27.56	32.02	43.61	56.87	67.70	82.01	97.32	175.52
31	28.36	32.34	44.31	57.61	68.70	83.86	99.59	180.55
32	28.69	33.04	45.06	58.29	69.62	85.72	101.40	184.23
33	29.14	33.97	46.19	59.07	71.00	87.54	103.50	187.63
34	29.41	34.87	47.38	60.36	72.74	89.39	105.54	191.19
35	29.75	35.70	48.06	61.66	74.72	91.22	107.17	194.44
36	30.12	36.76	48.71	63.01	76.65	92.49	109.09	197.75
37	30.44	37.45	49.41	64.14	78.70	93.71	110.96	201.02
38	30.74	38.37	50.04	65.44	80.93	94.80	112.82	204.23
39	31.05	39.29	50.62	66.81	82.88	97.37	114.57	207.39
40	31.37	40.12	51.29	68.21	84.24	99.59	116.21	210.20
41	31.72	40.80	51.84	68.82	85.68	101.77	118.07	214.92
42	31.96	41.12	52.30	69.99	87.22	103.19	119.58	217.86
43	32.34	41.42	52.77	71.16	89.35	104.50	120.87	220.64
44	32.57	41.72	53.23	72.32	90.80	105.78	122.61	223.19
45	32.78	42.03	53.71	73.49	91.82	106.94	124.13	226.01
46	33.08	42.34	54.18	74.66	92.87	108.12	125.59	228.69
47	33.32	42.64	54.64	75.83	93.85	109.38	127.10	231.25
48	33.60	42.95	55.12	76.98	95.07	110.45	128.38	233.77
49	33.87	43.24	55.59	78.16	96.40	111.63	129.66	236.05
50	34.01	43.54	56.07	79.34	97.77	113.08	131.06	238.58

Commercial Base Priority Mail Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	34.52	43.85	56.50	80.70	99.14	114.73	132.35	242.72
52	35.04	44.16	56.98	81.27	100.11	116.49	133.85	245.56
53	35.70	44.46	57.45	81.94	100.97	118.44	135.61	248.70
54	36.23	44.77	57.91	82.65	101.70	120.16	137.58	252.18
55	36.80	45.06	58.38	83.18	102.56	122.11	139.39	255.58
56	37.32	45.38	58.85	83.82	103.24	123.82	140.85	258.22
57	37.92	45.68	59.32	84.32	104.05	124.63	141.85	260.53
58	38.50	45.98	59.78	84.86	104.67	125.79	143.07	262.64
59	39.06	46.29	60.24	85.37	105.27	126.59	144.11	264.60
60	39.55	46.59	60.70	85.86	105.81	127.40	145.04	266.46
61	40.20	46.88	61.17	86.28	106.41	128.90	147.09	270.08
62	40.71	47.19	61.63	86.67	106.91	130.47	149.54	274.33
63	41.45	47.50	62.11	87.13	107.53	131.11	151.98	278.74
64	41.82	47.80	62.58	87.52	108.02	131.71	154.37	283.03
65	42.43	48.10	63.07	87.79	108.34	132.39	156.70	287.45
66	43.00	48.42	63.52	88.19	108.89	132.79	159.21	291.63
67	43.65	48.72	64.61	88.51	109.24	133.33	161.25	295.47
68	44.16	49.01	65.42	88.75	110.64	134.04	162.99	298.60
69	44.77	49.33	66.27	89.02	111.99	134.67	164.75	301.79
70	45.24	49.63	67.32	89.31	113.36	135.17	166.61	305.03

Commercial Base Flat Rate Envelope

	($)
Commercial Base Regular Flat Rate Envelope, per piece	7.75
Commercial Base Legal Flat Rate Envelope, per piece	8.05
Commercial Base Padded Flat Rate Envelope, per piece	8.45

Commercial Base Flat Rate Box

Size	Delivery to Domestic Address ($)	Delivery to APO/FPO/DPO Address ($)
Small Flat Rate Box	8.25	8.25
Regular Flat Rate Boxes	14.25	14.25
Large Flat Rate Boxes	19.20	17.70

Commercial Base Regional Rate Boxes

Size	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	8.38	8.58	8.88	9.55	11.55	12.32	13.54	26.37
B	8.88	9.37	10.12	12.47	16.61	19.59	22.51	44.02

Commercial Base Dimensional Weight

In Zones 1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

Commercial Plus Priority Mail Zone/Weight

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 $)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	7.37	7.68	7.90	8.12	8.59	9.16	9.68	16.39
1	7.37	7.68	7.90	8.12	8.59	9.16	9.68	16.39
2	8.02	8.20	8.49	9.12	10.96	11.62	12.66	25.08
3	8.24	8.60	8.98	9.93	13.34	15.03	17.74	34.03
4	8.34	8.84	9.49	11.54	15.54	18.03	20.77	40.97
5	8.45	8.89	9.82	12.71	17.03	20.81	24.01	47.68
6	8.56	9.25	10.25	13.63	18.53	23.78	27.43	54.64
7	9.04	10.21	10.82	14.50	20.02	25.80	29.82	61.35
8	9.18	10.71	12.07	15.38	21.53	27.81	32.21	68.87
9	9.79	11.08	12.57	16.64	23.03	29.83	34.59	76.59
10	10.29	11.55	12.92	17.74	24.52	31.84	36.77	83.29
11	11.75	12.46	13.64	18.84	26.02	33.80	38.93	91.00
12	12.21	12.99	14.32	19.92	27.51	35.63	41.10	97.55
13	12.46	13.36	15.02	21.00	28.99	37.46	43.27	101.04
14	12.77	13.95	15.71	22.07	30.36	39.29	45.44	106.04
15	12.89	14.55	16.40	23.14	31.71	41.13	47.62	108.85
16	13.40	15.14	17.09	24.21	33.08	42.96	49.78	114.83
17	13.91	15.73	17.78	25.27	34.43	44.80	51.95	120.88
18	14.43	16.32	18.47	26.34	35.79	46.62	54.12	126.97
19	14.94	16.92	19.15	27.40	37.16	48.46	56.28	133.00
20	15.45	17.51	19.84	28.46	38.51	50.29	58.46	139.13
21	16.39	18.76	21.44	30.04	40.58	52.14	60.31	142.09
22	17.39	20.11	23.16	31.71	42.76	54.06	62.21	143.75
23	18.44	21.56	25.03	33.48	45.06	56.04	64.17	144.60
24	19.56	23.10	27.04	35.34	47.48	58.10	66.19	148.13
25	20.75	24.76	29.22	37.30	50.03	60.24	68.28	150.68

Commercial Plus Priority Mail Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
26	23.72	29.46	37.96	49.42	62.94	74.61	85.90	155.40
27	25.16	30.81	40.31	53.92	63.81	76.51	89.10	161.28
28	25.95	31.23	41.47	55.35	64.70	78.34	92.66	167.33
29	26.75	31.56	42.61	56.10	65.81	80.19	95.28	171.80
30	27.56	32.02	43.61	56.87	67.70	82.01	97.32	175.52
31	28.36	32.34	44.31	57.61	68.70	83.86	99.59	180.55
32	28.69	33.04	45.06	58.29	69.62	85.72	101.40	184.23
33	29.14	33.97	46.19	59.07	71.00	87.54	103.50	187.63
34	29.41	34.87	47.38	60.36	72.74	89.39	105.54	191.19
35	29.75	35.70	48.06	61.66	74.72	91.22	107.17	194.44
36	30.12	36.76	48.71	63.01	76.65	92.49	109.09	197.75
37	30.44	37.45	49.41	64.14	78.70	93.71	110.96	201.02
38	30.74	38.37	50.04	65.44	80.93	94.80	112.82	204.23
39	31.05	39.29	50.62	66.81	82.88	97.37	114.57	207.39
40	31.37	40.12	51.29	68.21	84.24	99.59	116.21	210.20
41	31.72	40.80	51.84	68.82	85.68	101.77	118.07	214.92
42	31.96	41.12	52.30	69.99	87.22	103.19	119.58	217.86
43	32.34	41.42	52.77	71.16	89.35	104.50	120.87	220.64
44	32.57	41.72	53.23	72.32	90.80	105.78	122.61	223.19
45	32.78	42.03	53.71	73.49	91.82	106.94	124.13	226.01
46	33.08	42.34	54.18	74.66	92.87	108.12	125.59	228.69
47	33.32	42.64	54.64	75.83	93.85	109.38	127.10	231.25
48	33.60	42.95	55.12	76.98	95.07	110.45	128.38	233.77
49	33.87	43.24	55.59	78.16	96.40	111.63	129.66	236.05
50	34.01	43.54	56.07	79.34	97.77	113.08	131.06	238.58

Commercial Plus Priority Mail Zone/Weight (Continued)

Maximum Weight (pounds)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
51	34.52	43.85	56.50	80.70	99.14	114.73	132.35	242.72
52	35.04	44.16	56.98	81.27	100.11	116.49	133.85	245.56
53	35.70	44.46	57.45	81.94	100.97	118.44	135.61	248.70
54	36.23	44.77	57.91	82.65	101.70	120.16	137.58	252.18
55	36.80	45.06	58.38	83.18	102.56	122.11	139.39	255.58
56	37.32	45.38	58.85	83.82	103.24	123.82	140.85	258.22
57	37.92	45.68	59.32	84.32	104.05	124.63	141.85	260.53
58	38.50	45.98	59.78	84.86	104.67	125.79	143.07	262.64
59	39.06	46.29	60.24	85.37	105.27	126.59	144.11	264.60
60	39.55	46.59	60.70	85.86	105.81	127.40	145.04	266.46
61	40.20	46.88	61.17	86.28	106.41	128.90	147.09	270.08
62	40.71	47.19	61.63	86.67	106.91	130.47	149.54	274.33
63	41.45	47.50	62.11	87.13	107.53	131.11	151.98	278.74
64	41.82	47.80	62.58	87.52	108.02	131.71	154.37	283.03
65	42.43	48.10	63.07	87.79	108.34	132.39	156.70	287.45
66	43.00	48.42	63.52	88.19	108.89	132.79	159.21	291.63
67	43.65	48.72	64.61	88.51	109.24	133.33	161.25	295.47
68	44.16	49.01	65.42	88.75	110.64	134.04	162.99	298.60
69	44.77	49.33	66.27	89.02	111.99	134.67	164.75	301.79
70	45.24	49.63	67.32	89.31	113.36	135.17	166.61	305.03

Commercial Plus Flat Rate Envelope

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	7.75
Commercial Plus Legal Flat Rate Envelope, per piece	8.05
Commercial Plus Padded Flat Rate Envelope, per piece	8.45

Commercial Plus Flat Rate Box

Size	Delivery to Domestic Address ($)	Delivery to APO/FPO/DPO Address ($)
Small Flat Rate Box	8.25	8.25
Medium Flat Rate Boxes	14.25	14.25
Large Flat Rate Boxes	19.20	17.70

Commercial Plus Regional Rate Boxes

Maximum Cubic Feet	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	8.38	8.58	8.88	9.55	11.55	12.32	13.54	26.37
B	8.88	9.37	10.12	12.47	16.61	19.59	22.51	44.02

Commercial Plus Dimensional Weight

In Zones 1-9 (including local), parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

Commercial Plus Cubic

Maximum Cubic Feet	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.10	7.54	7.81	8.05	8.37	9.18	9.77	10.43	18.56
0.20	8.02	8.20	8.49	9.12	10.96	11.62	12.67	25.09
0.30	8.25	8.62	9.01	10.03	13.48	15.22	17.93	34.46
0.40	8.37	8.85	9.57	11.83	15.92	18.73	21.59	42.67
0.50	8.50	9.07	10.04	13.18	17.79	22.31	25.74	51.21

Open and Distribute (PMOD)

a. DDU

Container	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
Half Tray	8.95	10.95	13.24	21.30	21.58	23.46	26.04	32.56
Full Tray	12.17	15.21	17.71	31.00	35.63	37.87	42.25	52.81
EMM Tray	13.95	16.62	20.53	34.29	37.65	41.34	45.97	57.46
Flat Tub	19.93	24.98	30.88	52.23	63.05	68.16	75.87	94.83

b. Processing Facilities

Container	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
Half Tray	7.37	8.98	11.03	19.23	19.66	21.50	23.08	28.86
Full Tray	9.17	11.83	14.73	26.86	31.75	33.99	37.99	47.49
EMM Tray	10.94	12.68	17.28	29.66	33.69	37.09	42.86	53.58
Flat Tub	15.66	20.70	26.23	47.89	58.49	63.67	70.03	87.55

Pickup On Demand Service

Add $25.00 for each Pickup On Demand stop.

IMpb Noncompliance Fee

Add $0.25 for each IMpb-noncompliant parcel paying commercial prices, unless the eVS Unmanifested Fee was already assessed on that parcel.

eVS Unmanifested Fee

Add $0.25 for each unmanifested parcel paying commercial prices, unless the IMpb Noncompliance Fee was already assessed on that parcel.

Dimension Noncompliance Fee

Add $1.50 for commercial parcels that exceed 1 cubic foot or with a length greater than 22 inches, if the customer did not provide dimensions or provided inaccurate dimensions in the electronic manifest file.

Nonstandard Fees

Add the following fees to parcels that exceed certain dimensions, as specified below:

Entry:	Full Network	DSCF/DNDC	DDU
Length > 22”	$4.00	N/A	N/A
Length > 30”	$15.00	N/A	N/A
Cube > 2 cu. ft.	$15.00	N/A	N/A

2115 Parcel Select

* * *

2115.2 Size and Weight Limitations[1]

Parcel Select

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	130 inches in combined length and girth			70 pounds[1]

Lightweight

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	108 inches in combined length and girth			< 16 ounces

USPS Connect Local

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	130 inches in combined length and girth			25 pounds[1]

Notes

1. A charge of $100.00 applies to pieces found in the postal network that exceed the 70-pound maximum weight limitation or the 130-inch length plus girth maximum dimensional limit for Postal Service products. Such items are nonmailable and will not be delivered. As described in the Domestic Mail Manual, this charge is payable before release of the item, unless the item is picked up at the same facility where it was entered.

2115.3 Minimum Volume Requirements

	Minimum Volume Requirements
Parcel Select Ground	50 pieces or 50 pounds per mailing
Lightweight	200 pieces or 50 pounds per mailing
USPS Connect Local	No volume minimum
All Other Parcel Select	50 pieces per mailing

2115.4 Price Categories

Destination Entered

- USPS Connect Local – Line-of-travel package pickup and next day or same day delivery within a specified service area available to mailers who use specifically authorized postage payment methods and, pursuant to a customer agreement on file with the Postal Service, enter packages at a designated destination delivery unit or other equivalent facility.
  - DDU
  - Flat Rate
  - Sunday Delivery
  - Oversized
  - Forwarding and Returns

- DDU – Entered at a designated destination delivery unit, or other equivalent facility
  - DDU
  - Dimensional Weight
  - Oversized
  - Forwarding and Returns

- DSCF – Entered at a designated destination processing and distribution center or facility, or other equivalent facility
  - Machinable — 5-Digit, SCF
  - Nonmachinable — 3-Digit, 5-Digit
  - Dimensional Weight
  - Oversized
  - Forwarding and Returns

- DNDC – Entered at a designated destination network distribution center, auxiliary service facility, or other equivalent facility
  - Machinable
  - Nonmachinable
  - Dimensional Weight
  - Oversized
  - Forwarding and Returns

Non-Destination Entered

- Parcel Select Ground
  - Parcel Select Ground
  - Dimensional Weight
  - Oversized
  - Forwarding and Returns

- Parcel Select Lightweight
  - 5-Digit
    DDU, DSCF, and DNDC entry levels
    Commercial eligible
  - SCF
    DNDC and Origin entry levels
    Commercial eligible
  - NDC
    DNDC and Origin entry levels
    Commercial eligible
  - Mixed NDC/Single-Piece
    Origin entry level
    Commercial eligible

2115.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Forwarding and Return Service
- Pickup On Demand Service
- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
  - Collect On Delivery (1505.7)
  - USPS Tracking (1505.8)
  - Insurance (1505.9)
  - Return Receipt (1505.13)
  - Signature Confirmation (1505.17)
  - Special Handling (1505.18)
- Competitive Ancillary Services (2645)
  - Adult Signature (2645.1)
  - Package Intercept Service (2645.2)
  - Premium Data Retention and Retrieval Service (USPS Tracking Plus) (2645.3)

2115.6 Prices

Destination Entered – USPS Connect Local

a. Connect Local - DDU

Maximum Weight (pounds)	Connect Local - DDU ($)
1	3.95
2	3.95
3	3.95
4	3.95
5	3.95
6	4.70
7	4.70
8	4.70
9	4.70
10	4.70
11	5.45
12	5.45
13	5.45
14	5.45
15	5.45
16	6.20
17	6.20
18	6.20
19	6.20
20	6.20
21	6.95
22	6.95
23	6.95
24	6.95
25	6.95

a. Connect Local – DDU (Continued)

Flat Rate Bag - Small	4.15
Flat Rate Bag - Large	4.95
Flat Rate Box	4.95
Sunday Fee	1.95
Oversized	20.00

b. Sunday Delivery

Available for an additional $1.95 per package, where available, as specified by the Postal Service.

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable, will not be delivered, and may be subject to the $100.00 overweight item charge.

d. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

Destination Entered — DDU

a. DDU

Maximum Weight (pounds)	DDU ($)
1	3.50
2	3.63
3	3.76
4	3.88
5	3.95
6	4.14
7	4.27
8	4.39
9	4.53
10	4.67
11	4.81
12	4.94
13	5.08
14	5.22
15	5.36
16	5.50
17	5.63
18	5.77
19	5.91
20	6.05
21	6.59
22	6.68
23	6.75
24	6.79
25	6.83

a. DDU (Continued)

Maximum Weight (pounds)	DDU ($)
26	6.87
27	6.92
28	6.96
29	7.00
30	7.04
31	7.09
32	7.13
33	7.17
34	7.21
35	7.26
36	7.47
37	7.51
38	7.55
39	7.59
40	7.64
41	7.68
42	7.72
43	7.76
44	7.81
45	7.85
46	7.89
47	7.94
48	8.00
49	8.06
50	8.12

a. DDU (Continued)

Maximum Weight (pounds)	DDU ($)
51	8.20
52	8.27
53	8.36
54	8.44
55	8.53
56	8.61
57	8.70
58	8.78
59	8.87
60	8.95
61	9.04
62	9.12
63	9.21
64	9.29
65	9.38
66	9.46
67	9.54
68	9.63
69	9.71
70	9.80
Oversized	14.81

b. Dimensional Weight

Parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable, will not be delivered, and may be subject to the $100.00 overweight item charge.

d. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

Destination Entered — DSCF

a. DSCF — 5-Digit, SCF Machinable

Maximum Weight (pounds)	DSCF 5-Digit ($)	DSCF SCF ($)
1	3.77	4.77
2	4.10	5.10
3	4.40	5.40
4	4.67	5.67
5	4.88	5.88
6	5.21	6.21
7	5.47	6.47
8	5.71	6.71
9	5.97	6.97
10	6.22	7.22
11	6.47	7.47
12	6.71	7.71
13	6.96	7.96
14	7.20	8.20
15	7.44	8.44
16	7.68	8.68
17	7.90	8.90
18	8.14	9.14
19	8.37	9.37
20	8.60	9.60
21	9.23	10.23
22	9.41	10.41
23	9.57	10.57
24	9.69	10.69
25	9.82	10.82

a. DSCF — 5-Digit, SCF Machinable (Continued)

Maximum Weight (pounds)	DSCF 5-Digit ($)	DSCF SCF ($)
26	9.94	10.94
27	10.08	11.08
28	10.20	11.20
29	10.32	11.32
30	10.44	11.44
31	10.57	11.57
32	10.68	11.68
33	10.80	11.80
34	10.92	11.92
35	11.04	12.04

b. DSCF — 3-Digit, 5-Digit Non-Machinable

Maximum Weight (pounds)	DSCF 3-Digit ($)	DSCF 5-Digit ($)
1	6.42	3.77
2	6.75	4.10
3	7.05	4.40
4	7.32	4.67
5	7.53	4.88
6	7.86	5.21
7	8.12	5.47
8	8.36	5.71
9	8.62	5.97
10	8.87	6.22
11	9.12	6.47
12	9.36	6.71
13	9.61	6.96
14	9.85	7.20
15	10.09	7.44
16	10.33	7.68
17	10.55	7.90
18	10.79	8.14
19	11.02	8.37
20	11.25	8.60
21	11.88	9.23
22	12.06	9.41
23	12.22	9.57
24	12.34	9.69
25	12.47	9.82

b. DSCF — 3-Digit, 5-Digit Non-Machinable (Continued)

Maximum Weight (pounds)	DSCF 3-Digit ($)	DSCF 5-Digit ($)
26	12.59	9.94
27	12.73	10.08
28	12.85	10.20
29	12.97	10.32
30	13.09	10.44
31	13.22	10.57
32	13.33	10.68
33	13.45	10.80
34	13.57	10.92
35	13.69	11.04
36	13.98	11.33
37	14.09	11.44
38	14.21	11.56
39	14.32	11.67
40	14.44	11.79
41	14.55	11.90
42	14.66	12.01
43	14.77	12.12
44	14.89	12.24
45	15.00	12.35
46	15.11	12.46
47	15.23	12.58
48	15.36	12.71
49	15.48	12.83
50	15.61	12.96

b. DSCF — 3-Digit, 5-Digit Non-Machinable (Continued)

Maximum Weight (pounds)	DSCF 3-Digit ($)	DSCF 5-Digit ($)
51	15.76	13.11
52	15.89	13.24
53	16.05	13.40
54	16.19	13.54
55	16.35	13.70
56	16.49	13.84
57	16.65	14.00
58	16.79	14.14
59	16.94	14.29
60	17.09	14.44
61	17.24	14.59
62	17.38	14.73
63	17.53	14.88
64	17.67	15.02
65	17.82	15.17
66	17.96	15.31
67	18.10	15.45
68	18.25	15.60
69	18.39	15.74
70	18.54	15.89
Oversized	24.70	23.70

c. Dimensional Weight

Parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable, will not be delivered, and may be subject to the $100.00 overweight item charge.

e. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

Destination Entered — DNDC

a. DNDC — Machinable

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
1	4.84	4.91	4.99	5.15
2	5.31	5.42	5.56	5.82
3	5.73	5.88	6.07	6.43
4	6.12	6.30	6.54	6.98
5	6.43	6.66	6.93	7.46
6	6.86	7.11	7.43	8.03
7	7.21	7.49	7.85	8.52
8	7.54	7.85	8.24	8.99
9	7.89	8.23	8.65	9.46
10	8.22	8.59	9.05	9.92
11	8.56	8.95	9.44	10.38
12	8.87	9.29	9.82	10.81
13	9.19	9.64	10.19	11.25
14	9.51	9.98	10.57	11.68
15	9.83	10.32	10.93	12.10
16	10.14	10.65	11.29	12.52
17	10.43	10.97	11.64	12.92
18	10.74	11.30	12.00	13.33
19	11.04	11.62	12.35	13.73
20	11.33	11.94	12.69	14.13
21	12.03	12.65	13.43	14.92
22	12.27	12.92	13.72	15.26
23	12.49	13.16	13.99	15.58
24	12.68	13.37	14.23	15.86
25	12.87	13.57	14.46	16.14

a. DNDC — Machinable (Continued)

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
26	13.05	13.78	14.69	16.41
27	13.24	13.99	14.92	16.70
28	13.42	14.19	15.15	16.97
29	13.60	14.39	15.37	17.23
30	13.78	14.59	15.59	17.50
31	13.97	14.79	15.82	17.77
32	14.14	14.98	16.03	18.03
33	14.32	15.17	16.25	18.29
34	14.49	15.36	16.46	18.54
35	14.67	15.56	16.68	18.81

b. DNDC — Non-Machinable

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
1	7.84	7.91	7.99	8.15
2	8.31	8.42	8.56	8.82
3	8.73	8.88	9.07	9.43
4	9.12	9.30	9.54	9.98
5	9.43	9.66	9.93	10.46
6	9.86	10.11	10.43	11.03
7	10.21	10.49	10.85	11.52
8	10.54	10.85	11.24	11.99
9	10.89	11.23	11.65	12.46
10	11.22	11.59	12.05	12.92
11	11.56	11.95	12.44	13.38
12	11.87	12.29	12.82	13.81
13	12.19	12.64	13.19	14.25
14	12.51	12.98	13.57	14.68
15	12.83	13.32	13.93	15.10
16	13.14	13.65	14.29	15.52
17	13.43	13.97	14.64	15.92
18	13.74	14.30	15.00	16.33
19	14.04	14.62	15.35	16.73
20	14.33	14.94	15.69	17.13
21	15.03	15.65	16.43	17.92
22	15.27	15.92	16.72	18.26
23	15.49	16.16	16.99	18.58
24	15.68	16.37	17.23	18.86
25	15.87	16.57	17.46	19.14

b. DNDC — Non-Machinable (Continued)

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
26	16.05	16.78	17.69	19.41
27	16.24	16.99	17.92	19.70
28	16.42	17.19	18.15	19.97
29	16.60	17.39	18.37	20.23
30	16.78	17.59	18.59	20.50
31	16.97	17.79	18.82	20.77
32	17.14	17.98	19.03	21.03
33	17.32	18.17	19.25	21.29
34	17.49	18.36	19.46	21.54
35	17.67	18.56	19.68	21.81
36	18.01	18.92	20.06	22.23
37	18.18	19.11	20.27	22.48
38	18.34	19.29	20.47	22.73
39	18.51	19.47	20.68	22.97
40	18.68	19.67	20.89	23.23
41	18.85	19.85	21.09	23.47
42	19.01	20.03	21.29	23.71
43	19.17	20.20	21.49	23.95
44	19.34	20.39	21.70	24.19
45	19.50	20.57	21.90	24.43
46	19.66	20.74	22.09	24.66
47	19.83	20.93	22.30	24.91
48	20.01	21.12	22.51	25.16
49	20.18	21.31	22.72	25.41
50	20.36	21.50	22.93	25.66

b. DNDC — Non-Machinable (Continued)

Maximum Weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
51	20.55	21.71	23.16	25.92
52	20.74	21.91	23.38	26.18
53	20.94	22.13	23.62	26.45
54	21.13	22.34	23.85	26.72
55	21.33	22.56	24.08	26.99
56	21.53	22.76	24.31	27.25
57	21.73	22.98	24.54	27.52
58	21.92	23.18	24.77	27.78
59	22.11	23.40	25.00	28.05
60	22.30	23.60	25.22	28.30
61	22.50	23.81	25.45	28.57
62	22.69	24.01	25.67	28.83
63	22.88	24.22	25.90	29.09
64	23.07	24.42	26.12	29.34
65	23.26	24.63	26.35	29.60
66	23.45	24.83	26.56	29.86
67	23.63	25.03	26.78	30.11
68	23.83	25.24	27.00	30.36
69	24.01	25.44	27.22	30.61
70	24.20	25.64	27.44	30.87
Oversized	30.87	32.97	35.60	40.59

c. Dimensional Weight

Parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable, will not be delivered, and may be subject to the $100.00 overweight item charge.

e. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

Non-Destination Entered — Parcel Select Ground

a. Parcel Select Ground

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	7.22	7.53	7.75	7.87	8.09	8.61	9.03
2	7.28	7.64	7.95	8.22	9.58	10.21	10.85
3	7.34	7.74	8.14	8.80	11.19	11.63	12.25
4	7.44	7.98	8.65	10.11	11.70	12.54	13.17
5	7.55	8.14	8.91	10.31	12.46	13.19	13.98
6	7.66	8.50	9.40	12.27	12.77	13.55	14.22
7	8.10	9.27	9.84	12.65	13.09	14.02	15.03
8	8.24	9.84	11.20	12.97	13.58	14.50	15.62
9	8.99	10.28	11.77	13.17	13.96	15.20	16.57
10	9.44	10.80	11.94	13.59	14.38	16.22	17.83
11	11.08	11.79	12.97	14.05	15.06	17.86	19.27
12	11.61	12.39	13.21	14.33	15.70	18.66	20.26
13	11.92	12.81	13.55	14.82	16.26	20.05	21.69
14	12.30	13.10	13.62	15.08	17.29	21.41	23.21
15	12.49	13.58	14.06	15.85	18.33	22.19	24.75
16	12.80	13.91	14.20	16.03	19.01	23.19	25.50
17	13.11	14.41	14.64	16.74	19.91	24.68	26.34
18	13.18	14.52	14.80	17.46	20.84	25.25	27.97
19	13.53	15.22	15.45	18.65	21.52	26.19	29.17
20	13.76	15.54	15.85	19.16	22.33	27.23	30.58
21	14.80	16.86	17.67	21.56	25.79	31.31	35.17
22	15.90	18.29	19.70	24.26	29.79	36.01	40.44
23	17.10	19.85	21.97	27.29	34.41	41.41	46.51
24	18.38	21.53	24.49	30.70	39.74	47.62	53.48
25	19.76	23.36	27.31	34.54	45.90	54.76	61.51

a. Parcel Select Ground (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
26	22.59	27.79	35.48	45.76	57.74	67.83	77.39
27	23.96	29.07	37.67	49.93	58.54	69.55	80.27
28	24.71	29.46	38.76	51.25	59.36	71.22	83.48
29	25.48	29.77	39.82	51.94	60.38	72.90	85.84
30	26.25	30.21	40.76	52.66	62.11	74.55	87.68
31	27.01	30.51	41.41	53.34	63.03	76.24	89.72
32	27.32	31.17	42.11	53.97	63.87	77.93	91.35
33	27.75	32.05	43.17	54.69	65.14	79.58	93.24
34	28.01	32.90	44.28	55.89	66.73	81.26	95.08
35	28.33	33.68	44.92	57.09	68.55	82.93	96.55
36	28.69	34.68	45.52	58.34	70.32	84.08	98.28
37	28.99	35.33	46.18	59.39	72.20	85.19	99.96
38	29.28	36.20	46.77	60.59	74.25	86.18	101.64
39	29.57	37.07	47.31	61.86	76.04	88.52	103.22
40	29.88	37.85	47.93	63.16	77.28	90.54	104.69
41	30.21	38.49	48.45	63.72	78.61	92.52	106.37
42	30.44	38.79	48.88	64.81	80.02	93.81	107.73
43	30.80	39.08	49.32	65.89	81.97	95.00	108.89
44	31.02	39.36	49.75	66.96	83.30	96.16	110.46
45	31.22	39.65	50.20	68.05	84.24	97.22	111.83
46	31.50	39.94	50.64	69.13	85.20	98.29	113.14
47	31.73	40.23	51.07	70.21	86.10	99.44	114.50
48	32.00	40.52	51.51	71.28	87.22	100.41	115.66
49	32.26	40.79	51.95	72.37	88.44	101.48	116.81
50	32.39	41.08	52.40	73.46	89.70	102.80	118.07

a. Parcel Select Ground (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
51	32.88	41.37	52.80	74.72	90.95	104.30	119.23
52	33.37	41.66	53.25	75.25	91.84	105.90	120.59
53	34.00	41.94	53.69	75.87	92.63	107.67	122.17
54	34.50	42.24	54.12	76.53	93.30	109.24	123.95
55	35.05	42.51	54.56	77.02	94.09	111.01	125.58
56	35.54	42.81	55.00	77.61	94.72	112.56	126.89
57	36.11	43.09	55.44	78.07	95.46	113.30	127.79
58	36.67	43.38	55.87	78.57	96.03	114.35	128.89
59	37.20	43.67	56.30	79.05	96.58	115.08	129.83
60	37.67	43.95	56.73	79.50	97.07	115.82	130.67
61	38.29	44.23	57.17	79.89	97.62	117.18	132.51
62	38.77	44.52	57.60	80.25	98.08	118.61	134.72
63	39.48	44.81	58.05	80.68	98.65	119.19	136.92
64	39.83	45.09	58.49	81.04	99.10	119.74	139.07
65	40.41	45.38	58.94	81.29	99.39	120.35	141.17
66	40.95	45.68	59.36	81.66	99.90	120.72	143.43
67	41.57	45.96	60.38	81.95	100.22	121.21	145.27
68	42.06	46.24	61.14	82.18	101.50	121.85	146.84
69	42.64	46.54	61.93	82.43	102.74	122.43	148.42
70	43.09	46.82	62.92	82.69	104.00	122.88	150.10
Oversized	84.00	106.79	129.62	152.15	174.93	197.66	220.50

b. Dimensional Weight

Parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable, will not be delivered, and may be subject to the $100.00 overweight item charge.

d. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

Parcel Select Lightweight

Maximum Weight (ounces)	Entry Point/Sortation Level							
	DDU/ 5-Digit ($)	DSCF/ 5-Digit ($)	DNDC/ 5-Digit ($)	DSCF/ SCF ($)	DNDC/ SCF ($)	DNDC/ NDC ($)	None/ NDC ($)	None/ Mixed NDC/Single-Piece ($)
1	2.32	2.72	3.02	3.22	3.45	3.87	4.30	4.62
2	2.32	2.72	3.02	3.22	3.45	3.87	4.30	4.62
3	2.32	2.72	3.02	3.22	3.45	3.87	4.30	4.62
4	2.32	2.72	3.02	3.22	3.45	3.87	4.30	4.62
5	2.34	2.77	3.12	3.33	3.67	4.10	4.60	4.97
6	2.34	2.77	3.12	3.33	3.67	4.10	4.60	4.97
7	2.34	2.77	3.12	3.33	3.67	4.10	4.60	4.97
8	2.34	2.77	3.12	3.33	3.67	4.10	4.60	4.97
9	2.50	3.02	3.46	3.69	4.13	4.61	5.18	5.61
10	2.50	3.02	3.46	3.69	4.13	4.61	5.18	5.61
11	2.50	3.02	3.46	3.69	4.13	4.61	5.18	5.61
12	2.50	3.02	3.46	3.69	4.13	4.61	5.18	5.61
13	2.68	3.29	3.82	4.20	4.62	5.16	5.80	6.29
14	2.68	3.29	3.82	4.20	4.62	5.16	5.80	6.29
15	2.68	3.29	3.82	4.20	4.62	5.16	5.80	6.29
15.999	2.68	3.29	3.82	4.20	4.62	5.16	5.80	6.29

Forwarding and Return Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded Parcel Select Lightweight parcels pay ~~$4.75~~5.25 per piece. All other Parcel Select Lightweight pieces requesting Forwarding and Return Service that are returned are charged the appropriate First-Class Package Service or Priority Mail price for the piece multiplied by a factor of 2.472.

Pickup On Demand Service

Add $25.00 for each Pickup On Demand stop.

IMpb Noncompliance Fee

Add $0.25 for each IMpb-noncompliant parcel paying commercial prices, unless the eVS Unmanifested Fee was already assessed on that parcel.

eVS Unmanifested Fee

Add $0.25 for each unmanifested parcel paying commercial prices, unless the lMpb Noncompliance Fee was already assessed on that parcel.

Dimension Noncompliance Fee

Add $1.50 for parcels that exceed 1 cubic foot or with a length greater than 22 inches, if the customer did not provide dimensions or provided inaccurate dimensions.

Nonstandard Fees

Add the following fees to parcels that exceed certain dimensions, as specified below:

Entry:	Full Network	DSCF/DNDC	DDU
Length > 22”	$4.00	$3.00	$2.00
Length > 30”	$15.00	$11.25	$7.50
Cube > 2 cu. ft.	$15.00	$15.00	$15.00

2120 Parcel Return Service

* * *

2120.6 Prices

RSCF Entered

a. Machinable RSCF

Maximum Weight (pounds)	RSCF ($)
1	4.22
2	4.77
3	5.12
4	5.51
5	5.93
6	6.50
7	6.95
8	7.54
9	8.06
10	8.61
11	9.12
12	9.76
13	10.20
14	10.55
15	10.93
16	11.30
17	11.72
18	12.04
19	12.36
20	12.78
21	13.11
22	13.50
23	13.77
24	14.19
25	14.50

a. Machinable RSCF (Continued)

Maximum Weight (pounds)	RSCF ($)
26	14.96
27	15.27
28	15.60
29	15.93
30	16.23
31	16.58
32	16.91
33	17.19
34	17.63
35	17.95

b. Nonmachinable RSCF

Maximum Weight (pounds)	RSCF ($)
1	7.36
2	7.92
3	8.27
4	8.65
5	9.07
6	9.65
7	10.10
8	10.69
9	11.20
10	11.76
11	12.26
12	12.90
13	13.34
14	13.70
15	14.08
16	14.44
17	14.86
18	15.19
19	15.50
20	15.92
21	16.26
22	16.65
23	16.92
24	17.34
25	17.64

b. Nonmachinable RSCF (Continued)

Maximum Weight (pounds)	RSCF ($)
26	18.11
27	18.42
28	18.75
29	19.08
30	19.38
31	19.73
32	20.06
33	20.34
34	20.78
35	21.10
36	21.43
37	21.55
38	21.87
39	22.03
40	22.32
41	22.61
42	22.76
43	23.10
44	23.38
45	23.68
46	23.95
47	24.16
48	24.57
49	24.93
50	25.17

b. Nonmachinable RSCF (Continued)

Maximum Weight (pounds)	RSCF ($)
51	25.57
52	25.86
53	26.28
54	26.63
55	26.86
56	27.27
57	27.60
58	27.91
59	28.26
60	28.43
61	28.85
62	29.16
63	29.53
64	29.84
65	30.18
66	30.39
67	30.87
68	31.09
69	31.48
70	31.62
Oversized	47.94

c. Balloon Price

RSCF entered pieces exceeding 84 inches in length and girth combined, but not more than 108 inches, and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable, will not be delivered, and may be subject to the $100.00 overweight item charge.

RDU Entered

a. Machinable RDU

Maximum Weight (pounds)	RDU ($)
1	3.37
2	3.46
3	3.55
4	3.66
5	3.74
6	3.86
7	3.94
8	4.03
9	4.14
10	4.23
11	4.34
12	4.43
13	4.54
14	4.63
15	4.71
16	4.83
17	4.91
18	5.02
19	5.11
20	5.22
21	5.31
22	5.39
23	5.51
24	5.59
25	5.71

a. Machinable RDU (Continued)

Maximum Weight (pounds)	RDU ($)
26	5.75
27	5.84
28	5.95
29	6.04
30	6.15
31	6.25
32	6.33
33	6.43
34	6.52
35	6.63

b. Nonmachinable RDU

Maximum Weight (pounds)	RDU ($)
1	3.37
2	3.46
3	3.55
4	3.66
5	3.74
6	3.86
7	3.94
8	4.03
9	4.14
10	4.23
11	4.34
12	4.43
13	4.54
14	4.63
15	4.71
16	4.83
17	4.91
18	5.02
19	5.11
20	5.22
21	5.31
22	5.39
23	5.51
24	5.59
25	5.71

b. Nonmachinable RDU (Continued)

Maximum Weight (pounds)	RDU ($)
26	5.75
27	5.84
28	5.95
29	6.04
30	6.15
31	6.25
32	6.33
33	6.43
34	6.52
35	6.63
36	6.72
37	6.83
38	6.91
39	7.01
40	7.11
41	7.21
42	7.31
43	7.41
44	7.49
45	7.59
46	7.69
47	7.80
48	7.89
49	8.00
50	8.07

b. Nonmachinable RDU (Continued)

Maximum Weight (pounds)	RDU ($)
51	8.18
52	8.29
53	8.38
54	8.49
55	8.58
56	8.66
57	8.76
58	8.86
59	8.97
60	9.06
61	9.17
62	9.24
63	9.35
64	9.44
65	9.55
66	9.64
67	9.72
68	9.83
69	9.92
70	10.03
Oversized	14.60

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable, will not be delivered, and may be subject to the $100.00 overweight item charge.

IMpb Noncompliance Fee

Add $0.25 for each IMpb-noncompliant parcel paying commercial prices.

2125 First-Class Package Service

* * *

2125.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Business Reply Mail (1505.3)
  - Certified Mail (1505.5)
  - Certificate of Mailing (1505.6)
  - Collect on Delivery (1505.7)
  - USPS Tracking (1505.8)
  - Insurance (1505.9)
  - Registered Mail (1505.12)
  - Return Receipt (1505.13)
  - Signature Confirmation (1505.17)
  - Special Handling (1505.18)

- Pickup on Demand Service

- Competitive Ancillary Services (2645)
  - Package Intercept Service (2645.2)
  - Premium Data Retention and Retrieval Service (USPS Tracking Plus) (2645.3)

2125.6 Prices

Commercial

Maximum Weight (ounces)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	3.37	3.39	3.42	3.48	3.58	3.72	3.86
2	3.37	3.39	3.42	3.48	3.58	3.72	3.86
3	3.37	3.39	3.42	3.48	3.58	3.72	3.86
4	3.37	3.39	3.42	3.48	3.58	3.72	3.86
5	3.76	3.79	3.81	3.87	3.88	3.99	4.15
6	3.76	3.79	3.81	3.87	3.88	3.99	4.15
7	3.76	3.79	3.81	3.87	3.88	3.99	4.15
8	3.76	3.79	3.81	3.87	3.88	3.99	4.15
9	4.34	4.39	4.42	4.50	4.68	4.83	4.98
10	4.34	4.39	4.42	4.50	4.68	4.83	4.98
11	4.34	4.39	4.42	4.50	4.68	4.83	4.98
12	4.34	4.39	4.42	4.50	4.68	4.83	4.98
13	5.49	5.53	5.57	5.72	5.96	6.11	6.28
14	5.49	5.53	5.57	5.72	5.96	6.11	6.28
15	5.49	5.53	5.57	5.72	5.96	6.11	6.28
15.999	5.49	5.53	5.57	5.72	5.96	6.11	6.28

Retail[1]

Maximum Weight (ounces)	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	4.50	4.60	4.65	4.70	4.75	4.80	5.00
2	4.50	4.60	4.65	4.70	4.75	4.80	5.00
3	4.50	4.60	4.65	4.70	4.75	4.80	5.00
4	4.50	4.60	4.65	4.70	4.75	4.80	5.00
5	5.10	5.15	5.20	5.25	5.30	5.40	5.50
6	5.10	5.15	5.20	5.25	5.30	5.40	5.50
7	5.10	5.15	5.20	5.25	5.30	5.40	5.50
8	5.10	5.15	5.20	5.25	5.30	5.40	5.50
9	5.80	5.85	5.90	5.95	6.00	6.15	6.25
10	5.80	5.85	5.90	5.95	6.00	6.15	6.25
11	5.80	5.85	5.90	5.95	6.00	6.15	6.25
12	5.80	5.85	5.90	5.95	6.00	6.15	6.25
13	7.05	7.10	7.25	7.30	7.40	7.55	7.65

Notes

1. A handling charge of $0.01 per piece applies to foreign-origin, inbound direct entry mail tendered by foreign postal operators, subject to the terms of an authorization arrangement.

Irregular Parcel Surcharge

Add $0.25 for each irregularly shaped parcel (such as rolls, tubes, and triangles).

IMpb Noncompliance Fee

Add $0.25 for each IMpb-noncompliant parcel paying commercial prices, unless the eVS Unmanifested Fee was already assessed on that parcel.

eVS Unmanifested Fee

Add $0.25 for each unmanifested parcel paying commercial prices, unless the IMpb Noncompliance Fee was already assessed on that parcel.

Pickup On Demand Service

Add $25.00 for each Pickup On Demand stop.

Nonstandard Fees

Add the following fees to parcels that exceed certain dimensions, as specified below:

Entry:	Full Network	DSCF/DNDC	DDU
Length > 22"	$4.00	N/A	N/A
Length > 30"	$15.00	N/A	N/A
Cube > 2 cu. ft.	$15.00	N/A	N/A

2135 USPS Retail Ground

2135.1 Description

a. USPS Retail Ground provides reliable and economical ground package delivery service for less-than-urgent deliveries and oversized packages up to 130 inches in combined length and girth.

b. Any mailable matter may be mailed as USPS Retail Ground, except matter required to be mailed: (1) by First-Class Mail service; (2) as Customized MarketMail pieces; or (3) copies of a publication that are required to be entered as Periodicals mail.

c. USPS Retail Ground pieces are not sealed against postal inspection. Mailing of matter as USPS Retail Ground mail constitutes consent by the mailer to postal inspection of the contents, regardless of the physical closure.

d. USPS Retail Ground mail may receive deferred service.

e. USPS Retail Ground pieces that are undeliverable-as-addressed will be forwarded on request of the addressee, or forwarded and returned on request of the mailer, subject to the applicable single-piece Retail Ground when forwarded or returned from one post office to another. Pieces which combine domestic USPS Retail Ground mail with First-Class Mail or USPS Marketing Mail pieces will be forwarded if undeliverable-as-addressed, and returned if undeliverable.

~~f. Pieces presented as USPS Retail Ground that contain non-hazardous materials and are permitted to travel by air transportation will be converted to Priority Mail service for Zones 1-4 only. Priority Mail prices, including dimensional weighting, will apply to these pieces.~~

~~g~~f. Return parcels may be sent without prepayment of postage if authorized by the returns customer, who agrees to pay the postage.

Attachments and enclosures

a. First-Class Mail or USPS Marketing Mail pieces may be attached to or enclosed in USPS Retail Ground mail. Additional postage may be required.

b. USPS Retail Ground mail may have limited written additions placed on the wrapper, on a tag or label attached to the outside of the package, or inside the package, either loose or attached to the article.

2135.6 Prices

USPS Retail Ground[4]

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	8.50	8.90	9.25	9.80	10.00	10.15	10.25
2	9.05	9.70	10.50	10.85	10.95	12.00	13.95
3	9.70	10.45	11.55	11.90	12.00	13.85	17.90
4	10.35	11.20	12.25	12.55	14.95	16.40	19.75
5	11.05	12.00	12.95	13.25	16.65	18.75	22.80
6	11.45	12.40	13.70	13.80	18.55	20.90	25.70
7	11.95	12.85	14.55	14.90	19.60	23.10	28.65
8	12.45	13.50	14.90	15.70	21.00	26.25	32.65
9	12.70	13.90	15.30	16.80	22.55	28.00	34.95
10	13.90	14.85	16.55	19.00	24.35	30.40	38.95
11	14.90	15.65	17.60	19.50	26.30	33.10	41.30
12	15.55	16.35	18.20	20.50	27.85	36.05	44.95
13	16.15	17.05	18.85	21.00	29.25	39.37	48.97
14	16.85	17.80	19.55	22.15	31.25	43.05	53.35
15	17.55	18.55	20.20	24.25	32.00	43.65	54.40
16	18.30	19.55	21.25	25.25	33.55	46.05	57.45
17	19.10	20.60	22.35	26.25	35.45	48.55	60.50
18	19.95	21.65	23.50	26.60	36.95	50.95	63.65
19	20.85	22.80	24.65	27.65	37.85	51.75	64.60
20	21.75	24.00	25.95	28.55	39.50	53.40	65.00
21	22.55	25.25	28.00	31.00	41.95	54.45	65.50
22	23.35	26.55	30.20	33.65	44.60	55.60	70.75
23	24.15	27.90	32.60	36.65	47.35	56.80	71.50
24	25.00	29.30	35.15	39.95	50.35	58.00	72.75
25	25.90	30.80	37.95	43.50	53.50	59.30	77.00

USPS Retail Ground (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
26	26.80	32.40	40.95	50.15	60.00	69.95	79.90
27	28.45	33.90	42.35	52.70	62.70	72.75	82.80
28	29.35	34.35	43.50	54.10	64.70	75.35	86.00
29	30.25	34.70	44.55	54.90	66.00	77.25	88.36
30	31.15	35.25	45.80	55.65	67.15	78.70	90.20
31	32.10	35.60	48.20	56.50	68.40	80.35	92.25
32	32.45	36.35	49.35	57.00	69.30	81.60	93.85
33	33.00	37.30	50.60	57.80	70.45	83.05	95.75
34	33.30	38.30	51.85	58.95	71.85	84.75	97.60
35	33.65	39.25	52.50	60.20	73.20	86.15	99.05
36	34.00	40.40	53.25	61.65	74.75	87.80	100.80
37	34.30	41.05	54.05	62.70	76.00	89.25	102.50
38	34.70	42.15	54.70	63.90	77.35	90.70	104.15
39	35.10	43.10	55.40	65.25	78.75	92.25	105.75
40	35.50	44.00	56.15	66.65	80.10	93.65	107.20
41	35.80	44.85	56.80	67.30	81.15	95.05	108.90
42	36.05	45.65	57.40	68.65	82.50	96.35	110.25
43	36.55	46.40	57.90	70.15	83.90	97.65	111.40
44	36.80	47.20	58.65	71.60	85.35	99.10	113.00
45	37.05	47.70	59.05	73.30	86.95	100.65	114.35
46	37.30	48.00	59.70	74.60	88.25	102.00	115.65
47	37.65	48.45	60.25	76.40	89.90	103.50	117.00
48	38.00	48.90	60.85	77.80	91.25	104.70	118.20
49	38.20	49.20	61.30	79.20	92.60	105.95	119.35
50	38.35	49.50	61.75	80.80	94.05	107.30	120.60

USPS Retail Ground (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
51	38.55	50.00	62.30	82.10	95.40	108.50	121.75
52	39.05	50.30	62.75	82.75	96.25	109.65	123.10
53	39.70	50.65	63.10	83.40	97.15	110.90	124.70
54	40.20	50.85	63.55	84.05	98.25	112.30	126.45
55	40.90	51.20	63.90	84.70	99.15	113.60	128.10
56	41.45	51.55	64.30	85.25	100.00	114.65	129.40
57	42.10	51.70	64.65	85.70	100.60	115.40	130.30
58	42.75	51.95	65.10	86.35	101.45	116.45	131.40
59	43.40	52.20	65.40	86.85	102.00	117.20	132.35
60	44.00	52.40	66.05	87.25	102.60	117.90	133.20
61	44.65	52.70	67.20	87.75	103.55	119.30	135.05
62	45.10	52.80	68.05	88.25	104.60	120.90	137.25
63	46.00	53.05	69.20	88.65	105.60	122.50	139.45
64	46.45	54.70	70.20	89.10	106.65	124.05	141.60
65	47.10	54.85	71.15	89.30	107.45	125.60	143.70
66	47.70	55.05	72.30	89.80	108.60	127.20	145.95
67	48.45	55.15	73.55	90.15	109.40	128.65	147.80
68	49.05	55.25	74.40	90.30	110.05	129.70	149.35
69	49.65	55.30	75.35	90.55	110.65	130.85	150.95
70	50.25	55.50	76.60	90.85	111.40	132.05	152.60
Oversized	84.00	106.80	129.60	152.15	174.95	197.65	220.50

~~**Notes**~~

~~1. Except for oversized pieces, the Zone 1-4 prices are applicable only to parcels containing hazardous or other material not permitted to travel by air transportation. All other parcels for shipment in Zones 1-4 will be converted to Priority Mail service.~~

Limited Overland Routes

Pieces delivered to or from designated intra-Alaska ZIP Codes not connected by overland routes are eligible for the following prices.

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
1	7.80	8.10	8.70	9.40
2	8.00	9.00	9.10	9.50
3	8.30	9.70	10.25	10.75
4	8.75	10.20	11.30	11.95
5	9.40	10.25	11.55	12.30
6	9.50	10.45	11.85	12.45
7	9.55	10.55	11.90	12.50
8	9.60	10.65	11.95	12.55
9	9.70	10.70	12.05	12.60
10	10.30	10.80	12.15	13.50
11	10.35	10.85	12.25	13.75
12	10.40	10.90	12.50	13.90
13	10.45	10.95	12.75	14.10
14	10.50	11.00	12.80	14.70
15	10.80	11.15	12.90	15.45
16	10.90	11.35	13.00	16.00
17	11.15	11.90	13.10	16.70
18	12.10	12.50	13.50	16.90
19	12.60	13.20	14.30	17.50
20	13.00	14.10	15.20	18.20
21	13.30	15.00	16.60	20.10
22	13.80	15.80	18.00	21.90
23	14.30	16.80	19.60	23.50
24	14.80	17.15	21.20	26.50
25	15.50	18.70	22.60	28.80

Limited Overland Routes (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
26	15.70	19.80	24.20	31.60
27	16.50	20.80	24.60	31.90
28	16.90	21.30	25.30	32.25
29	17.40	21.80	26.10	33.70
30	17.80	22.30	26.80	34.10
31	18.40	22.70	28.40	35.10
32	18.70	23.10	29.20	37.80
33	19.10	23.60	29.90	38.80
34	19.60	24.10	30.50	39.60
35	20.10	24.60	31.20	40.30
36	20.40	25.10	31.70	40.65
37	20.80	25.60	32.30	41.60
38	21.30	26.00	32.90	42.30
39	21.80	26.50	33.50	43.10
40	22.20	27.00	34.00	43.80
41	22.70	27.50	34.80	44.30
42	23.00	28.00	35.50	45.10
43	23.40	28.50	36.00	46.00
44	23.80	29.00	36.60	46.25
45	24.10	29.40	37.20	46.60
46	24.50	29.80	37.80	46.90
47	24.80	30.30	38.40	47.00
48	25.10	30.80	39.00	47.10
49	25.60	31.20	39.60	47.20
50	25.90	31.60	40.10	47.60

Limited Overland Routes (Continued)

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
51	26.30	32.10	40.70	48.00
52	26.60	32.60	41.30	48.80
53	27.00	33.00	41.90	49.30
54	27.30	33.50	42.50	49.90
55	27.70	33.90	43.00	50.30
56	28.10	34.40	43.70	50.80
57	28.50	34.80	44.20	51.30
58	28.80	35.20	44.80	51.60
59	29.20	35.70	45.30	52.10
60	29.50	36.20	46.00	52.60
61	29.90	36.60	46.60	52.90
62	30.20	37.00	47.20	53.30
63	30.60	37.50	47.80	53.70
64	31.00	37.90	48.50	54.20
65	31.30	38.40	49.10	54.60
66	31.70	38.80	49.80	55.00
67	32.10	39.20	50.40	55.40
68	32.50	39.70	51.00	56.00
69	32.80	40.10	51.40	57.30
70	33.20	41.20	52.70	61.00
Oversized	49.10	67.30	74.20	90.10

Balloon Price

Limited Overland Routes pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price. As stated in the Domestic Mail Manual, any piece that is found to be over the 70 pound maximum weight limitation is nonmailable, will not be delivered, and may be subject to the $100.00 overweight item charge.

Pickup On Demand Service

Add $25.00 for each Pickup On Demand stop.

Dimensional Weight

In Zones 1-8, parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 166.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 166, and multiplying by an adjustment factor of 0.785.

These dimensional weight rules do not apply to the Limited Overland Routes price category.

IMpb Noncompliance Fee

Add $0.25 for each IMpb-noncompliant parcel paying commercial prices.

Nonstandard Fees

Add the following fees to parcels that exceed certain dimensions, as specified below:

Entry:	Full Network	DSCF/DNDC	DDU
Length > 22”	$4.00	N/A	N/A
Length > 30”	$15.00	N/A	N/A
Cube > 2 cu. ft.	$15.00	N/A	N/A

* * *

2305 Outbound International Expedited Services

* * *

2305.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Pickup On Demand Service
- International Ancillary Services (2615)
  - International Insurance (2615.5)
- Competitive Ancillary Services (2645)
  - Premium Data Retention and Retrieval Service (USPS Tracking Plus) (2645.3)

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2305.6 Prices

Global Express Guaranteed Retail Prices

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	67.80	75.50	87.05	148.25	96.45	101.00	75.80	119.20
1	81.10	82.15	98.65	169.00	111.95	114.95	89.70	133.90
2	86.65	89.30	106.05	197.85	119.45	123.85	100.25	154.90
3	95.30	100.20	122.25	217.80	135.55	138.00	118.20	175.10
4	101.05	107.65	130.20	236.90	143.60	147.25	129.45	191.45
5	106.40	115.15	138.15	256.05	151.60	156.55	140.70	207.75
6	112.70	123.40	147.00	276.50	160.60	166.00	148.90	224.50
7	118.10	130.50	154.30	295.55	168.70	175.25	156.35	240.50
8	123.50	137.55	161.50	314.55	176.85	184.55	163.85	256.55
9	128.90	144.65	168.80	333.60	185.05	193.80	171.30	272.60
10	134.35	151.75	176.00	352.60	193.20	203.10	178.80	288.65
11	140.65	157.40	182.90	375.15	199.85	213.90	185.15	302.65
12	145.95	161.80	188.90	394.30	205.55	221.85	191.20	315.00
13	151.30	166.25	194.95	413.50	211.30	229.90	197.25	327.40
14	156.65	170.60	200.95	432.70	217.05	237.85	203.25	339.75
15	162.00	174.95	207.05	451.95	222.75	245.85	209.25	352.10
16	167.35	179.40	213.00	471.15	228.50	253.80	215.30	364.45
17	172.70	183.75	219.05	490.35	234.20	261.80	221.35	376.85
18	178.05	188.10	225.05	509.55	239.90	269.75	227.35	389.20
19	183.35	192.55	231.10	528.70	245.60	277.75	233.45	401.60
20	188.70	196.90	237.10	547.90	251.35	285.70	239.45	414.00
21	194.25	200.30	243.60	564.35	258.10	294.25	245.95	428.35
22	199.60	203.40	249.60	579.65	263.80	302.25	252.00	440.80
23	204.95	206.50	255.70	595.00	269.55	310.25	258.05	453.25
24	210.35	209.50	261.75	610.30	275.25	318.25	264.05	465.65
25	215.70	212.60	267.80	625.75	281.00	326.25	270.10	478.10

Global Express Guaranteed Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
26	221.00	215.60	273.80	641.05	286.75	334.25	276.15	490.50
27	226.40	218.70	279.85	656.40	292.50	342.25	282.20	502.90
28	231.70	221.70	285.90	671.75	298.20	350.25	288.20	515.40
29	237.10	224.80	291.90	687.15	304.00	358.25	294.25	527.80
30	242.40	227.85	297.95	702.45	309.75	366.25	300.30	540.25
31	251.35	231.60	304.80	723.20	316.35	374.60	307.25	555.85
32	255.95	234.65	310.85	738.65	322.15	382.60	313.30	568.35
33	260.70	237.70	316.95	754.20	327.85	390.60	319.35	580.80
34	265.35	240.80	323.00	769.65	333.65	398.60	325.40	593.35
35	270.00	243.85	329.05	785.15	339.45	406.60	331.45	605.85
36	274.65	246.90	335.15	800.55	345.15	414.65	337.50	618.30
37	279.30	250.00	341.15	816.05	350.90	422.65	343.60	630.80
38	283.95	253.05	347.20	831.50	356.70	430.60	349.60	643.35
39	288.65	256.10	353.30	847.00	362.45	438.65	355.70	655.85
40	293.25	259.25	359.35	862.50	368.20	446.65	361.75	668.35
41	300.45	263.00	365.40	881.15	375.40	454.60	370.30	681.50
42	304.45	266.10	371.50	896.65	381.10	462.65	376.40	694.00
43	308.50	269.15	377.50	912.15	386.90	470.65	382.50	706.50
44	312.50	272.25	383.50	927.75	392.70	478.65	388.60	719.00
45	316.50	275.35	389.60	943.30	398.45	486.70	394.70	731.55
46	320.60	278.40	395.65	958.75	404.25	494.65	400.75	744.05
47	324.60	281.50	401.75	974.30	410.05	502.65	406.85	756.55
48	328.60	284.55	407.75	989.80	415.80	510.70	413.00	769.10
49	332.65	287.65	413.85	1,005.40	421.60	518.70	419.10	781.55
50	336.70	290.70	419.90	1,020.85	427.40	526.70	425.20	794.10

Global Express Guaranteed Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
51	343.00	293.80	426.75	1,037.35	434.40	535.25	433.35	808.15
52	347.10	296.85	432.80	1,052.95	440.20	543.20	439.50	820.70
53	351.10	299.95	438.90	1,068.50	446.00	551.25	445.60	833.25
54	355.15	302.95	445.00	1,084.00	451.80	559.25	451.75	845.75
55	359.20	306.10	451.00	1,099.50	457.60	567.25	457.90	858.30
56	363.30	309.15	457.10	1,115.05	463.35	575.25	464.00	870.80
57	367.30	312.20	463.15	1,130.65	469.15	583.35	470.20	883.35
58	371.40	315.30	469.20	1,146.15	475.00	591.30	476.25	895.95
59	375.45	318.40	475.25	1,161.70	480.80	599.35	482.35	908.45
60	379.55	321.40	481.35	1,177.20	486.60	607.35	488.50	920.95
61	383.90	324.55	488.35	1,193.90	493.80	615.95	497.50	934.35
62	388.00	327.65	494.40	1,209.40	499.60	624.00	503.60	946.95
63	392.00	330.65	500.50	1,225.00	505.40	632.00	509.80	959.45
64	396.10	333.80	506.55	1,240.55	511.25	640.00	515.95	972.05
65	400.15	336.85	512.65	1,256.15	517.00	648.05	522.15	984.60
66	404.20	339.90	518.70	1,271.65	522.85	656.10	528.35	997.15
67	408.30	342.95	524.80	1,287.25	528.70	664.05	534.45	1,009.70
68	412.35	346.10	530.90	1,302.80	534.45	672.10	540.65	1,022.20
69	416.45	349.10	536.95	1,318.30	540.30	680.15	546.80	1,034.80
70	420.45	352.20	543.00	1,333.85	546.05	688.15	553.00	1,047.35

Global Express Guaranteed Commercial Base Prices

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	64.41	71.73	82.70	140.84	91.63	95.95	72.01	113.24
1	77.05	78.04	93.72	160.55	106.35	109.20	85.22	127.21
2	82.32	84.84	100.75	187.96	113.48	117.66	95.24	147.16
3	90.54	95.19	116.14	206.91	128.77	131.10	112.29	166.35
4	96.00	102.27	123.69	225.06	136.42	139.89	122.98	181.88
5	101.08	109.39	131.24	243.25	144.02	148.72	133.67	197.36
6	107.07	117.23	139.65	262.68	152.57	157.70	141.46	213.28
7	112.20	123.98	146.59	280.77	160.27	166.49	148.53	228.48
8	117.33	130.67	153.43	298.82	168.01	175.32	155.66	243.72
9	122.46	137.42	160.36	316.92	175.80	184.11	162.74	258.97
10	127.63	144.16	167.20	334.97	183.54	192.95	169.86	274.22
11	133.62	149.53	173.76	356.39	189.86	203.21	175.89	287.52
12	138.65	153.71	179.46	374.59	195.27	210.76	181.64	299.25
13	143.74	157.94	185.20	392.83	200.74	218.41	187.39	311.03
14	148.82	162.07	190.90	411.07	206.20	225.96	193.09	322.76
15	153.90	166.20	196.70	429.35	211.61	233.56	198.79	334.50
16	158.98	170.43	202.35	447.59	217.08	241.11	204.54	346.23
17	164.07	174.56	208.10	465.83	222.49	248.71	210.28	358.01
18	169.15	178.70	213.80	484.07	227.91	256.26	215.98	369.74
19	174.18	182.92	219.55	502.27	233.32	263.86	221.78	381.52
20	179.27	187.06	225.25	520.51	238.78	271.42	227.48	393.30
21	184.54	190.29	231.42	536.13	245.20	279.54	233.65	406.93
22	189.62	193.23	237.12	550.67	250.61	287.14	239.40	418.76
23	194.70	196.18	242.92	565.25	256.07	294.74	245.15	430.59
24	199.83	199.03	248.66	579.79	261.49	302.34	250.85	442.37
25	204.92	201.97	254.41	594.46	266.95	309.94	256.60	454.20

Global Express Guaranteed Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
26	209.95	204.82	260.11	609.00	272.41	317.54	262.34	465.98
27	215.08	207.77	265.86	623.58	277.88	325.14	268.09	477.76
28	220.12	210.62	271.61	638.16	283.29	332.74	273.79	489.63
29	225.25	213.56	277.31	652.79	288.80	340.34	279.54	501.41
30	230.28	216.46	283.05	667.33	294.26	347.94	285.29	513.24
31	238.78	220.02	289.56	687.04	300.53	355.87	291.89	528.06
32	243.15	222.92	295.31	701.72	306.04	363.47	297.64	539.93
33	247.67	225.82	301.10	716.49	311.46	371.07	303.38	551.76
34	252.08	228.76	306.85	731.17	316.97	378.67	309.13	563.68
35	256.50	231.66	312.60	745.89	322.48	386.27	314.88	575.56
36	260.92	234.56	318.39	760.52	327.89	393.92	320.63	587.39
37	265.34	237.50	324.09	775.25	333.36	401.52	326.42	599.26
38	269.75	240.40	329.84	789.93	338.87	409.07	332.12	611.18
39	274.22	243.30	335.64	804.65	344.33	416.72	337.92	623.06
40	278.59	246.29	341.38	819.38	349.79	424.32	343.66	634.93
41	285.43	249.85	347.13	837.09	356.63	431.87	351.79	647.43
42	289.23	252.80	352.93	851.82	362.05	439.52	357.58	659.30
43	293.08	255.69	358.63	866.54	367.56	447.12	363.38	671.18
44	296.88	258.64	364.33	881.36	373.07	454.72	369.17	683.05
45	300.68	261.58	370.12	896.14	378.53	462.37	374.97	694.97
46	304.57	264.48	375.87	910.81	384.04	469.92	380.71	706.85
47	308.37	267.43	381.66	925.59	389.55	477.52	386.51	718.72
48	312.17	270.32	387.36	940.31	395.01	485.17	392.35	730.65
49	316.02	273.27	393.16	955.13	400.52	492.77	398.15	742.47
50	319.87	276.17	398.91	969.81	406.03	500.37	403.94	754.40

Global Express Guaranteed Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
51	325.85	279.11	405.41	985.48	412.68	508.49	411.68	767.74
52	329.75	282.01	411.16	1,000.30	418.19	516.04	417.53	779.67
53	333.55	284.95	416.96	1,015.08	423.70	523.69	423.32	791.59
54	337.39	287.80	422.75	1,029.80	429.21	531.29	429.16	803.46
55	341.24	290.80	428.45	1,044.53	434.72	538.89	435.01	815.39
56	345.14	293.69	434.25	1,059.30	440.18	546.49	440.80	827.26
57	348.94	296.59	439.99	1,074.12	445.69	554.18	446.69	839.18
58	352.83	299.54	445.74	1,088.84	451.25	561.74	452.44	851.15
59	356.68	302.48	451.49	1,103.62	456.76	569.38	458.23	863.03
60	360.57	305.33	457.28	1,118.34	462.27	576.98	464.08	874.90
61	364.71	308.32	463.93	1,134.21	469.11	585.15	472.63	887.63
62	368.60	311.27	469.68	1,148.93	474.62	592.80	478.42	899.60
63	372.40	314.12	475.48	1,163.75	480.13	600.40	484.31	911.48
64	376.30	317.11	481.22	1,178.52	485.69	608.00	490.15	923.45
65	380.14	320.01	487.02	1,193.34	491.15	615.65	496.04	935.37
66	383.99	322.91	492.77	1,208.07	496.71	623.30	501.93	947.29
67	387.89	325.80	498.56	1,222.89	502.27	630.85	507.73	959.22
68	391.73	328.80	504.36	1,237.66	507.73	638.50	513.62	971.09
69	395.63	331.65	510.10	1,252.39	513.29	646.14	519.46	983.06
70	399.43	334.59	515.85	1,267.16	518.75	653.74	525.35	994.98

Global Express Guaranteed Commercial Plus Prices

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	64.41	71.73	82.70	140.84	91.63	95.95	72.01	113.24
1	77.05	78.04	93.72	160.55	106.35	109.20	85.22	127.21
2	82.32	84.84	100.75	187.96	113.48	117.66	95.24	147.16
3	90.54	95.19	116.14	206.91	128.77	131.10	112.29	166.35
4	96.00	102.27	123.69	225.06	136.42	139.89	122.98	181.88
5	101.08	109.39	131.24	243.25	144.02	148.72	133.67	197.36
6	107.07	117.23	139.65	262.68	152.57	157.70	141.46	213.28
7	112.20	123.98	146.59	280.77	160.27	166.49	148.53	228.48
8	117.33	130.67	153.43	298.82	168.01	175.32	155.66	243.72
9	122.46	137.42	160.36	316.92	175.80	184.11	162.74	258.97
10	127.63	144.16	167.20	334.97	183.54	192.95	169.86	274.22
11	133.62	149.53	173.76	356.39	189.86	203.21	175.89	287.52
12	138.65	153.71	179.46	374.59	195.27	210.76	181.64	299.25
13	143.74	157.94	185.20	392.83	200.74	218.41	187.39	311.03
14	148.82	162.07	190.90	411.07	206.20	225.96	193.09	322.76
15	153.90	166.20	196.70	429.35	211.61	233.56	198.79	334.50
16	158.98	170.43	202.35	447.59	217.08	241.11	204.54	346.23
17	164.07	174.56	208.10	465.83	222.49	248.71	210.28	358.01
18	169.15	178.70	213.80	484.07	227.91	256.26	215.98	369.74
19	174.18	182.92	219.55	502.27	233.32	263.86	221.78	381.52
20	179.27	187.06	225.25	520.51	238.78	271.42	227.48	393.30
21	184.54	190.29	231.42	536.13	245.20	279.54	233.65	406.93
22	189.62	193.23	237.12	550.67	250.61	287.14	239.40	418.76
23	194.70	196.18	242.92	565.25	256.07	294.74	245.15	430.59
24	199.83	199.03	248.66	579.79	261.49	302.34	250.85	442.37
25	204.92	201.97	254.41	594.46	266.95	309.94	256.60	454.20

Global Express Guaranteed Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
26	209.95	204.82	260.11	609.00	272.41	317.54	262.34	465.98
27	215.08	207.77	265.86	623.58	277.88	325.14	268.09	477.76
28	220.12	210.62	271.61	638.16	283.29	332.74	273.79	489.63
29	225.25	213.56	277.31	652.79	288.80	340.34	279.54	501.41
30	230.28	216.46	283.05	667.33	294.26	347.94	285.29	513.24
31	238.78	220.02	289.56	687.04	300.53	355.87	291.89	528.06
32	243.15	222.92	295.31	701.72	306.04	363.47	297.64	539.93
33	247.67	225.82	301.10	716.49	311.46	371.07	303.38	551.76
34	252.08	228.76	306.85	731.17	316.97	378.67	309.13	563.68
35	256.50	231.66	312.60	745.89	322.48	386.27	314.88	575.56
36	260.92	234.56	318.39	760.52	327.89	393.92	320.63	587.39
37	265.34	237.50	324.09	775.25	333.36	401.52	326.42	599.26
38	269.75	240.40	329.84	789.93	338.87	409.07	332.12	611.18
39	274.22	243.30	335.64	804.65	344.33	416.72	337.92	623.06
40	278.59	246.29	341.38	819.38	349.79	424.32	343.66	634.93
41	285.43	249.85	347.13	837.09	356.63	431.87	351.79	647.43
42	289.23	252.80	352.93	851.82	362.05	439.52	357.58	659.30
43	293.08	255.69	358.63	866.54	367.56	447.12	363.38	671.18
44	296.88	258.64	364.33	881.36	373.07	454.72	369.17	683.05
45	300.68	261.58	370.12	896.14	378.53	462.37	374.97	694.97
46	304.57	264.48	375.87	910.81	384.04	469.92	380.71	706.85
47	308.37	267.43	381.66	925.59	389.55	477.52	386.51	718.72
48	312.17	270.32	387.36	940.31	395.01	485.17	392.35	730.65
49	316.02	273.27	393.16	955.13	400.52	492.77	398.15	742.47
50	319.87	276.17	398.91	969.81	406.03	500.37	403.94	754.40

Global Express Guaranteed Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
51	325.85	279.11	405.41	985.48	412.68	508.49	411.68	767.74
52	329.75	282.01	411.16	1,000.30	418.19	516.04	417.53	779.67
53	333.55	284.95	416.96	1,015.08	423.70	523.69	423.32	791.59
54	337.39	287.80	422.75	1,029.80	429.21	531.29	429.16	803.46
55	341.24	290.80	428.45	1,044.53	434.72	538.89	435.01	815.39
56	345.14	293.69	434.25	1,059.30	440.18	546.49	440.80	827.26
57	348.94	296.59	439.99	1,074.12	445.69	554.18	446.69	839.18
58	352.83	299.54	445.74	1,088.84	451.25	561.74	452.44	851.15
59	356.68	302.48	451.49	1,103.62	456.76	569.38	458.23	863.03
60	360.57	305.33	457.28	1,118.34	462.27	576.98	464.08	874.90
61	364.71	308.32	463.93	1,134.21	469.11	585.15	472.63	887.63
62	368.60	311.27	469.68	1,148.93	474.62	592.80	478.42	899.60
63	372.40	314.12	475.48	1,163.75	480.13	600.40	484.31	911.48
64	376.30	317.11	481.22	1,178.52	485.69	608.00	490.15	923.45
65	380.14	320.01	487.02	1,193.34	491.15	615.65	496.04	935.37
66	383.99	322.91	492.77	1,208.07	496.71	623.30	501.93	947.29
67	387.89	325.80	498.56	1,222.89	502.27	630.85	507.73	959.22
68	391.73	328.80	504.36	1,237.66	507.73	638.50	513.62	971.09
69	395.63	331.65	510.10	1,252.39	513.29	646.14	519.46	983.06
70	399.43	334.59	515.85	1,267.16	518.75	653.74	525.35	994.98

Priority Mail Express International Flat Rate Retail Prices

	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	47.95	64.95	70.95	69.95	69.95	71.95	72.50	71.50

Priority Mail Express International Flat Rate Commercial Base Prices

	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	44.95	60.95	66.95	66.95	65.95	70.95	65.95	64.95

Priority Mail Express International Flat Rate Commercial Plus Prices

	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	44.95	60.95	66.95	66.95	65.95	70.95	65.95	64.95

Priority Mail Express International Retail Prices

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
0.5	47.95	59.50	75.50	67.95	70.95	70.95	66.50	69.95	70.95	61.95
1	52.50	65.50	76.95	69.95	72.95	74.95	71.95	76.95	77.50	66.95
2	58.05	70.20	83.05	74.50	77.70	80.50	77.30	84.40	85.05	72.20
3	63.70	74.90	89.20	79.05	82.45	86.05	82.60	92.00	92.60	77.45
4	69.30	79.60	95.25	83.60	87.20	91.55	87.90	99.50	100.20	82.70
5	74.85	84.30	101.40	88.15	91.90	97.15	93.20	106.95	107.75	87.90
6	80.35	87.65	107.50	92.60	96.50	102.80	98.95	114.50	115.25	92.85
7	85.90	91.00	113.55	97.15	101.25	108.50	104.40	121.95	122.80	97.80
8	91.55	94.30	119.70	101.70	106.05	114.10	109.80	129.50	130.35	102.70
9	97.10	97.60	125.85	106.25	110.75	119.80	115.25	137.00	137.95	107.60
10	102.70	100.95	131.90	110.75	115.50	125.40	120.70	144.50	145.45	112.50
11	108.05	104.40	138.30	115.20	120.35	131.30	126.95	152.20	153.45	117.40
12	113.40	107.75	144.40	119.75	125.15	136.95	132.40	159.75	161.10	122.45
13	118.80	111.10	150.45	124.25	129.90	142.65	137.90	167.20	168.65	127.45
14	124.15	114.40	156.50	128.80	134.60	148.30	143.35	174.70	176.25	132.45
15	129.50	117.70	162.60	133.35	139.35	153.95	148.80	182.25	183.85	137.50
16	134.85	120.95	168.65	137.90	144.10	159.70	154.35	189.75	191.45	142.50
17	140.20	124.15	174.70	142.40	148.85	165.35	159.80	197.30	199.00	147.50
18	145.60	127.35	180.80	146.95	153.55	170.95	165.25	204.85	206.55	152.50
19	150.95	130.60	186.85	151.50	158.30	176.65	170.75	212.40	214.20	157.55
20	156.30	133.70	192.95	156.05	163.05	182.30	176.20	219.90	221.75	162.55
21	161.50	136.95	198.80	160.40	167.65	188.15	181.85	227.45	228.95	167.40
22	166.85	140.20	204.85	164.95	172.35	193.85	187.40	234.95	236.45	172.45
23	172.20	143.40	210.95	169.50	177.10	199.50	192.85	242.40	244.05	177.40
24	177.60	146.55	217.00	174.00	181.85	205.15	198.30	249.95	251.65	182.45
25	182.95	149.80	223.10	178.55	186.60	210.85	203.85	257.45	259.20	187.45

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
0.5	62.50	71.50	74.50	67.50	68.95	68.95	66.95	62.95	83.55	68.95
1	67.75	74.50	78.50	69.50	71.95	70.95	74.50	67.50	85.40	73.50
2	73.05	81.35	83.60	76.20	75.55	74.30	80.25	73.60	92.15	78.45
3	78.40	88.15	88.70	82.85	79.15	77.65	86.05	79.70	99.00	83.40
4	83.65	95.00	93.80	89.60	82.75	81.00	91.80	85.90	105.75	88.30
5	88.90	101.75	98.90	96.30	86.35	84.35	97.55	91.95	112.50	93.25
6	93.80	108.95	103.95	103.50	89.95	87.40	102.90	96.45	119.80	96.95
7	98.80	116.00	109.10	110.35	93.70	90.65	108.40	100.85	126.55	100.80
8	103.70	123.05	114.35	117.15	97.40	93.85	113.85	105.30	133.40	104.60
9	108.65	130.10	119.55	124.05	101.05	97.10	119.30	109.80	140.20	108.35
10	113.65	137.15	124.75	130.85	104.75	100.35	124.75	114.30	147.00	112.20
11	118.50	144.15	130.05	137.25	108.50	104.25	129.30	118.35	154.55	116.50
12	123.50	151.30	135.25	144.45	112.15	108.15	133.90	122.35	161.35	120.30
13	128.60	158.40	140.50	151.70	115.85	112.05	138.45	126.30	168.15	124.20
14	133.65	165.55	145.70	158.95	119.50	115.95	143.00	130.30	174.90	128.00
15	138.75	172.70	150.95	166.10	123.25	119.80	147.65	134.25	181.70	131.75
16	143.75	179.85	156.05	173.35	127.00	123.70	152.20	138.25	188.50	135.60
17	148.85	187.00	161.30	180.55	130.65	127.60	156.75	142.20	195.25	139.40
18	153.90	194.15	166.50	187.80	134.35	131.50	161.40	146.20	202.05	143.25
19	159.00	201.30	171.70	195.00	138.05	135.40	165.95	150.15	208.85	147.05
20	163.95	208.45	176.95	202.25	141.80	139.30	170.50	154.15	215.60	150.85
21	168.75	215.55	182.10	208.75	145.50	143.20	175.10	158.40	222.75	155.25
22	173.80	222.70	187.30	215.20	149.15	147.10	179.70	162.40	229.55	159.05
23	178.85	229.90	192.55	221.65	152.90	151.00	184.30	166.40	236.30	162.90
24	183.90	237.00	197.75	228.10	156.55	154.90	188.85	170.35	243.15	166.75
25	188.95	244.15	202.90	234.55	160.35	158.75	193.45	174.35	249.95	170.55

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
26	188.30	152.95	229.10	183.10	191.30	216.50	209.30	265.00	266.75	192.45
27	193.65	156.20	235.15	187.60	196.05	222.15	214.75	272.55	274.40	197.45
28	199.00	159.40	241.30	192.15	200.80	227.85	220.20	280.05	281.95	202.45
29	204.35	162.60	247.30	196.70	205.50	233.50	225.75	287.55	289.45	207.45
30	209.65	165.85	253.40	201.20	210.25	239.15	231.20	295.10	297.05	212.50
31	213.70	169.30	258.45	205.55	215.00	244.80	237.15	302.35	304.10	217.25
32	218.20	172.55	264.50	210.05	219.75	250.50	242.60	309.85	311.65	222.30
33	222.60	175.80	270.55	214.60	224.45	256.15	248.15	317.35	319.20	227.30
34	227.05	178.95	276.60	219.15	229.20	261.85	253.65	324.85	326.70	232.30
35	231.55	182.20	282.65	223.65	233.95	267.50	259.10	332.40	334.30	237.30
36	235.95	185.35	288.65	228.20	238.70	273.15	264.60	339.90	341.85	242.30
37	240.40	188.60	294.70	232.70	243.40	278.80	270.05	347.40	349.40	247.30
38	244.85	191.85	300.75	237.25	248.15	284.50	275.60	354.95	356.95	252.30
39	249.30	195.00	306.85	241.75	252.90	290.20	281.10	362.45	364.55	257.30
40	253.70	198.25	312.85	246.30	257.65	295.85	286.55	370.00	372.10	262.30
41	257.70	201.85	318.90	250.85	262.60	302.35	292.60	377.45	381.25	267.30
42	262.15	205.05	324.95	255.35	267.40	308.05	298.10	385.00	388.85	272.30
43	266.55	208.25	330.95	259.90	272.10	313.70	303.60	392.45	396.40	277.30
44	271.00	211.50	337.05	264.40	276.85	319.35	309.05	400.05	404.05	282.35
45	275.45	214.70	343.05	268.95	281.60	325.05	314.55	407.55	411.60	287.30
46	279.90	217.95	349.15	273.45	286.30	330.80	320.10	415.05	419.20	292.35
47	284.30	221.15	355.15	278.00	291.05	336.45	325.65	422.55	426.75	297.35
48	288.75	224.35	361.20	282.50	295.80	342.15	331.15	430.05	434.40	302.30
49	293.20	227.60	367.25	287.05	300.50	347.80	336.60	437.60	442.00	307.35
50	297.65	230.80	373.25	291.55	305.25	353.50	342.10	445.10	449.60	312.35

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)		Country Price Group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
26	194.00	251.25	208.15	241.05	164.00	162.65	198.05	178.30	256.70	174.35
27	199.05	258.45	213.35	247.50	167.70	166.55	202.60	182.30	263.50	178.25
28	204.05	265.60	218.55	254.00	171.45	170.45	207.20	186.30	270.30	182.00
29	209.10	272.70	223.80	260.45	175.15	174.35	211.75	190.25	277.10	185.90
30	214.20	279.85	228.95	266.90	178.85	178.25	216.40	194.25	283.90	189.70
31	218.80	287.00	234.20	273.10	182.70	181.95	220.70	198.20	290.60	194.85
32	223.85	294.10	239.40	279.55	186.45	185.85	225.35	202.20	297.35	198.70
33	228.90	301.30	244.60	286.00	190.10	189.70	229.90	206.25	304.20	202.50
34	233.95	308.40	249.85	292.45	193.85	193.60	234.45	210.20	310.95	206.40
35	239.00	315.55	255.00	298.90	197.55	197.50	239.05	214.15	317.80	210.20
36	244.00	322.70	260.20	305.40	201.25	201.40	243.60	218.10	324.55	214.10
37	249.05	329.85	265.40	311.85	204.95	205.25	248.20	222.10	331.35	217.95
38	254.05	337.00	270.70	318.30	208.70	209.15	252.75	226.10	338.15	221.75
39	259.10	344.15	275.85	324.75	212.40	213.05	257.35	230.05	344.95	225.65
40	264.15	351.25	281.05	331.20	216.10	216.95	261.95	234.10	351.70	229.45
41	268.95	358.75	286.50	337.70	220.00	220.80	266.25	238.05	360.30	235.10
42	273.95	365.90	291.75	344.15	223.70	224.70	270.85	242.05	367.10	239.00
43	279.00	373.05	296.95	350.60	227.45	228.60	275.40	246.00	373.90	242.90
44	284.05	380.20	302.10	357.05	231.20	232.50	280.00	249.95	380.80	246.75
45	289.00	387.35	307.30	363.50	234.85	236.35	284.55	253.95	387.60	250.65
46	294.10	394.50	312.60	369.95	238.60	240.25	289.10	257.95	394.45	254.55
47	299.15	401.65	317.80	376.40	242.25	244.15	293.70	261.95	401.25	258.40
48	304.15	408.80	323.00	382.85	246.00	248.05	298.25	265.95	408.05	262.30
49	309.20	415.95	328.20	389.35	249.70	251.95	302.85	269.85	414.90	266.20
50	314.25	423.10	333.40	395.80	253.40	255.85	307.40	273.85	421.75	270.05

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
51	301.75	234.25	378.90	295.80	309.70	359.50	347.95	453.05	456.90	317.65
52	306.25	237.45	385.00	300.30	314.45	365.15	353.40	460.60	464.50	322.65
53	310.65	240.65	391.00	304.85	319.15	370.85	358.90	468.05	472.05	327.70
54	315.10	243.90	397.05	309.35	323.90	376.50	364.40	475.65	479.70	332.65
55	319.50	247.15	403.10	313.95	328.65	382.30	370.00	483.15	487.30	337.70
56	323.90	250.30	409.10	318.45	333.40	388.00	375.50	490.65	494.85	342.70
57	328.35	253.55	415.10	322.95	338.15	393.65	381.00	498.15	502.45	347.70
58	332.75	256.80	421.20	327.50	342.85	399.35	386.50	505.70	510.00	352.70
59	337.25	260.00	427.20	332.00	347.65	405.00	392.00	513.25	517.65	357.70
60	341.65	263.20	433.30	336.55	352.35	410.70	397.50	520.75	525.20	362.75
61	345.75	266.45	438.85	340.70	356.70	417.15	403.00	528.75	532.30	367.70
62	350.15	269.65	444.90	345.25	361.45	422.85	408.50	536.30	539.85	372.75
63	354.60	272.85	450.95	349.75	366.20	428.55	414.00	543.80	547.40	377.75
64	359.05	276.10	456.95	354.25	370.90	434.30	419.55	551.40	555.00	382.80
65	363.50	279.35	462.95	358.80	375.65	440.00	425.05	558.90	562.60	387.75
66	367.90	282.55	469.05	363.30	380.35	445.65	430.55	566.40	570.15	392.80
67	-	285.75	475.05	367.80	385.05	451.35	436.05	573.95	577.75	397.80
68	-	289.00	481.05	372.40	389.90	457.05	441.55	581.45	585.30	402.80
69	-	292.20	487.10	376.90	394.60	462.80	447.05	589.00	592.95	407.80
70	-	295.40	493.15	381.40	399.30	468.45	452.55	596.55	600.50	412.80

Priority Mail Express International Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
51	318.95	430.25	338.60	401.45	257.65	259.45	311.65	278.15	429.25	275.00
52	324.00	437.40	343.85	407.90	261.30	263.30	316.25	282.05	436.10	278.85
53	329.05	444.55	349.00	414.35	265.10	267.25	320.80	286.10	442.95	282.80
54	334.00	451.70	354.25	420.80	268.75	271.15	325.40	290.10	449.75	286.65
55	339.05	458.85	359.45	427.25	272.50	275.00	329.95	294.05	456.60	290.60
56	344.10	466.00	364.65	433.65	276.20	278.90	334.55	298.00	463.45	294.45
57	349.10	473.15	369.90	440.15	279.95	282.75	339.10	302.05	470.25	298.40
58	354.15	480.30	375.05	446.60	283.65	286.65	343.65	306.00	477.10	302.30
59	359.20	487.50	380.30	453.00	287.40	290.55	348.25	309.95	483.95	306.20
60	364.25	494.60	385.50	459.45	291.10	294.40	352.80	314.00	490.80	310.05
61	369.25	501.80	391.05	465.50	295.40	298.30	357.05	318.25	498.45	316.90
62	374.25	508.90	396.30	471.90	299.10	302.20	361.60	322.30	505.30	320.85
63	379.30	516.10	401.45	478.35	302.85	306.10	366.20	326.25	512.15	324.75
64	384.35	523.20	406.75	484.75	306.60	310.00	370.75	330.25	519.00	328.70
65	389.35	530.40	411.95	491.25	310.30	313.85	375.25	334.20	525.80	332.65
66	394.40	537.50	417.20	497.65	314.00	317.75	379.85	338.25	532.70	336.55
67	399.45	-	-	-	-	-	-	-	539.55	-
68	404.50	-	-	-	-	-	-	-	546.35	-
69	409.50	-	-	-	-	-	-	-	553.25	-
70	414.50	-	-	-	-	-	-	-	560.05	-

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Priority Mail Express International Commercial Base Prices

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
0.5	44.95	57.50	71.96	64.47	66.92	68.98	63.98	67.49	68.98	59.94
1	48.93	62.99	73.45	66.42	68.89	73.35	68.93	74.45	75.23	64.72
2	54.14	67.52	79.28	70.75	73.37	78.77	74.02	81.72	82.58	69.79
3	59.36	72.06	85.12	75.06	77.85	84.19	79.11	89.01	89.94	74.84
4	64.57	76.59	90.95	79.38	82.33	89.59	84.20	96.30	97.30	79.90
5	69.79	81.13	96.81	83.68	86.78	95.01	89.29	103.56	104.65	84.96
6	74.93	83.99	102.53	87.92	91.19	100.54	94.76	110.74	111.90	89.62
7	80.13	87.17	108.37	92.23	95.65	106.07	99.98	118.02	119.25	94.36
8	85.35	90.35	114.19	96.55	100.13	111.60	105.19	125.27	126.59	99.10
9	90.56	93.53	120.04	100.85	104.59	117.12	110.39	132.55	133.95	103.83
10	95.76	96.71	125.87	105.17	109.07	122.66	115.61	139.82	141.29	108.56
11	100.18	99.70	131.89	109.37	113.97	128.43	121.06	147.25	149.21	113.20
12	105.17	102.86	137.69	113.69	118.47	133.97	126.28	154.51	156.58	118.03
13	110.13	106.05	143.48	117.98	122.94	139.50	131.49	161.78	163.95	122.86
14	115.10	109.22	149.27	122.29	127.43	145.04	136.71	169.06	171.32	127.69
15	120.06	112.39	155.05	126.60	131.92	150.58	141.95	176.35	178.71	132.53
16	125.05	115.46	160.84	130.90	136.40	156.13	147.17	183.63	186.08	137.37
17	130.01	118.52	166.64	135.21	140.89	161.66	152.38	190.90	193.45	142.20
18	134.97	121.57	172.43	139.51	145.38	167.20	157.60	198.17	200.83	147.03
19	139.95	124.63	178.20	143.83	149.88	172.74	162.83	205.46	208.21	151.87
20	144.92	127.70	184.00	148.13	154.36	178.27	168.05	212.73	215.59	156.71
21	149.75	130.88	189.60	152.29	158.69	183.81	173.43	220.23	222.53	161.38
22	154.71	133.95	195.40	156.59	163.18	189.36	178.67	227.51	229.89	166.21
23	159.68	137.00	201.17	160.90	167.66	194.89	183.89	234.80	237.27	171.03
24	164.65	140.08	206.96	165.20	172.15	200.44	189.12	242.08	244.61	175.87
25	169.61	143.14	212.74	169.50	176.63	205.97	194.33	249.36	251.97	180.70

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
0.5	59.49	69.49	71.98	65.95	66.93	65.98	65.50	60.93	81.98	66.93
1	64.92	71.96	75.96	67.85	69.82	67.99	71.98	64.99	83.50	70.98
2	70.02	78.54	80.89	74.38	73.32	71.20	77.57	70.88	90.13	75.73
3	75.09	85.12	85.82	80.93	76.81	74.42	83.15	76.78	96.77	80.48
4	80.16	91.71	90.76	87.47	80.32	77.63	88.73	82.66	103.40	85.26
5	85.24	98.28	95.68	94.00	83.80	80.83	94.31	88.55	110.05	90.02
6	89.92	104.47	100.82	99.95	87.50	83.95	99.48	92.85	116.49	93.46
7	94.67	111.23	105.85	106.54	91.11	87.06	104.75	97.15	123.13	97.11
8	99.42	117.97	110.91	113.13	94.71	90.17	110.01	101.46	129.74	100.77
9	104.17	124.72	115.95	119.73	98.32	93.27	115.27	105.75	136.38	104.43
10	108.92	131.48	121.01	126.34	101.93	96.39	120.54	110.06	143.00	108.08
11	113.67	138.26	126.22	133.30	105.64	100.12	124.85	113.89	149.74	112.44
12	118.53	145.13	131.27	140.31	109.24	103.85	129.27	117.70	156.33	116.13
13	123.38	151.97	136.33	147.33	112.85	107.59	133.70	121.53	162.90	119.81
14	128.23	158.82	141.39	154.35	116.46	111.34	138.12	125.35	169.46	123.48
15	133.08	165.68	146.42	161.37	120.07	115.08	142.55	129.18	176.03	127.17
16	137.95	172.54	151.49	168.38	123.67	118.82	146.97	133.00	182.61	130.85
17	142.80	179.38	156.54	175.40	127.28	122.55	151.40	136.83	189.18	134.53
18	147.65	186.24	161.60	182.43	130.91	126.30	155.82	140.65	195.76	138.20
19	152.51	193.09	166.64	189.44	134.51	130.03	160.25	144.46	202.33	141.88
20	157.36	199.95	171.70	196.45	138.12	133.77	164.66	148.29	208.90	145.56
21	161.90	206.99	176.74	202.55	142.00	137.51	168.94	152.56	215.44	149.53
22	166.74	213.85	181.81	208.82	145.63	141.25	173.36	156.39	222.03	153.22
23	171.58	220.70	186.85	215.09	149.24	144.99	177.78	160.22	228.59	156.91
24	176.45	227.57	191.90	221.36	152.85	148.72	182.19	164.05	235.16	160.60
25	181.29	234.43	196.96	227.65	156.47	152.47	186.62	167.90	241.73	164.29

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
26	174.57	146.20	218.52	173.80	181.11	211.51	199.57	256.64	259.34	185.52
27	179.54	149.26	224.31	178.12	185.60	217.04	204.80	263.94	266.70	190.35
28	184.51	152.33	230.10	182.42	190.08	222.59	210.03	271.22	274.07	195.19
29	189.47	155.39	235.87	186.71	194.56	228.12	215.25	278.50	281.42	200.02
30	194.44	158.46	241.65	191.02	199.04	233.66	220.47	285.78	288.78	204.84
31	198.37	161.21	247.20	195.13	203.34	238.98	225.93	293.07	295.59	209.46
32	202.51	164.28	252.99	199.44	207.82	244.52	231.16	300.36	302.93	214.31
33	206.63	167.34	258.76	203.72	212.28	250.04	236.38	307.65	310.27	219.12
34	210.75	170.38	264.55	208.03	216.77	255.57	241.61	314.92	317.62	223.94
35	214.87	173.44	270.31	212.33	221.25	261.12	246.86	322.21	324.97	228.76
36	219.01	176.51	276.10	216.63	225.74	266.65	252.09	329.50	332.31	233.60
37	223.13	179.58	281.87	220.92	230.20	272.17	257.31	336.78	339.66	238.42
38	227.25	182.62	287.66	225.23	234.69	277.72	262.54	344.06	347.01	243.24
39	231.37	185.68	293.43	229.52	239.17	283.24	267.77	351.36	354.37	248.06
40	235.51	188.75	299.21	233.83	243.65	288.78	273.02	358.65	361.71	252.89
41	239.40	192.52	304.70	238.11	249.07	294.30	278.25	366.62	370.43	257.24
42	243.52	195.59	310.47	242.42	253.57	299.84	283.48	373.91	377.79	262.04
43	247.63	198.65	316.24	246.72	258.07	305.37	288.71	381.22	385.18	266.86
44	251.76	201.74	322.02	251.02	262.57	310.91	293.94	388.51	392.55	271.68
45	255.88	204.81	327.78	255.31	267.06	316.44	299.17	395.80	399.92	276.50
46	260.00	207.88	333.57	259.61	271.54	321.96	304.40	403.11	407.29	281.31
47	264.12	210.94	339.33	263.91	276.04	327.50	309.64	410.40	414.67	286.11
48	268.25	214.02	345.10	268.21	280.54	333.05	314.88	417.71	422.05	290.94
49	272.37	217.09	350.88	272.51	285.03	338.57	320.10	425.00	429.42	295.76
50	276.48	220.15	356.65	276.80	289.53	344.11	325.33	432.31	436.79	300.57

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
26	186.12	241.29	202.02	233.91	160.09	156.21	191.04	171.72	248.30	167.96
27	190.96	248.14	207.06	240.19	163.70	159.95	195.46	175.56	254.88	171.66
28	195.82	255.01	212.11	246.46	167.32	163.69	199.88	179.39	261.46	175.35
29	200.66	261.87	217.17	252.73	170.93	167.42	204.30	183.23	268.02	179.04
30	205.50	268.73	222.22	259.01	174.56	171.17	208.73	187.06	274.59	182.71
31	210.35	275.32	227.28	265.03	178.18	174.73	212.94	191.08	281.12	187.64
32	215.21	282.18	232.32	271.29	181.79	178.47	217.35	194.92	287.71	191.36
33	220.05	289.03	237.38	277.57	185.40	182.20	221.77	198.76	294.28	195.08
34	224.88	295.88	242.43	283.83	189.02	185.95	226.19	202.59	300.84	198.79
35	229.72	302.73	247.49	290.09	192.63	189.68	230.61	206.43	307.41	202.49
36	234.58	309.59	252.53	296.36	196.25	193.41	235.02	210.27	314.00	206.21
37	239.42	316.44	257.59	302.63	199.86	197.15	239.43	214.10	320.56	209.92
38	244.26	323.30	262.65	308.90	203.49	200.89	243.86	217.94	327.13	213.64
39	249.11	330.15	267.70	315.17	207.11	204.62	248.28	221.77	333.70	217.34
40	253.96	337.01	272.75	321.43	210.72	208.35	252.69	225.62	340.27	221.06
41	257.33	343.85	277.01	327.71	214.35	211.89	256.60	229.68	347.68	226.26
42	262.13	350.69	282.05	333.97	217.97	215.63	261.01	233.53	354.27	229.99
43	266.95	357.55	287.08	340.23	221.58	219.35	265.43	237.36	360.85	233.73
44	271.77	364.41	292.12	346.50	225.19	223.09	269.83	241.20	367.44	237.46
45	276.59	371.26	297.16	352.78	228.81	226.82	274.24	245.04	374.02	241.20
46	281.40	378.11	302.21	359.04	232.43	230.56	278.65	248.88	380.62	244.94
47	286.21	384.96	307.24	365.31	236.04	234.28	283.06	252.73	387.19	248.67
48	291.04	391.82	312.27	371.57	239.65	238.01	287.46	256.56	393.79	252.41
49	295.86	398.66	317.32	377.84	243.27	241.75	291.87	260.42	400.37	256.15
50	300.67	405.52	322.36	384.11	246.91	245.49	296.28	264.25	406.96	259.89

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
51	280.60	222.79	360.37	280.84	293.75	349.30	330.57	439.60	443.32	305.09
52	284.73	225.87	366.10	285.13	298.25	354.83	335.80	446.90	450.69	309.90
53	288.85	228.93	371.84	289.43	302.73	360.35	341.04	454.19	458.03	314.71
54	292.97	231.99	377.59	293.72	307.23	365.88	346.28	461.48	465.39	319.52
55	297.09	235.04	383.32	298.02	311.72	371.41	351.50	468.79	472.77	324.34
56	301.22	238.12	389.06	302.31	316.22	376.95	356.74	476.08	480.12	329.16
57	305.33	241.18	394.80	306.61	320.70	382.47	361.96	483.39	487.48	333.96
58	309.45	244.25	400.54	310.90	325.19	388.00	367.19	490.68	494.83	338.77
59	313.57	247.31	406.28	315.20	329.69	393.53	372.43	497.99	502.21	343.58
60	317.70	250.38	412.03	319.49	334.18	399.06	377.67	505.28	509.57	348.40
61	321.51	253.19	417.36	323.47	338.34	404.95	383.26	513.06	516.92	353.21
62	325.62	256.26	423.10	327.76	342.83	410.49	388.50	520.36	524.28	358.01
63	329.74	259.31	428.83	332.05	347.32	416.03	393.74	527.68	531.65	362.82
64	333.86	262.39	434.57	336.35	351.81	421.56	398.97	534.99	539.01	367.64
65	337.98	265.44	440.29	340.63	356.29	427.09	404.21	542.28	546.36	372.45
66	342.09	268.50	446.04	344.93	360.78	432.62	409.44	549.59	553.72	377.26
67	-	271.56	451.77	349.22	365.26	438.15	414.69	556.90	561.09	382.06
68	-	274.63	457.50	353.51	369.76	443.70	419.93	564.21	568.45	386.88
69	-	277.68	463.23	357.79	374.23	449.21	425.15	571.51	575.80	391.69
70	-	280.75	468.98	362.09	378.74	454.76	430.40	578.81	583.17	396.50

Priority Mail Express International Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
51	305.49	411.98	327.38	390.01	250.53	248.28	300.12	268.10	414.87	263.35
52	310.30	418.82	332.42	396.26	254.14	251.99	304.51	271.94	421.46	267.09
53	315.12	425.67	337.46	402.53	257.75	255.70	308.92	275.79	428.07	270.83
54	319.94	432.51	342.51	408.80	261.38	259.43	313.31	279.61	434.69	274.55
55	324.76	439.36	347.54	415.05	265.00	263.15	317.71	283.46	441.28	278.28
56	329.59	446.21	352.57	421.31	268.62	266.86	322.11	287.30	447.90	282.02
57	334.39	453.05	357.61	427.58	272.22	270.58	326.51	291.15	454.51	285.76
58	339.21	459.90	362.66	433.83	275.85	274.30	330.92	295.00	461.12	289.48
59	344.02	466.74	367.69	440.10	279.46	278.01	335.31	298.82	467.72	293.22
60	348.85	473.60	372.72	446.35	283.08	281.74	339.70	302.67	474.33	296.95
61	353.66	479.97	377.40	452.62	286.97	285.45	343.77	306.81	480.71	302.37
62	358.47	486.81	382.43	458.89	290.60	289.17	348.17	310.66	487.31	306.12
63	363.29	493.64	387.46	465.14	294.23	292.88	352.57	314.50	493.91	309.88
64	368.12	500.49	392.50	471.40	297.84	296.61	356.96	318.35	500.53	313.64
65	372.93	507.34	397.53	477.67	301.47	300.32	361.35	322.19	507.11	317.39
66	377.75	514.17	402.56	483.92	305.08	304.04	365.75	326.04	513.73	321.13
67	382.55	-	-	-	-	-	-	-	520.34	-
68	387.38	-	-	-	-	-	-	-	526.94	-
69	392.19	-	-	-	-	-	-	-	533.54	-
70	397.02	-	-	-	-	-	-	-	540.15	-

Priority Mail Express International Commercial Plus Prices

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
0.5	44.95	57.50	71.96	64.47	66.92	68.98	63.98	67.49	68.98	59.94
1	48.93	62.99	73.45	66.42	68.89	73.35	68.93	74.45	75.23	64.72
2	54.14	67.52	79.28	70.75	73.37	78.77	74.02	81.72	82.58	69.79
3	59.36	72.06	85.12	75.06	77.85	84.19	79.11	89.01	89.94	74.84
4	64.57	76.59	90.95	79.38	82.33	89.59	84.20	96.30	97.30	79.90
5	69.79	81.13	96.81	83.68	86.78	95.01	89.29	103.56	104.65	84.96
6	74.93	83.99	102.53	87.92	91.19	100.54	94.76	110.74	111.90	89.62
7	80.13	87.17	108.37	92.23	95.65	106.07	99.98	118.02	119.25	94.36
8	85.35	90.35	114.19	96.55	100.13	111.60	105.19	125.27	126.59	99.10
9	90.56	93.53	120.04	100.85	104.59	117.12	110.39	132.55	133.95	103.83
10	95.76	96.71	125.87	105.17	109.07	122.66	115.61	139.82	141.29	108.56
11	100.18	99.70	131.89	109.37	113.97	128.43	121.06	147.25	149.21	113.20
12	105.17	102.86	137.69	113.69	118.47	133.97	126.28	154.51	156.58	118.03
13	110.13	106.05	143.48	117.98	122.94	139.50	131.49	161.78	163.95	122.86
14	115.10	109.22	149.27	122.29	127.43	145.04	136.71	169.06	171.32	127.69
15	120.06	112.39	155.05	126.60	131.92	150.58	141.95	176.35	178.71	132.53
16	125.05	115.46	160.84	130.90	136.40	156.13	147.17	183.63	186.08	137.37
17	130.01	118.52	166.64	135.21	140.89	161.66	152.38	190.90	193.45	142.20
18	134.97	121.57	172.43	139.51	145.38	167.20	157.60	198.17	200.83	147.03
19	139.95	124.63	178.20	143.83	149.88	172.74	162.83	205.46	208.21	151.87
20	144.92	127.70	184.00	148.13	154.36	178.27	168.05	212.73	215.59	156.71
21	149.75	130.88	189.60	152.29	158.69	183.81	173.43	220.23	222.53	161.38
22	154.71	133.95	195.40	156.59	163.18	189.36	178.67	227.51	229.89	166.21
23	159.68	137.00	201.17	160.90	167.66	194.89	183.89	234.80	237.27	171.03
24	164.65	140.08	206.96	165.20	172.15	200.44	189.12	242.08	244.61	175.87
25	169.61	143.14	212.74	169.50	176.63	205.97	194.33	249.36	251.97	180.70

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
0.5	59.49	69.49	71.98	65.95	66.93	65.98	65.50	60.93	81.98	66.93
1	64.92	71.96	75.96	67.85	69.82	67.99	71.98	64.99	83.50	70.98
2	70.02	78.54	80.89	74.38	73.32	71.20	77.57	70.88	90.13	75.73
3	75.09	85.12	85.82	80.93	76.81	74.42	83.15	76.78	96.77	80.48
4	80.16	91.71	90.76	87.47	80.32	77.63	88.73	82.66	103.40	85.26
5	85.24	98.28	95.68	94.00	83.80	80.83	94.31	88.55	110.05	90.02
6	89.92	104.47	100.82	99.95	87.50	83.95	99.48	92.85	116.49	93.46
7	94.67	111.23	105.85	106.54	91.11	87.06	104.75	97.15	123.13	97.11
8	99.42	117.97	110.91	113.13	94.71	90.17	110.01	101.46	129.74	100.77
9	104.17	124.72	115.95	119.73	98.32	93.27	115.27	105.75	136.38	104.43
10	108.92	131.48	121.01	126.34	101.93	96.39	120.54	110.06	143.00	108.08
11	113.67	138.26	126.22	133.30	105.64	100.12	124.85	113.89	149.74	112.44
12	118.53	145.13	131.27	140.31	109.24	103.85	129.27	117.70	156.33	116.13
13	123.38	151.97	136.33	147.33	112.85	107.59	133.70	121.53	162.90	119.81
14	128.23	158.82	141.39	154.35	116.46	111.34	138.12	125.35	169.46	123.48
15	133.08	165.68	146.42	161.37	120.07	115.08	142.55	129.18	176.03	127.17
16	137.95	172.54	151.49	168.38	123.67	118.82	146.97	133.00	182.61	130.85
17	142.80	179.38	156.54	175.40	127.28	122.55	151.40	136.83	189.18	134.53
18	147.65	186.24	161.60	182.43	130.91	126.30	155.82	140.65	195.76	138.20
19	152.51	193.09	166.64	189.44	134.51	130.03	160.25	144.46	202.33	141.88
20	157.36	199.95	171.70	196.45	138.12	133.77	164.66	148.29	208.90	145.56
21	161.90	206.99	176.74	202.55	142.00	137.51	168.94	152.56	215.44	149.53
22	166.74	213.85	181.81	208.82	145.63	141.25	173.36	156.39	222.03	153.22
23	171.58	220.70	186.85	215.09	149.24	144.99	177.78	160.22	228.59	156.91
24	176.45	227.57	191.90	221.36	152.85	148.72	182.19	164.05	235.16	160.60
25	181.29	234.43	196.96	227.65	156.47	152.47	186.62	167.90	241.73	164.29

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
26	174.57	146.20	218.52	173.80	181.11	211.51	199.57	256.64	259.34	185.52
27	179.54	149.26	224.31	178.12	185.60	217.04	204.80	263.94	266.70	190.35
28	184.51	152.33	230.10	182.42	190.08	222.59	210.03	271.22	274.07	195.19
29	189.47	155.39	235.87	186.71	194.56	228.12	215.25	278.50	281.42	200.02
30	194.44	158.46	241.65	191.02	199.04	233.66	220.47	285.78	288.78	204.84
31	198.37	161.21	247.20	195.13	203.34	238.98	225.93	293.07	295.59	209.46
32	202.51	164.28	252.99	199.44	207.82	244.52	231.16	300.36	302.93	214.31
33	206.63	167.34	258.76	203.72	212.28	250.04	236.38	307.65	310.27	219.12
34	210.75	170.38	264.55	208.03	216.77	255.57	241.61	314.92	317.62	223.94
35	214.87	173.44	270.31	212.33	221.25	261.12	246.86	322.21	324.97	228.76
36	219.01	176.51	276.10	216.63	225.74	266.65	252.09	329.50	332.31	233.60
37	223.13	179.58	281.87	220.92	230.20	272.17	257.31	336.78	339.66	238.42
38	227.25	182.62	287.66	225.23	234.69	277.72	262.54	344.06	347.01	243.24
39	231.37	185.68	293.43	229.52	239.17	283.24	267.77	351.36	354.37	248.06
40	235.51	188.75	299.21	233.83	243.65	288.78	273.02	358.65	361.71	252.89
41	239.40	192.52	304.70	238.11	249.07	294.30	278.25	366.62	370.43	257.24
42	243.52	195.59	310.47	242.42	253.57	299.84	283.48	373.91	377.79	262.04
43	247.63	198.65	316.24	246.72	258.07	305.37	288.71	381.22	385.18	266.86
44	251.76	201.74	322.02	251.02	262.57	310.91	293.94	388.51	392.55	271.68
45	255.88	204.81	327.78	255.31	267.06	316.44	299.17	395.80	399.92	276.50
46	260.00	207.88	333.57	259.61	271.54	321.96	304.40	403.11	407.29	281.31
47	264.12	210.94	339.33	263.91	276.04	327.50	309.64	410.40	414.67	286.11
48	268.25	214.02	345.10	268.21	280.54	333.05	314.88	417.71	422.05	290.94
49	272.37	217.09	350.88	272.51	285.03	338.57	320.10	425.00	429.42	295.76
50	276.48	220.15	356.65	276.80	289.53	344.11	325.33	432.31	436.79	300.57

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
26	186.12	241.29	202.02	233.91	160.09	156.21	191.04	171.72	248.30	167.96
27	190.96	248.14	207.06	240.19	163.70	159.95	195.46	175.56	254.88	171.66
28	195.82	255.01	212.11	246.46	167.32	163.69	199.88	179.39	261.46	175.35
29	200.66	261.87	217.17	252.73	170.93	167.42	204.30	183.23	268.02	179.04
30	205.50	268.73	222.22	259.01	174.56	171.17	208.73	187.06	274.59	182.71
31	210.35	275.32	227.28	265.03	178.18	174.73	212.94	191.08	281.12	187.64
32	215.21	282.18	232.32	271.29	181.79	178.47	217.35	194.92	287.71	191.36
33	220.05	289.03	237.38	277.57	185.40	182.20	221.77	198.76	294.28	195.08
34	224.88	295.88	242.43	283.83	189.02	185.95	226.19	202.59	300.84	198.79
35	229.72	302.73	247.49	290.09	192.63	189.68	230.61	206.43	307.41	202.49
36	234.58	309.59	252.53	296.36	196.25	193.41	235.02	210.27	314.00	206.21
37	239.42	316.44	257.59	302.63	199.86	197.15	239.43	214.10	320.56	209.92
38	244.26	323.30	262.65	308.90	203.49	200.89	243.86	217.94	327.13	213.64
39	249.11	330.15	267.70	315.17	207.11	204.62	248.28	221.77	333.70	217.34
40	253.96	337.01	272.75	321.43	210.72	208.35	252.69	225.62	340.27	221.06
41	257.33	343.85	277.01	327.71	214.35	211.89	256.60	229.68	347.68	226.26
42	262.13	350.69	282.05	333.97	217.97	215.63	261.01	233.53	354.27	229.99
43	266.95	357.55	287.08	340.23	221.58	219.35	265.43	237.36	360.85	233.73
44	271.77	364.41	292.12	346.50	225.19	223.09	269.83	241.20	367.44	237.46
45	276.59	371.26	297.16	352.78	228.81	226.82	274.24	245.04	374.02	241.20
46	281.40	378.11	302.21	359.04	232.43	230.56	278.65	248.88	380.62	244.94
47	286.21	384.96	307.24	365.31	236.04	234.28	283.06	252.73	387.19	248.67
48	291.04	391.82	312.27	371.57	239.65	238.01	287.46	256.56	393.79	252.41
49	295.86	398.66	317.32	377.84	243.27	241.75	291.87	260.42	400.37	256.15
50	300.67	405.52	322.36	384.11	246.91	245.49	296.28	264.25	406.96	259.89

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
51	280.60	222.79	360.37	280.84	293.75	349.30	330.57	439.60	443.32	305.09
52	284.73	225.87	366.10	285.13	298.25	354.83	335.80	446.90	450.69	309.90
53	288.85	228.93	371.84	289.43	302.73	360.35	341.04	454.19	458.03	314.71
54	292.97	231.99	377.59	293.72	307.23	365.88	346.28	461.48	465.39	319.52
55	297.09	235.04	383.32	298.02	311.72	371.41	351.50	468.79	472.77	324.34
56	301.22	238.12	389.06	302.31	316.22	376.95	356.74	476.08	480.12	329.16
57	305.33	241.18	394.80	306.61	320.70	382.47	361.96	483.39	487.48	333.96
58	309.45	244.25	400.54	310.90	325.19	388.00	367.19	490.68	494.83	338.77
59	313.57	247.31	406.28	315.20	329.69	393.53	372.43	497.99	502.21	343.58
60	317.70	250.38	412.03	319.49	334.18	399.06	377.67	505.28	509.57	348.40
61	321.51	253.19	417.36	323.47	338.34	404.95	383.26	513.06	516.92	353.21
62	325.62	256.26	423.10	327.76	342.83	410.49	388.50	520.36	524.28	358.01
63	329.74	259.31	428.83	332.05	347.32	416.03	393.74	527.68	531.65	362.82
64	333.86	262.39	434.57	336.35	351.81	421.56	398.97	534.99	539.01	367.64
65	337.98	265.44	440.29	340.63	356.29	427.09	404.21	542.28	546.36	372.45
66	342.09	268.50	446.04	344.93	360.78	432.62	409.44	549.59	553.72	377.26
67	-	271.56	451.77	349.22	365.26	438.15	414.69	556.90	561.09	382.06
68	-	274.63	457.50	353.51	369.76	443.70	419.93	564.21	568.45	386.88
69	-	277.68	463.23	357.79	374.23	449.21	425.15	571.51	575.80	391.69
70	-	280.75	468.98	362.09	378.74	454.76	430.40	578.81	583.17	396.50

Priority Mail Express International Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
51	305.49	411.98	327.38	390.01	250.53	248.28	300.12	268.10	414.87	263.35
52	310.30	418.82	332.42	396.26	254.14	251.99	304.51	271.94	421.46	267.09
53	315.12	425.67	337.46	402.53	257.75	255.70	308.92	275.79	428.07	270.83
54	319.94	432.51	342.51	408.80	261.38	259.43	313.31	279.61	434.69	274.55
55	324.76	439.36	347.54	415.05	265.00	263.15	317.71	283.46	441.28	278.28
56	329.59	446.21	352.57	421.31	268.62	266.86	322.11	287.30	447.90	282.02
57	334.39	453.05	357.61	427.58	272.22	270.58	326.51	291.15	454.51	285.76
58	339.21	459.90	362.66	433.83	275.85	274.30	330.92	295.00	461.12	289.48
59	344.02	466.74	367.69	440.10	279.46	278.01	335.31	298.82	467.72	293.22
60	348.85	473.60	372.72	446.35	283.08	281.74	339.70	302.67	474.33	296.95
61	353.66	479.97	377.40	452.62	286.97	285.45	343.77	306.81	480.71	302.37
62	358.47	486.81	382.43	458.89	290.60	289.17	348.17	310.66	487.31	306.12
63	363.29	493.64	387.46	465.14	294.23	292.88	352.57	314.50	493.91	309.88
64	368.12	500.49	392.50	471.40	297.84	296.61	356.96	318.35	500.53	313.64
65	372.93	507.34	397.53	477.67	301.47	300.32	361.35	322.19	507.11	317.39
66	377.75	514.17	402.56	483.92	305.08	304.04	365.75	326.04	513.73	321.13
67	382.55	-	-	-	-	-	-	-	520.34	-
68	387.38	-	-	-	-	-	-	-	526.94	-
69	392.19	-	-	-	-	-	-	-	533.54	-
70	397.02	-	-	-	-	-	-	-	540.15	-

Pickup On Demand Service

Add $25.00 for each Pickup On Demand stop.

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2315 Outbound Priority Mail International

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2315.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Pickup On Demand Service
- International Ancillary Services (2615)
  - International Return Receipt (2615.3)
  - International Insurance (2615.5)
- Competitive Ancillary Services (2645)
  - Premium Data Retention and Retrieval Service (USPS Tracking Plus) (2645.3)

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2315.6 Prices

Priority Mail International Flat Rate Retail Prices

	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	29.60	36.85	40.85	39.70	41.25	41.70	42.15	40.45
Small Flat Rate Boxes	30.70	38.55	42.15	40.95	42.45	42.80	44.95	41.70
Medium Flat Rate Boxes	56.80	82.85	84.55	83.75	86.90	93.35	98.05	88.30
Large Flat Rate Boxes	73.80	108.10	110.40	109.25	112.75	117.95	122.65	115.70

Priority Mail International Flat Rate Commercial Base Prices

	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	28.13	35.01	38.81	37.72	39.19	39.62	40.04	38.43
Small Flat Rate Boxes	29.17	36.62	40.04	38.90	40.33	40.66	42.70	39.62
Medium Flat Rate Boxes	53.94	78.71	80.32	79.56	82.56	88.68	93.15	83.89
Large Flat Rate Boxes	70.13	102.70	104.88	103.79	107.11	112.05	116.52	109.92

Priority Mail International Flat Rate Commercial Plus Prices

	Country Price Group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	28.13	35.01	38.81	37.72	39.19	39.62	40.04	38.43
Small Flat Rate Boxes	29.17	36.62	40.04	38.90	40.33	40.66	42.70	39.62
Medium Flat Rate Boxes	53.94	78.71	80.32	79.56	82.56	88.68	93.15	83.89
Large Flat Rate Boxes	70.13	102.70	104.88	103.79	107.11	112.05	116.52	109.92

Priority Mail International Parcels Retail Prices

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
1	40.45	40.45	40.45	40.45	40.45	40.45	40.45
2	43.70	43.70	43.70	43.70	43.70	43.70	43.70
3	46.90	46.90	46.90	46.90	46.90	46.90	46.90
4	50.15	50.15	50.15	50.15	50.15	50.15	50.15
5	53.35	53.35	53.35	53.35	53.35	53.35	53.35
6	56.55	56.55	56.55	56.55	56.55	56.55	56.55
7	59.80	59.80	59.80	59.80	59.80	59.80	59.80
8	63.00	63.00	63.00	63.00	63.00	63.00	63.00
9	66.25	66.25	66.25	66.25	66.25	66.25	66.25
10	69.45	69.45	69.45	69.45	69.45	69.45	69.45
11	72.70	72.70	72.70	72.70	72.70	72.70	72.70
12	75.90	75.90	75.90	75.90	75.90	75.90	75.90
13	79.10	79.10	79.10	79.10	79.10	79.10	79.10
14	82.35	82.35	82.35	82.35	82.35	82.35	82.35
15	85.55	85.55	85.55	85.55	85.55	85.55	85.55
16	88.80	88.80	88.80	88.80	88.80	88.80	88.80
17	92.00	92.00	92.00	92.00	92.00	92.00	92.00
18	95.20	95.20	95.20	95.20	95.20	95.20	95.20
19	98.45	98.45	98.45	98.45	98.45	98.45	98.45
20	101.65	101.65	101.65	101.65	101.65	101.65	101.65
21	104.90	104.90	104.90	104.90	104.90	104.90	104.90
22	108.10	108.10	108.10	108.10	108.10	108.10	108.10
23	111.35	111.35	111.35	111.35	111.35	111.35	111.35
24	114.55	114.55	114.55	114.55	114.55	114.55	114.55
25	117.80	117.80	117.80	117.80	117.80	117.80	117.80

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
1	48.80	59.75	56.05	56.30	57.20	56.70	59.60	57.85	51.95
2	51.95	65.70	59.50	59.80	62.10	61.50	66.65	64.75	56.50
3	55.15	71.70	62.90	63.20	66.95	66.35	73.70	71.65	61.15
4	58.35	77.65	66.35	66.65	71.85	71.15	80.80	78.50	65.70
5	61.55	83.65	69.75	70.15	76.75	76.00	87.90	85.35	70.30
6	64.75	89.60	73.20	73.55	81.60	80.85	94.95	92.25	74.90
7	67.95	95.60	76.70	77.00	86.50	85.65	102.05	99.10	79.50
8	71.10	101.55	80.10	80.45	91.40	90.50	109.15	106.05	84.10
9	74.35	107.55	83.55	83.90	96.25	95.35	116.20	112.90	88.70
10	77.50	113.50	86.95	87.40	101.10	100.15	123.30	119.75	93.30
11	80.70	119.50	90.40	90.80	106.00	105.00	130.35	126.65	97.85
12	83.90	125.40	93.80	94.25	110.85	109.80	137.45	133.50	102.50
13	87.05	131.40	97.25	97.70	115.75	114.65	144.50	140.35	107.05
14	90.30	137.35	100.70	101.15	120.65	119.50	151.60	147.30	111.70
15	93.45	143.35	104.10	104.65	125.50	124.30	158.70	154.15	116.25
16	96.70	149.30	107.55	108.05	130.40	129.15	165.75	161.05	120.90
17	99.85	155.30	110.95	111.50	135.30	134.00	172.85	167.90	125.45
18	103.05	161.25	114.40	114.95	140.15	138.80	179.90	174.75	130.10
19	106.25	167.25	117.80	118.40	145.00	143.65	187.00	181.65	134.65
20	109.45	173.20	121.25	121.80	149.90	148.45	194.10	188.55	139.30
21	112.65	179.20	124.75	125.30	154.75	153.30	201.15	195.45	143.85
22	115.80	185.15	128.15	128.75	159.65	158.15	208.25	202.30	148.45
23	119.00	191.10	131.60	132.20	164.55	162.95	215.35	209.15	153.05
24	122.20	197.10	135.00	135.65	169.40	167.80	222.40	216.05	157.65
25	125.40	203.05	138.45	139.05	174.30	172.65	229.45	222.90	162.25

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
1	52.15	57.85	53.40	59.10	52.20	55.50	58.85	54.10	60.55	60.00
2	56.50	63.80	58.25	63.70	56.10	57.75	62.95	60.55	66.65	66.40
3	60.85	69.70	63.00	68.20	60.00	61.75	67.05	65.05	72.70	70.70
4	65.20	75.65	67.80	72.75	63.90	65.80	71.15	69.60	78.75	75.00
5	69.50	81.55	72.55	77.25	67.80	69.80	75.30	74.20	84.85	80.65
6	73.85	87.50	77.40	81.75	71.65	73.80	79.40	78.80	90.85	84.95
7	78.20	93.35	82.20	86.30	75.55	77.80	83.50	83.50	96.95	89.20
8	82.55	99.30	86.95	90.80	79.45	81.80	87.60	88.20	102.95	93.50
9	86.85	105.20	91.75	95.35	83.35	85.80	91.70	93.00	109.05	97.80
10	91.20	111.10	96.60	99.85	87.20	89.80	95.80	97.75	115.10	102.15
11	95.55	117.05	101.35	104.35	89.65	92.35	99.90	101.05	121.15	106.45
12	99.85	122.90	106.15	108.90	92.15	94.90	104.00	104.30	127.25	110.75
13	104.20	128.85	110.90	113.40	95.80	98.65	108.10	108.95	133.30	115.05
14	108.50	134.75	115.75	117.95	99.45	102.40	112.20	113.60	139.35	119.40
15	112.90	140.70	120.50	122.45	103.05	106.15	116.30	118.35	145.40	123.65
16	117.20	146.60	125.30	126.95	106.65	109.85	120.40	123.05	151.45	127.95
17	121.55	152.45	130.15	131.50	110.30	113.60	124.50	127.90	157.50	132.25
18	125.85	158.40	134.90	136.00	113.95	117.35	128.65	132.75	163.60	136.60
19	130.25	164.30	139.70	140.50	117.55	121.10	132.75	137.60	169.60	140.90
20	134.55	170.25	144.45	145.05	121.20	124.85	136.85	141.75	175.70	145.20
21	138.90	176.15	149.30	149.55	124.85	128.60	140.95	145.75	181.75	149.50
22	143.25	182.10	154.10	154.10	128.45	132.30	145.05	149.95	187.80	153.80
23	147.60	187.95	158.85	158.60	132.10	136.05	149.15	154.05	193.90	158.10
24	151.90	193.90	163.65	163.10	135.75	139.80	153.25	158.15	199.90	162.40
25	156.25	199.80	168.45	167.65	139.35	143.55	157.35	162.25	206.00	164.70

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
26	121.05	121.05	121.05	121.05	121.05	121.05	121.05
27	124.25	124.25	124.25	124.25	124.25	124.25	124.25
28	127.50	127.50	127.50	127.50	127.50	127.50	127.50
29	130.70	130.70	130.70	130.70	130.70	130.70	130.70
30	133.95	133.95	133.95	133.95	133.95	133.95	133.95
31	137.15	137.15	137.15	137.15	137.15	137.15	137.15
32	140.35	140.35	140.35	140.35	140.35	140.35	140.35
33	143.60	143.60	143.60	143.60	143.60	143.60	143.60
34	146.80	146.80	146.80	146.80	146.80	146.80	146.80
35	150.05	150.05	150.05	150.05	150.05	150.05	150.05
36	153.25	153.25	153.25	153.25	153.25	153.25	153.25
37	156.45	156.45	156.45	156.45	156.45	156.45	156.45
38	159.70	159.70	159.70	159.70	159.70	159.70	159.70
39	162.90	162.90	162.90	162.90	162.90	162.90	162.90
40	166.15	166.15	166.15	166.15	166.15	166.15	166.15
41	169.35	169.35	169.35	169.35	169.35	169.35	169.35
42	172.60	172.60	172.60	172.60	172.60	172.60	172.60
43	175.80	175.80	175.80	175.80	175.80	175.80	175.80
44	179.00	179.00	179.00	179.00	179.00	179.00	179.00
45	182.25	182.25	182.25	182.25	182.25	182.25	182.25
46	185.45	185.45	185.45	185.45	185.45	185.45	185.45
47	188.70	188.70	188.70	188.70	188.70	188.70	188.70
48	191.90	191.90	191.90	191.90	191.90	191.90	191.90
49	195.10	195.10	195.10	195.10	195.10	195.10	195.10
50	198.35	198.35	198.35	198.35	198.35	198.35	198.35

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
26	128.60	209.05	141.90	142.55	179.20	177.45	236.60	229.85	166.85
27	131.80	215.00	145.30	146.00	184.05	182.30	243.65	236.70	171.45
28	134.95	221.00	148.75	149.45	188.90	187.10	250.70	243.55	176.00
29	138.20	226.95	152.15	152.90	193.75	191.95	257.80	250.45	180.65
30	141.35	232.95	155.60	156.30	198.65	196.80	264.90	257.30	185.20
31	144.60	238.90	159.00	159.80	203.55	201.60	271.95	264.15	189.85
32	147.75	244.90	162.45	163.25	208.40	206.45	279.00	271.10	194.40
33	150.90	250.85	165.90	166.65	213.30	211.30	286.15	277.95	199.00
34	154.15	256.85	169.30	170.15	218.20	216.10	293.20	284.85	203.60
35	157.30	262.80	172.80	173.55	223.05	220.95	300.25	291.70	208.20
36	160.55	268.80	176.20	177.05	227.95	225.75	307.35	298.55	212.80
37	163.70	274.75	179.65	180.45	232.80	230.60	314.45	305.45	217.40
38	166.90	280.75	183.05	183.90	237.65	235.45	321.50	312.30	222.00
39	170.10	286.70	186.50	187.40	242.55	240.25	328.60	319.25	226.60
40	173.30	292.70	189.95	190.80	247.45	245.10	335.70	326.10	231.20
41	176.45	298.65	193.35	194.30	252.30	249.95	342.75	332.95	235.80
42	179.70	304.65	196.80	197.70	257.20	254.75	349.85	339.85	240.35
43	182.85	310.60	200.20	201.15	262.10	259.60	356.90	346.70	245.00
44	186.05	316.60	203.65	204.65	266.95	264.45	364.00	353.60	249.55
45	189.25	322.55	207.05	208.05	271.85	269.25	371.10	360.50	254.20
46	192.40	328.55	210.50	211.50	276.70	274.10	378.15	367.35	258.75
47	195.65	334.50	213.95	214.95	281.55	278.90	385.25	374.25	263.40
48	198.80	340.50	217.40	218.40	286.45	283.75	392.35	381.10	267.95
49	202.05	346.45	220.85	221.90	291.35	288.60	399.40	387.95	272.60
50	205.20	352.45	224.25	225.30	296.20	293.40	406.45	394.85	277.15

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
26	160.60	205.70	173.25	172.15	142.95	147.30	161.45	166.35	212.05	166.95
27	164.90	211.65	178.05	176.70	146.60	151.00	165.55	170.40	218.10	170.65
28	169.25	217.50	182.80	181.20	150.25	154.75	169.65	174.50	224.15	174.30
29	173.55	223.45	187.65	185.70	153.90	158.50	173.75	178.70	230.20	177.95
30	177.95	229.35	192.40	190.25	157.50	162.25	177.90	182.80	236.25	181.55
31	182.25	235.30	197.20	194.75	161.15	166.00	182.00	186.90	242.35	185.20
32	186.60	241.20	202.00	199.30	164.80	169.70	186.10	191.00	248.35	188.85
33	190.90	247.15	206.80	203.80	168.40	173.45	190.20	195.05	254.45	192.45
34	195.30	253.00	211.60	208.30	172.05	177.20	194.30	199.20	260.55	196.10
35	199.60	258.90	216.35	212.85	175.65	180.95	198.40	203.30	266.55	199.75
36	203.95	264.85	221.20	217.35	179.30	184.70	202.50	207.40	272.65	203.40
37	208.25	270.75	226.00	221.90	182.90	188.40	206.60	211.50	278.65	207.05
38	212.65	276.70	230.75	226.40	186.55	192.15	210.70	215.60	284.75	210.70
39	216.95	282.55	235.55	230.90	190.20	195.90	214.80	219.70	290.80	214.35
40	221.30	288.50	240.35	235.45	193.85	199.65	218.90	223.75	296.85	218.00
41	225.60	294.40	245.15	239.95	197.45	203.40	223.00	227.85	302.90	221.60
42	230.00	300.30	249.95	244.50	201.10	207.10	227.15	231.95	308.95	225.25
43	234.30	306.25	254.70	249.00	204.75	210.85	231.25	236.05	315.00	228.90
44	238.60	312.15	259.55	253.50	208.35	214.60	235.35	240.15	321.10	232.55
45	242.95	318.05	264.30	258.05	211.95	218.35	239.45	244.25	-	236.15
46	247.30	323.95	269.10	262.55	215.60	222.10	243.55	248.50	-	239.80
47	251.65	329.90	273.90	267.05	219.25	225.85	247.65	252.60	-	243.50
48	255.95	335.80	278.70	271.60	222.85	229.55	251.75	256.70	-	247.15
49	260.30	341.75	283.50	276.10	226.50	233.30	255.85	260.80	-	250.75
50	264.65	347.60	288.25	280.65	230.15	237.05	259.95	264.90	-	254.40

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
51	201.55	201.55	201.55	201.55	201.55	201.55	201.55
52	204.80	204.80	204.80	204.80	204.80	204.80	204.80
53	208.00	208.00	208.00	208.00	208.00	208.00	208.00
54	211.25	211.25	211.25	211.25	211.25	211.25	211.25
55	214.45	214.45	214.45	214.45	214.45	214.45	214.45
56	217.65	217.65	217.65	217.65	217.65	217.65	217.65
57	220.90	220.90	220.90	220.90	220.90	220.90	220.90
58	224.10	224.10	224.10	224.10	224.10	224.10	224.10
59	227.35	227.35	227.35	227.35	227.35	227.35	227.35
60	230.55	230.55	230.55	230.55	230.55	230.55	230.55
61	233.85	233.85	233.85	233.85	233.85	233.85	233.85
62	237.05	237.05	237.05	237.05	237.05	237.05	237.05
63	240.25	240.25	240.25	240.25	240.25	240.25	240.25
64	243.50	243.50	243.50	243.50	243.50	243.50	243.50
65	246.70	246.70	246.70	246.70	246.70	246.70	246.70
66	249.95	249.95	249.95	249.95	249.95	249.95	249.95
67	-	-	-	-	-	-	-
68	-	-	-	-	-	-	-
69	-	-	-	-	-	-	-
70	-	-	-	-	-	-	-

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
51	208.40	358.35	227.70	228.75	301.10	298.25	413.55	401.75	281.70
52	211.60	364.35	231.15	232.20	306.00	303.10	420.65	408.65	286.35
53	214.80	370.30	234.55	235.65	310.85	307.90	427.70	415.50	290.90
54	218.00	376.25	238.00	239.15	315.70	312.75	434.80	422.35	295.55
55	221.15	382.25	241.40	242.55	320.60	317.55	441.90	429.25	300.10
56	224.35	388.20	244.85	246.00	325.45	322.40	448.95	436.10	304.75
57	227.55	394.20	248.25	249.45	330.35	327.25	456.00	443.05	309.30
58	230.75	400.15	251.70	252.90	335.25	332.05	463.15	449.90	313.95
59	233.95	406.15	255.15	256.35	340.10	336.90	470.20	456.75	318.50
60	237.15	412.10	258.55	259.80	345.00	341.75	477.25	463.65	323.15
61	240.30	418.10	262.00	263.25	349.90	346.55	484.35	470.50	327.70
62	243.55	424.05	265.45	266.70	354.75	351.40	491.45	477.35	332.30
63	246.70	430.05	268.90	270.15	359.60	356.20	498.50	484.30	336.90
64	249.95	436.00	272.30	273.55	364.50	361.05	505.60	491.15	341.50
65	253.10	442.00	275.75	277.05	369.35	365.90	512.70	498.05	346.10
66	256.25	447.95	279.20	280.50	374.25	370.70	519.75	504.90	350.70
67	259.50	453.95	282.60	283.95	379.15	375.55	526.80	511.75	355.30
68	262.65	459.90	286.05	287.40	384.00	380.40	533.90	518.65	359.90
69	265.90	465.90	289.45	290.80	388.90	385.20	541.00	525.55	364.50
70	269.05	471.85	292.90	294.30	393.80	390.05	548.05	532.45	369.10

Priority Mail International Parcels Retail Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
51	269.00	353.50	293.10	285.15	233.75	240.80	264.05	269.00	-	258.05
52	273.30	359.45	297.90	289.65	237.40	244.55	268.15	273.05	-	261.65
53	277.65	365.35	302.65	294.20	241.05	248.25	272.25	277.15	-	265.30
54	282.00	371.30	307.45	298.75	244.65	252.00	276.35	281.25	-	268.95
55	286.35	377.15	312.25	303.30	248.25	255.75	280.50	285.35	-	272.60
56	290.65	383.10	317.05	307.80	251.90	259.50	284.60	289.45	-	276.20
57	295.00	389.00	321.85	312.30	255.55	263.25	288.70	293.55	-	279.90
58	299.35	394.90	326.60	316.85	259.20	266.95	292.80	297.60	-	283.55
59	303.70	400.85	331.45	321.35	262.80	270.70	296.90	301.75	-	287.20
60	308.00	406.75	336.20	325.90	266.45	274.45	301.00	305.85	-	290.80
61	312.30	412.65	341.00	330.40	270.10	278.20	305.10	309.95	-	294.45
62	316.70	418.55	345.80	334.90	273.70	281.95	309.20	314.15	-	298.10
63	321.00	424.50	350.60	339.45	277.35	285.65	313.30	318.25	-	301.75
64	325.35	430.40	355.40	343.95	280.95	289.40	317.40	322.35	-	305.35
65	329.65	436.35	360.15	348.50	284.60	293.15	321.50	326.40	-	309.00
66	334.05	442.20	364.95	353.00	288.20	296.90	325.60	330.50	-	312.65
67	338.35	-	-	-	-	300.65	-	-	-	-
68	342.70	-	-	-	-	304.40	-	-	-	-
69	347.05	-	-	-	-	308.10	-	-	-	-
70	351.40	-	-	-	-	311.85	-	-	-	-

Notes

1. The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

Priority Mail International Parcels Commercial Base Prices

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
1	37.47	37.47	37.47	37.47	37.47	37.47	37.47
2	40.46	40.46	40.46	40.46	40.46	40.46	40.46
3	43.40	43.40	43.40	43.40	43.40	43.40	43.40
4	46.34	46.34	46.34	46.34	46.34	46.34	46.34
5	48.81	48.81	48.81	48.81	48.81	48.81	48.81
6	51.72	51.72	51.72	51.72	51.72	51.72	51.72
7	54.63	54.63	54.63	54.63	54.63	54.63	54.63
8	58.15	58.15	58.15	58.15	58.15	58.15	58.15
9	61.09	61.09	61.09	61.09	61.09	61.09	61.09
10	64.03	64.03	64.03	64.03	64.03	64.03	64.03
11	66.97	66.97	66.97	66.97	66.97	66.97	66.97
12	69.91	69.91	69.91	69.91	69.91	69.91	69.91
13	72.85	72.85	72.85	72.85	72.85	72.85	72.85
14	75.84	75.84	75.84	75.84	75.84	75.84	75.84
15	78.78	78.78	78.78	78.78	78.78	78.78	78.78
16	81.72	81.72	81.72	81.72	81.72	81.72	81.72
17	84.65	84.65	84.65	84.65	84.65	84.65	84.65
18	87.60	87.60	87.60	87.60	87.60	87.60	87.60
19	90.54	90.54	90.54	90.54	90.54	90.54	90.54
20	93.53	93.53	93.53	93.53	93.53	93.53	93.53
21	96.47	96.47	96.47	96.47	96.47	96.47	96.47
22	99.40	99.40	99.40	99.40	99.40	99.40	99.40
23	102.35	102.35	102.35	102.35	102.35	102.35	102.35
24	105.29	105.29	105.29	105.29	105.29	105.29	105.29
25	108.23	108.23	108.23	108.23	108.23	108.23	108.23

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
1	46.36	56.76	53.25	53.49	54.34	53.87	56.62	54.96	49.35
2	49.35	62.42	56.53	56.81	59.00	58.43	63.32	61.51	53.68
3	52.39	68.12	59.76	60.04	63.60	63.03	70.02	68.07	58.09
4	55.43	73.77	63.03	63.32	68.26	67.59	76.76	74.58	62.42
5	58.47	79.47	66.26	66.64	72.91	72.20	83.51	81.08	66.79
6	61.51	85.12	69.54	69.87	77.52	76.81	90.20	87.64	71.16
7	64.55	90.82	72.87	73.15	82.18	81.37	96.95	94.15	75.53
8	67.55	96.47	76.10	76.43	86.83	85.98	103.69	100.75	79.90
9	70.63	102.17	79.37	79.71	91.44	90.58	110.39	107.26	84.27
10	73.63	107.83	82.60	83.03	96.05	95.14	117.14	113.76	88.64
11	76.67	113.53	85.88	86.26	100.70	99.75	123.83	120.32	92.96
12	79.71	119.13	89.11	89.54	105.31	104.31	130.58	126.83	97.38
13	82.70	124.83	92.39	92.82	109.96	108.92	137.28	133.33	101.70
14	85.79	130.48	95.67	96.09	114.62	113.53	144.02	139.94	106.12
15	88.78	136.18	98.90	99.42	119.23	118.09	150.77	146.44	110.44
16	91.87	141.84	102.17	102.65	123.88	122.69	157.46	153.00	114.86
17	94.86	147.54	105.40	105.93	128.54	127.30	164.21	159.51	119.18
18	97.90	153.19	108.68	109.20	133.14	131.86	170.91	166.01	123.60
19	100.94	158.89	111.91	112.48	137.75	136.47	177.65	172.57	127.92
20	103.98	164.54	115.19	115.71	142.41	141.03	184.40	179.12	132.34
21	107.02	170.24	118.51	119.04	147.01	145.64	191.09	185.68	136.66
22	110.01	175.89	121.74	122.31	151.67	150.24	197.84	192.19	141.03
23	113.05	181.55	125.02	125.59	156.32	154.80	204.58	198.69	145.40
24	116.09	187.25	128.25	128.87	160.93	159.41	211.28	205.25	149.77
25	119.13	192.90	131.53	132.10	165.59	164.02	217.98	211.76	154.14

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
1	49.54	54.96	50.73	56.15	49.59	52.73	55.91	51.40	57.52	57.00
2	53.68	60.61	55.34	60.52	53.30	54.86	59.80	57.52	63.32	63.08
3	57.81	66.22	59.85	64.79	57.00	58.66	63.70	61.80	69.07	67.17
4	61.94	71.87	64.41	69.11	60.71	62.51	67.59	66.12	74.81	71.25
5	66.03	77.47	68.92	73.39	64.41	66.31	71.54	70.49	80.61	76.62
6	70.16	83.13	73.53	77.66	68.07	70.11	75.43	74.86	86.31	80.70
7	74.29	88.68	78.09	81.99	71.77	73.91	79.33	79.33	92.10	84.74
8	78.42	94.34	82.60	86.26	75.48	77.71	83.22	83.79	97.80	88.83
9	82.51	99.94	87.16	90.58	79.18	81.51	87.12	88.35	103.60	92.91
10	86.64	105.55	91.77	94.86	82.84	85.31	91.01	92.86	109.35	97.04
11	90.77	111.20	96.28	99.13	85.17	87.73	94.91	96.00	115.09	101.13
12	94.86	116.76	100.84	103.46	87.54	90.16	98.80	99.09	120.89	105.21
13	98.99	122.41	105.36	107.73	91.01	93.72	102.70	103.50	126.64	109.30
14	103.08	128.01	109.96	112.05	94.48	97.28	106.59	107.92	132.38	113.43
15	107.26	133.67	114.48	116.33	97.90	100.84	110.49	112.43	138.13	117.47
16	111.34	139.27	119.04	120.60	101.32	104.36	114.38	116.90	143.88	121.55
17	115.47	144.83	123.64	124.93	104.79	107.92	118.28	121.51	149.63	125.64
18	119.56	150.48	128.16	129.20	108.25	111.48	122.22	126.11	155.42	129.77
19	123.74	156.09	132.72	133.48	111.67	115.05	126.11	130.72	161.12	133.86
20	127.82	161.74	137.23	137.80	115.14	118.61	130.01	134.66	166.92	137.94
21	131.96	167.34	141.84	142.07	118.61	122.17	133.90	138.46	172.66	142.03
22	136.09	173.00	146.40	146.40	122.03	125.69	137.80	142.45	178.41	146.11
23	140.22	178.55	150.91	150.67	125.50	129.25	141.69	146.35	184.21	150.20
24	144.31	184.21	155.47	154.95	128.96	132.81	145.59	150.24	189.91	154.28
25	148.44	189.81	160.03	159.27	132.38	136.37	149.48	154.14	195.70	156.47

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
26	111.21	111.21	111.21	111.21	111.21	111.21	111.21
27	114.15	114.15	114.15	114.15	114.15	114.15	114.15
28	117.10	117.10	117.10	117.10	117.10	117.10	117.10
29	120.04	120.04	120.04	120.04	120.04	120.04	120.04
30	122.97	122.97	122.97	122.97	122.97	122.97	122.97
31	125.91	125.91	125.91	125.91	125.91	125.91	125.91
32	128.90	128.90	128.90	128.90	128.90	128.90	128.90
33	131.85	131.85	131.85	131.85	131.85	131.85	131.85
34	134.79	134.79	134.79	134.79	134.79	134.79	134.79
35	137.72	137.72	137.72	137.72	137.72	137.72	137.72
36	140.66	140.66	140.66	140.66	140.66	140.66	140.66
37	143.61	143.61	143.61	143.61	143.61	143.61	143.61
38	146.60	146.60	146.60	146.60	146.60	146.60	146.60
39	149.53	149.53	149.53	149.53	149.53	149.53	149.53
40	152.47	152.47	152.47	152.47	152.47	152.47	152.47
41	155.41	155.41	155.41	155.41	155.41	155.41	155.41
42	158.36	158.36	158.36	158.36	158.36	158.36	158.36
43	161.29	161.29	161.29	161.29	161.29	161.29	161.29
44	164.28	164.28	164.28	164.28	164.28	164.28	164.28
45	167.22	167.22	167.22	167.22	167.22	167.22	167.22
46	170.16	170.16	170.16	170.16	170.16	170.16	170.16
47	173.11	173.11	173.11	173.11	173.11	173.11	173.11
48	176.04	176.04	176.04	176.04	176.04	176.04	176.04
49	178.98	178.98	178.98	178.98	178.98	178.98	178.98
50	181.97	181.97	181.97	181.97	181.97	181.97	181.97

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
26	122.17	198.60	134.81	135.42	170.24	168.58	224.77	218.36	158.51
27	125.21	204.25	138.04	138.70	174.85	173.19	231.47	224.87	162.88
28	128.20	209.95	141.31	141.98	179.46	177.75	238.17	231.37	167.20
29	131.29	215.60	144.54	145.26	184.06	182.35	244.91	237.93	171.62
30	134.28	221.30	147.82	148.49	188.72	186.96	251.66	244.44	175.94
31	137.37	226.96	151.05	151.81	193.37	191.52	258.35	250.94	180.36
32	140.36	232.66	154.33	155.09	197.98	196.13	265.05	257.55	184.68
33	143.36	238.31	157.61	158.32	202.64	200.74	271.84	264.05	189.05
34	146.44	244.01	160.84	161.64	207.29	205.30	278.54	270.61	193.42
35	149.44	249.66	164.16	164.87	211.90	209.90	285.24	277.12	197.79
36	152.52	255.36	167.39	168.20	216.55	214.46	291.98	283.62	202.16
37	155.52	261.01	170.67	171.43	221.16	219.07	298.73	290.18	206.53
38	158.56	266.71	173.90	174.71	225.77	223.68	305.43	296.69	210.90
39	161.60	272.37	177.18	178.03	230.42	228.24	312.17	303.29	215.27
40	164.64	278.07	180.45	181.26	235.08	232.85	318.92	309.80	219.64
41	167.63	283.72	183.68	184.59	239.69	237.45	325.61	316.30	224.01
42	170.72	289.42	186.96	187.82	244.34	242.01	332.36	322.86	228.33
43	173.71	295.07	190.19	191.09	249.00	246.62	339.06	329.37	232.75
44	176.75	300.77	193.47	194.42	253.60	251.23	345.80	335.92	237.07
45	179.79	306.42	196.70	197.65	258.26	255.79	352.55	342.48	241.49
46	182.78	312.12	199.98	200.93	262.87	260.40	359.24	348.98	245.81
47	185.87	317.78	203.25	204.20	267.47	264.96	365.99	355.54	250.23
48	188.86	323.48	206.53	207.48	272.13	269.56	372.73	362.05	254.55
49	191.95	329.13	209.81	210.81	276.78	274.17	379.43	368.55	258.97
50	194.94	334.83	213.04	214.04	281.39	278.73	386.13	375.11	263.29

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
26	152.57	195.42	164.59	163.54	135.80	139.94	153.38	158.03	201.45	158.60
27	156.66	201.07	169.15	167.87	139.27	143.45	157.27	161.88	207.20	162.12
28	160.79	206.63	173.66	172.14	142.74	147.01	161.17	165.78	212.94	165.59
29	164.87	212.28	178.27	176.42	146.21	150.58	165.06	169.77	218.69	169.05
30	169.05	217.88	182.78	180.74	149.63	154.14	169.01	173.66	224.44	172.47
31	173.14	223.54	187.34	185.01	153.09	157.70	172.90	177.56	230.23	175.94
32	177.27	229.14	191.90	189.34	156.56	161.22	176.80	181.45	235.93	179.41
33	181.36	234.79	196.46	193.61	159.98	164.78	180.69	185.30	241.73	182.83
34	185.54	240.35	201.02	197.89	163.45	168.34	184.59	189.24	247.52	186.30
35	189.62	245.96	205.53	202.21	166.87	171.90	188.48	193.14	253.22	189.76
36	193.75	251.61	210.14	206.48	170.34	175.47	192.38	197.03	259.02	193.23
37	197.84	257.21	214.70	210.81	173.76	178.98	196.27	200.93	264.72	196.70
38	202.02	262.87	219.21	215.08	177.22	182.54	200.17	204.82	270.51	200.17
39	206.10	268.42	223.77	219.36	180.69	186.11	204.06	208.72	276.26	203.63
40	210.24	274.08	228.33	223.68	184.16	189.67	207.96	212.56	282.01	207.10
41	214.32	279.68	232.89	227.95	187.58	193.23	211.85	216.46	287.76	210.52
42	218.50	285.29	237.45	232.28	191.05	196.75	215.79	220.35	293.50	213.99
43	222.59	290.94	241.97	236.55	194.51	200.31	219.69	224.25	299.25	217.46
44	226.67	296.54	246.57	240.83	197.93	203.87	223.58	228.14	305.05	220.92
45	230.80	302.15	251.09	245.15	201.35	207.43	227.48	232.04	-	224.34
46	234.94	307.75	255.65	249.42	204.82	211.00	231.37	236.08	-	227.81
47	239.07	313.41	260.21	253.70	208.29	214.56	235.27	239.97	-	231.33
48	243.15	319.01	264.77	258.02	211.71	218.07	239.16	243.87	-	234.79
49	247.29	324.66	269.33	262.30	215.18	221.64	243.06	247.76	-	238.21
50	251.42	330.22	273.84	266.62	218.64	225.20	246.95	251.66	-	241.68

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
51	184.91	184.91	184.91	184.91	184.91	184.91	184.91
52	187.85	187.85	187.85	187.85	187.85	187.85	187.85
53	190.79	190.79	190.79	190.79	190.79	190.79	190.79
54	193.73	193.73	193.73	193.73	193.73	193.73	193.73
55	196.67	196.67	196.67	196.67	196.67	196.67	196.67
56	199.66	199.66	199.66	199.66	199.66	199.66	199.66
57	202.60	202.60	202.60	202.60	202.60	202.60	202.60
58	205.54	205.54	205.54	205.54	205.54	205.54	205.54
59	208.48	208.48	208.48	208.48	208.48	208.48	208.48
60	211.42	211.42	211.42	211.42	211.42	211.42	211.42
61	214.36	214.36	214.36	214.36	214.36	214.36	214.36
62	217.35	217.35	217.35	217.35	217.35	217.35	217.35
63	220.29	220.29	220.29	220.29	220.29	220.29	220.29
64	223.23	223.23	223.23	223.23	223.23	223.23	223.23
65	226.16	226.16	226.16	226.16	226.16	226.16	226.16
66	229.11	229.11	229.11	229.11	229.11	229.11	229.11
67	-	-	-	-	-	-	-
68	-	-	-	-	-	-	-
69	-	-	-	-	-	-	-
70	-	-	-	-	-	-	-

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
51	197.98	340.43	216.32	217.31	286.05	283.34	392.87	381.66	267.62
52	201.02	346.13	219.59	220.59	290.70	287.95	399.62	388.22	272.03
53	204.06	351.79	222.82	223.87	295.31	292.51	406.32	394.73	276.36
54	207.10	357.44	226.10	227.19	299.92	297.11	413.06	401.23	280.77
55	210.09	363.14	229.33	230.42	304.57	301.67	419.81	407.79	285.10
56	213.13	368.79	232.61	233.70	309.18	306.28	426.50	414.30	289.51
57	216.17	374.49	235.84	236.98	313.83	310.89	433.20	420.90	293.84
58	219.21	380.14	239.12	240.26	318.49	315.45	439.99	427.41	298.25
59	222.25	385.84	242.39	243.53	323.10	320.06	446.69	433.91	302.58
60	225.29	391.50	245.62	246.81	327.75	324.66	453.39	440.47	306.99
61	228.29	397.20	248.90	250.09	332.41	329.22	460.13	446.98	311.32
62	231.37	402.85	252.18	253.37	337.01	333.83	466.88	453.48	315.69
63	234.37	408.55	255.46	256.64	341.62	338.39	473.58	460.09	320.06
64	237.45	414.20	258.69	259.87	346.28	343.00	480.32	466.59	324.43
65	240.45	419.90	261.96	263.20	350.88	347.61	487.07	473.15	328.80
66	243.44	425.55	265.24	266.48	355.54	352.17	493.76	479.66	333.17
67	246.53	431.25	268.47	269.75	360.19	356.77	500.46	486.16	337.54
68	249.52	436.91	271.75	273.03	364.80	361.38	507.21	492.72	341.91
69	252.61	442.61	274.98	276.26	369.46	365.94	513.95	499.27	346.28
70	255.60	448.26	278.26	279.59	374.11	370.55	520.65	505.83	350.65

Priority Mail International Parcels Commercial Base Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
51	255.55	335.83	278.45	270.89	222.06	228.76	250.85	255.55	-	245.15
52	259.64	341.48	283.01	275.17	225.53	232.32	254.74	259.40	-	248.57
53	263.77	347.08	287.52	279.49	229.00	235.84	258.64	263.29	-	252.04
54	267.90	352.74	292.08	283.81	232.42	239.40	262.53	267.19	-	255.50
55	272.03	358.29	296.64	288.14	235.84	242.96	266.48	271.08	-	258.97
56	276.12	363.95	301.20	292.41	239.31	246.53	270.37	274.98	-	262.39
57	280.25	369.55	305.76	296.69	242.77	250.09	274.27	278.87	-	265.91
58	284.38	375.16	310.27	301.01	246.24	253.60	278.16	282.72	-	269.37
59	288.52	380.81	314.88	305.28	249.66	257.17	282.06	286.66	-	272.84
60	292.60	386.41	319.39	309.61	253.13	260.73	285.95	290.56	-	276.26
61	296.69	392.02	323.95	313.88	256.60	264.29	289.85	294.45	-	279.73
62	300.87	397.62	328.51	318.16	260.02	267.85	293.74	298.44	-	283.20
63	304.95	403.28	333.07	322.48	263.48	271.37	297.64	302.34	-	286.66
64	309.08	408.88	337.63	326.75	266.90	274.93	301.53	306.23	-	290.08
65	313.17	414.53	342.14	331.08	270.37	278.49	305.43	310.08	-	293.55
66	317.35	420.09	346.70	335.35	273.79	282.06	309.32	313.98	-	297.02
67	321.43	-	-	-	-	285.62	-	-	-	-
68	325.57	-	-	-	-	289.18	-	-	-	-
69	329.70	-	-	-	-	292.70	-	-	-	-
70	333.83	-	-	-	-	296.26	-	-	-	-

Notes

1. The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

Priority Mail International Parcels Commercial Plus Prices

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
1	37.47	37.47	37.47	37.47	37.47	37.47	37.47
2	40.46	40.46	40.46	40.46	40.46	40.46	40.46
3	43.40	43.40	43.40	43.40	43.40	43.40	43.40
4	46.34	46.34	46.34	46.34	46.34	46.34	46.34
5	48.81	48.81	48.81	48.81	48.81	48.81	48.81
6	51.72	51.72	51.72	51.72	51.72	51.72	51.72
7	54.63	54.63	54.63	54.63	54.63	54.63	54.63
8	58.15	58.15	58.15	58.15	58.15	58.15	58.15
9	61.09	61.09	61.09	61.09	61.09	61.09	61.09
10	64.03	64.03	64.03	64.03	64.03	64.03	64.03
11	66.97	66.97	66.97	66.97	66.97	66.97	66.97
12	69.91	69.91	69.91	69.91	69.91	69.91	69.91
13	72.85	72.85	72.85	72.85	72.85	72.85	72.85
14	75.84	75.84	75.84	75.84	75.84	75.84	75.84
15	78.78	78.78	78.78	78.78	78.78	78.78	78.78
16	81.72	81.72	81.72	81.72	81.72	81.72	81.72
17	84.65	84.65	84.65	84.65	84.65	84.65	84.65
18	87.60	87.60	87.60	87.60	87.60	87.60	87.60
19	90.54	90.54	90.54	90.54	90.54	90.54	90.54
20	93.53	93.53	93.53	93.53	93.53	93.53	93.53
21	96.47	96.47	96.47	96.47	96.47	96.47	96.47
22	99.40	99.40	99.40	99.40	99.40	99.40	99.40
23	102.35	102.35	102.35	102.35	102.35	102.35	102.35
24	105.29	105.29	105.29	105.29	105.29	105.29	105.29
25	108.23	108.23	108.23	108.23	108.23	108.23	108.23

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
1	46.36	56.76	53.25	53.49	54.34	53.87	56.62	54.96	49.35
2	49.35	62.42	56.53	56.81	59.00	58.43	63.32	61.51	53.68
3	52.39	68.12	59.76	60.04	63.60	63.03	70.02	68.07	58.09
4	55.43	73.77	63.03	63.32	68.26	67.59	76.76	74.58	62.42
5	58.47	79.47	66.26	66.64	72.91	72.20	83.51	81.08	66.79
6	61.51	85.12	69.54	69.87	77.52	76.81	90.20	87.64	71.16
7	64.55	90.82	72.87	73.15	82.18	81.37	96.95	94.15	75.53
8	67.55	96.47	76.10	76.43	86.83	85.98	103.69	100.75	79.90
9	70.63	102.17	79.37	79.71	91.44	90.58	110.39	107.26	84.27
10	73.63	107.83	82.60	83.03	96.05	95.14	117.14	113.76	88.64
11	76.67	113.53	85.88	86.26	100.70	99.75	123.83	120.32	92.96
12	79.71	119.13	89.11	89.54	105.31	104.31	130.58	126.83	97.38
13	82.70	124.83	92.39	92.82	109.96	108.92	137.28	133.33	101.70
14	85.79	130.48	95.67	96.09	114.62	113.53	144.02	139.94	106.12
15	88.78	136.18	98.90	99.42	119.23	118.09	150.77	146.44	110.44
16	91.87	141.84	102.17	102.65	123.88	122.69	157.46	153.00	114.86
17	94.86	147.54	105.40	105.93	128.54	127.30	164.21	159.51	119.18
18	97.90	153.19	108.68	109.20	133.14	131.86	170.91	166.01	123.60
19	100.94	158.89	111.91	112.48	137.75	136.47	177.65	172.57	127.92
20	103.98	164.54	115.19	115.71	142.41	141.03	184.40	179.12	132.34
21	107.02	170.24	118.51	119.04	147.01	145.64	191.09	185.68	136.66
22	110.01	175.89	121.74	122.31	151.67	150.24	197.84	192.19	141.03
23	113.05	181.55	125.02	125.59	156.32	154.80	204.58	198.69	145.40
24	116.09	187.25	128.25	128.87	160.93	159.41	211.28	205.25	149.77
25	119.13	192.90	131.53	132.10	165.59	164.02	217.98	211.76	154.14

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
1	49.54	54.96	50.73	56.15	49.59	52.73	55.91	51.40	57.52	57.00
2	53.68	60.61	55.34	60.52	53.30	54.86	59.80	57.52	63.32	63.08
3	57.81	66.22	59.85	64.79	57.00	58.66	63.70	61.80	69.07	67.17
4	61.94	71.87	64.41	69.11	60.71	62.51	67.59	66.12	74.81	71.25
5	66.03	77.47	68.92	73.39	64.41	66.31	71.54	70.49	80.61	76.62
6	70.16	83.13	73.53	77.66	68.07	70.11	75.43	74.86	86.31	80.70
7	74.29	88.68	78.09	81.99	71.77	73.91	79.33	79.33	92.10	84.74
8	78.42	94.34	82.60	86.26	75.48	77.71	83.22	83.79	97.80	88.83
9	82.51	99.94	87.16	90.58	79.18	81.51	87.12	88.35	103.60	92.91
10	86.64	105.55	91.77	94.86	82.84	85.31	91.01	92.86	109.35	97.04
11	90.77	111.20	96.28	99.13	85.17	87.73	94.91	96.00	115.09	101.13
12	94.86	116.76	100.84	103.46	87.54	90.16	98.80	99.09	120.89	105.21
13	98.99	122.41	105.36	107.73	91.01	93.72	102.70	103.50	126.64	109.30
14	103.08	128.01	109.96	112.05	94.48	97.28	106.59	107.92	132.38	113.43
15	107.26	133.67	114.48	116.33	97.90	100.84	110.49	112.43	138.13	117.47
16	111.34	139.27	119.04	120.60	101.32	104.36	114.38	116.90	143.88	121.55
17	115.47	144.83	123.64	124.93	104.79	107.92	118.28	121.51	149.63	125.64
18	119.56	150.48	128.16	129.20	108.25	111.48	122.22	126.11	155.42	129.77
19	123.74	156.09	132.72	133.48	111.67	115.05	126.11	130.72	161.12	133.86
20	127.82	161.74	137.23	137.80	115.14	118.61	130.01	134.66	166.92	137.94
21	131.96	167.34	141.84	142.07	118.61	122.17	133.90	138.46	172.66	142.03
22	136.09	173.00	146.40	146.40	122.03	125.69	137.80	142.45	178.41	146.11
23	140.22	178.55	150.91	150.67	125.50	129.25	141.69	146.35	184.21	150.20
24	144.31	184.21	155.47	154.95	128.96	132.81	145.59	150.24	189.91	154.28
25	148.44	189.81	160.03	159.27	132.38	136.37	149.48	154.14	195.70	156.47

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
26	111.21	111.21	111.21	111.21	111.21	111.21	111.21
27	114.15	114.15	114.15	114.15	114.15	114.15	114.15
28	117.10	117.10	117.10	117.10	117.10	117.10	117.10
29	120.04	120.04	120.04	120.04	120.04	120.04	120.04
30	122.97	122.97	122.97	122.97	122.97	122.97	122.97
31	125.91	125.91	125.91	125.91	125.91	125.91	125.91
32	128.90	128.90	128.90	128.90	128.90	128.90	128.90
33	131.85	131.85	131.85	131.85	131.85	131.85	131.85
34	134.79	134.79	134.79	134.79	134.79	134.79	134.79
35	137.72	137.72	137.72	137.72	137.72	137.72	137.72
36	140.66	140.66	140.66	140.66	140.66	140.66	140.66
37	143.61	143.61	143.61	143.61	143.61	143.61	143.61
38	146.60	146.60	146.60	146.60	146.60	146.60	146.60
39	149.53	149.53	149.53	149.53	149.53	149.53	149.53
40	152.47	152.47	152.47	152.47	152.47	152.47	152.47
41	155.41	155.41	155.41	155.41	155.41	155.41	155.41
42	158.36	158.36	158.36	158.36	158.36	158.36	158.36
43	161.29	161.29	161.29	161.29	161.29	161.29	161.29
44	164.28	164.28	164.28	164.28	164.28	164.28	164.28
45	167.22	167.22	167.22	167.22	167.22	167.22	167.22
46	170.16	170.16	170.16	170.16	170.16	170.16	170.16
47	173.11	173.11	173.11	173.11	173.11	173.11	173.11
48	176.04	176.04	176.04	176.04	176.04	176.04	176.04
49	178.98	178.98	178.98	178.98	178.98	178.98	178.98
50	181.97	181.97	181.97	181.97	181.97	181.97	181.97

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
26	122.17	198.60	134.81	135.42	170.24	168.58	224.77	218.36	158.51
27	125.21	204.25	138.04	138.70	174.85	173.19	231.47	224.87	162.88
28	128.20	209.95	141.31	141.98	179.46	177.75	238.17	231.37	167.20
29	131.29	215.60	144.54	145.26	184.06	182.35	244.91	237.93	171.62
30	134.28	221.30	147.82	148.49	188.72	186.96	251.66	244.44	175.94
31	137.37	226.96	151.05	151.81	193.37	191.52	258.35	250.94	180.36
32	140.36	232.66	154.33	155.09	197.98	196.13	265.05	257.55	184.68
33	143.36	238.31	157.61	158.32	202.64	200.74	271.84	264.05	189.05
34	146.44	244.01	160.84	161.64	207.29	205.30	278.54	270.61	193.42
35	149.44	249.66	164.16	164.87	211.90	209.90	285.24	277.12	197.79
36	152.52	255.36	167.39	168.20	216.55	214.46	291.98	283.62	202.16
37	155.52	261.01	170.67	171.43	221.16	219.07	298.73	290.18	206.53
38	158.56	266.71	173.90	174.71	225.77	223.68	305.43	296.69	210.90
39	161.60	272.37	177.18	178.03	230.42	228.24	312.17	303.29	215.27
40	164.64	278.07	180.45	181.26	235.08	232.85	318.92	309.80	219.64
41	167.63	283.72	183.68	184.59	239.69	237.45	325.61	316.30	224.01
42	170.72	289.42	186.96	187.82	244.34	242.01	332.36	322.86	228.33
43	173.71	295.07	190.19	191.09	249.00	246.62	339.06	329.37	232.75
44	176.75	300.77	193.47	194.42	253.60	251.23	345.80	335.92	237.07
45	179.79	306.42	196.70	197.65	258.26	255.79	352.55	342.48	241.49
46	182.78	312.12	199.98	200.93	262.87	260.40	359.24	348.98	245.81
47	185.87	317.78	203.25	204.20	267.47	264.96	365.99	355.54	250.23
48	188.86	323.48	206.53	207.48	272.13	269.56	372.73	362.05	254.55
49	191.95	329.13	209.81	210.81	276.78	274.17	379.43	368.55	258.97
50	194.94	334.83	213.04	214.04	281.39	278.73	386.13	375.11	263.29

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
26	152.57	195.42	164.59	163.54	135.80	139.94	153.38	158.03	201.45	158.60
27	156.66	201.07	169.15	167.87	139.27	143.45	157.27	161.88	207.20	162.12
28	160.79	206.63	173.66	172.14	142.74	147.01	161.17	165.78	212.94	165.59
29	164.87	212.28	178.27	176.42	146.21	150.58	165.06	169.77	218.69	169.05
30	169.05	217.88	182.78	180.74	149.63	154.14	169.01	173.66	224.44	172.47
31	173.14	223.54	187.34	185.01	153.09	157.70	172.90	177.56	230.23	175.94
32	177.27	229.14	191.90	189.34	156.56	161.22	176.80	181.45	235.93	179.41
33	181.36	234.79	196.46	193.61	159.98	164.78	180.69	185.30	241.73	182.83
34	185.54	240.35	201.02	197.89	163.45	168.34	184.59	189.24	247.52	186.30
35	189.62	245.96	205.53	202.21	166.87	171.90	188.48	193.14	253.22	189.76
36	193.75	251.61	210.14	206.48	170.34	175.47	192.38	197.03	259.02	193.23
37	197.84	257.21	214.70	210.81	173.76	178.98	196.27	200.93	264.72	196.70
38	202.02	262.87	219.21	215.08	177.22	182.54	200.17	204.82	270.51	200.17
39	206.10	268.42	223.77	219.36	180.69	186.11	204.06	208.72	276.26	203.63
40	210.24	274.08	228.33	223.68	184.16	189.67	207.96	212.56	282.01	207.10
41	214.32	279.68	232.89	227.95	187.58	193.23	211.85	216.46	287.76	210.52
42	218.50	285.29	237.45	232.28	191.05	196.75	215.79	220.35	293.50	213.99
43	222.59	290.94	241.97	236.55	194.51	200.31	219.69	224.25	299.25	217.46
44	226.67	296.54	246.57	240.83	197.93	203.87	223.58	228.14	305.05	220.92
45	230.80	302.15	251.09	245.15	201.35	207.43	227.48	232.04	-	224.34
46	234.94	307.75	255.65	249.42	204.82	211.00	231.37	236.08	-	227.81
47	239.07	313.41	260.21	253.70	208.29	214.56	235.27	239.97	-	231.33
48	243.15	319.01	264.77	258.02	211.71	218.07	239.16	243.87	-	234.79
49	247.29	324.66	269.33	262.30	215.18	221.64	243.06	247.76	-	238.21
50	251.42	330.22	273.84	266.62	218.64	225.20	246.95	251.66	-	241.68

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group[1]						
	Origin Zone 1.1 &1.2 ($)	Origin Zone 1.3 ($)	Origin Zone 1.4 ($)	Origin Zone 1.5 ($)	Origin Zone 1.6 ($)	Origin Zone 1.7 ($)	Origin Zone 1.8 ($)
51	184.91	184.91	184.91	184.91	184.91	184.91	184.91
52	187.85	187.85	187.85	187.85	187.85	187.85	187.85
53	190.79	190.79	190.79	190.79	190.79	190.79	190.79
54	193.73	193.73	193.73	193.73	193.73	193.73	193.73
55	196.67	196.67	196.67	196.67	196.67	196.67	196.67
56	199.66	199.66	199.66	199.66	199.66	199.66	199.66
57	202.60	202.60	202.60	202.60	202.60	202.60	202.60
58	205.54	205.54	205.54	205.54	205.54	205.54	205.54
59	208.48	208.48	208.48	208.48	208.48	208.48	208.48
60	211.42	211.42	211.42	211.42	211.42	211.42	211.42
61	214.36	214.36	214.36	214.36	214.36	214.36	214.36
62	217.35	217.35	217.35	217.35	217.35	217.35	217.35
63	220.29	220.29	220.29	220.29	220.29	220.29	220.29
64	223.23	223.23	223.23	223.23	223.23	223.23	223.23
65	226.16	226.16	226.16	226.16	226.16	226.16	226.16
66	229.11	229.11	229.11	229.11	229.11	229.11	229.11
67	-	-	-	-	-	-	-
68	-	-	-	-	-	-	-
69	-	-	-	-	-	-	-
70	-	-	-	-	-	-	-

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group								
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
51	197.98	340.43	216.32	217.31	286.05	283.34	392.87	381.66	267.62
52	201.02	346.13	219.59	220.59	290.70	287.95	399.62	388.22	272.03
53	204.06	351.79	222.82	223.87	295.31	292.51	406.32	394.73	276.36
54	207.10	357.44	226.10	227.19	299.92	297.11	413.06	401.23	280.77
55	210.09	363.14	229.33	230.42	304.57	301.67	419.81	407.79	285.10
56	213.13	368.79	232.61	233.70	309.18	306.28	426.50	414.30	289.51
57	216.17	374.49	235.84	236.98	313.83	310.89	433.20	420.90	293.84
58	219.21	380.14	239.12	240.26	318.49	315.45	439.99	427.41	298.25
59	222.25	385.84	242.39	243.53	323.10	320.06	446.69	433.91	302.58
60	225.29	391.50	245.62	246.81	327.75	324.66	453.39	440.47	306.99
61	228.29	397.20	248.90	250.09	332.41	329.22	460.13	446.98	311.32
62	231.37	402.85	252.18	253.37	337.01	333.83	466.88	453.48	315.69
63	234.37	408.55	255.46	256.64	341.62	338.39	473.58	460.09	320.06
64	237.45	414.20	258.69	259.87	346.28	343.00	480.32	466.59	324.43
65	240.45	419.90	261.96	263.20	350.88	347.61	487.07	473.15	328.80
66	243.44	425.55	265.24	266.48	355.54	352.17	493.76	479.66	333.17
67	246.53	431.25	268.47	269.75	360.19	356.77	500.46	486.16	337.54
68	249.52	436.91	271.75	273.03	364.80	361.38	507.21	492.72	341.91
69	252.61	442.61	274.98	276.26	369.46	365.94	513.95	499.27	346.28
70	255.60	448.26	278.26	279.59	374.11	370.55	520.65	505.83	350.65

Priority Mail International Parcels Commercial Plus Prices (Continued)

Maximum Weight (pounds)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
51	255.55	335.83	278.45	270.89	222.06	228.76	250.85	255.55	-	245.15
52	259.64	341.48	283.01	275.17	225.53	232.32	254.74	259.40	-	248.57
53	263.77	347.08	287.52	279.49	229.00	235.84	258.64	263.29	-	252.04
54	267.90	352.74	292.08	283.81	232.42	239.40	262.53	267.19	-	255.50
55	272.03	358.29	296.64	288.14	235.84	242.96	266.48	271.08	-	258.97
56	276.12	363.95	301.20	292.41	239.31	246.53	270.37	274.98	-	262.39
57	280.25	369.55	305.76	296.69	242.77	250.09	274.27	278.87	-	265.91
58	284.38	375.16	310.27	301.01	246.24	253.60	278.16	282.72	-	269.37
59	288.52	380.81	314.88	305.28	249.66	257.17	282.06	286.66	-	272.84
60	292.60	386.41	319.39	309.61	253.13	260.73	285.95	290.56	-	276.26
61	296.69	392.02	323.95	313.88	256.60	264.29	289.85	294.45	-	279.73
62	300.87	397.62	328.51	318.16	260.02	267.85	293.74	298.44	-	283.20
63	304.95	403.28	333.07	322.48	263.48	271.37	297.64	302.34	-	286.66
64	309.08	408.88	337.63	326.75	266.90	274.93	301.53	306.23	-	290.08
65	313.17	414.53	342.14	331.08	270.37	278.49	305.43	310.08	-	293.55
66	317.35	420.09	346.70	335.35	273.79	282.06	309.32	313.98	-	297.02
67	321.43	-	-	-	-	285.62	-	-	-	-
68	325.57	-	-	-	-	289.18	-	-	-	-
69	329.70	-	-	-	-	292.70	-	-	-	-
70	333.83	-	-	-	-	296.26	-	-	-	-

Notes

1. The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

Pickup On Demand Service

Add $25.00 for each Pickup On Demand stop.

International Service Center (ISC) Zone Chart

The International Service Center (ISC) Zone Chart identifies the appropriate distance code assigned to each origin.

	Annual Fee ($)
Zone Chart concerning appropriate International Service Center and partner Induction Facility from every ZIP Code in the nation (per year)	71.00

2320 International Priority Airmail (IPA)

* * *

2320.6 Prices

International Priority Airmail Letters and Postcards

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers	1.27	0.89	0.65	0.65	0.77	0.39	1.13	1.24	1.23	0.91
Mixed Country Containers	-	-	0.68	0.68	0.80	0.42	1.16	1.27	1.26	0.94

	Price Group									
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**	**20 ($)**
Direct Country Containers	0.96	1.31	0.98	0.89	1.24	1.24	1.28	0.92	1.04	1.28
Mixed Country Containers	0.99	-	-	-	-	-	-	-	-	-

ii. Per Pound

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers (Full Service)	10.40	12.50	11.55	11.44	15.19	15.78	13.36	13.57	13.51	14.33
Direct Country Containers (ISC Drop Shipment)	7.05	7.81	8.62	8.69	11.95	10.42	9.66	9.80	9.91	11.08
Mixed Country Containers (ISC Drop Shipment)	-	-	8.79	9.16	12.69	11.03	10.36	11.01	10.41	11.62

	Price Group									
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**	**20 ($)**
Direct Country Containers (Full Service)	15.78	14.76	15.71	14.33	13.01	13.34	13.78	13.64	11.55	12.79
Direct Country Containers (ISC Drop Shipment)	10.42	11.06	10.37	11.08	9.75	10.04	10.32	10.38	8.62	9.50
Mixed Country Containers (ISC Drop Shipment)	10.93	-	-	-	-	-	-	-	-	-

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.94

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	17.76
Worldwide Nonpresorted Containers (ISC Drop Shipment)	13.99

International Priority Airmail Large Envelopes (Flats)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	1.27	0.89	0.65	0.65	0.77	0.39	1.13	1.24	1.23	0.91
Mixed Country Containers	-	-	0.68	0.68	0.80	0.42	1.16	1.27	1.26	0.94

	Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)

Direct Country Containers	0.96	1.31	0.98	0.89	1.24	1.24	1.28	0.92	1.04	1.28
Mixed Country Containers	0.99	-	-	-	-	-	-	-	-	-

ii. Per Pound

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers (Full Service)	8.87	10.68	11.55	11.44	15.19	15.78	13.36	11.59	11.54	12.26
Direct Country Containers (ISC Drop Shipment)	6.06	6.70	8.62	8.69	11.95	10.42	9.66	8.36	8.49	9.48
Mixed Country Containers (ISC Drop Shipment)	-	-	8.79	9.16	12.69	11.03	10.36	10.61	8.91	9.93

	Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
Direct Country Containers (Full Service)	15.78	12.62	13.43	12.26	11.15	11.44	11.79	11.68	11.55	10.93
Direct Country Containers (ISC Drop Shipment)	10.42	9.45	8.87	9.48	8.35	8.63	8.84	8.88	8.62	8.14
Mixed Country Containers (ISC Drop Shipment)	10.93	-	-	-	-	-	-	-	-	-

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.94

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	17.76
Worldwide Nonpresorted Containers (ISC Drop Shipment)	13.99

International Priority Airmail Packages (Small Packets and Rolls)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers	4.47	1.99	0.37	0.46	0.54	0.37	2.41	3.48	5.71	2.03
Mixed Country Containers	-	-	0.40	0.49	0.57	0.40	2.44	3.51	5.74	2.06

	Price Group									
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**	**20 ($)**
Direct Country Containers	2.34	3.24	8.27	1.99	5.35	4.59	2.34	2.06	2.36	0.80
Mixed Country Containers	2.37	-	-	-	-	-	-	-	-	-

ii. Per Pound

	Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	8.36	10.06	13.64	13.52	14.98	15.56	13.17	10.91	10.86	11.52
Direct Country Containers (ISC Drop Shipment)	5.67	6.31	10.18	10.28	11.78	10.28	9.53	7.88	7.99	8.91
Mixed Country Containers (ISC Drop Shipment)	-	-	10.36	10.81	12.51	10.87	10.21	10.36	8.35	9.33

	Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
Direct Country Containers (Full Service)	15.56	11.61	12.62	11.52	10.47	10.72	11.11	10.96	13.64	33.58
Direct Country Containers (ISC Drop Shipment)	10.28	8.68	8.33	8.91	7.85	8.09	8.30	8.36	10.18	24.90
Mixed Country Containers (ISC Drop Shipment)	10.77	-	-	-	-	-	-	-	-	-

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	2.83

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	17.50
Worldwide Nonpresorted Containers (ISC Drop Shipment)	13.79

International Priority Airmail M-Bag

The price to be paid is the applicable per-pound price. The per-pound price applies to the total weight of the sack (M-bag) for the specific Country Price Group.

a. International Priority Airmail M-Bag (Full Service)

Maximum Weight (pounds)	**Price Group**									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
11	79.53	89.98	119.35	128.92	126.94	115.83	105.38	105.38	109.23	128.48
For each additional pound or fraction thereof	7.23	8.18	10.85	11.72	11.54	10.53	9.58	9.58	9.93	11.68

Maximum Weight (pounds)	Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
11	115.83	126.28	115.83	128.48	105.38	105.38	132.55	128.92	119.35	105.38
For each additional pound or fraction thereof	10.53	11.48	10.53	11.68	9.58	9.58	12.05	11.72	10.85	9.58

b. International Priority Airmail M-Bag (ISC Drop Shipment)

Maximum Weight (pounds)	Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
5	31.20	38.59	61.34	70.17	67.93	61.21	48.45	48.45	52.46	70.49
6	31.75	39.68	63.06	72.04	69.87	62.40	50.04	50.04	54.02	72.20
7	32.30	40.77	64.78	73.91	71.81	63.59	51.63	51.63	55.58	73.91
8	32.85	41.86	66.50	75.78	73.75	64.78	53.22	53.22	57.14	75.62
9	33.40	42.95	68.22	77.65	75.69	65.97	54.81	54.81	58.70	77.33
10	33.95	44.04	69.94	79.52	77.63	67.16	56.40	56.40	60.26	79.04
11	34.50	45.13	71.66	81.39	79.57	68.35	57.99	57.99	61.82	80.75
For each additional pound or fraction thereof	3.15	4.10	6.52	7.39	7.23	6.21	5.28	5.28	5.61	7.35

Maximum Weight (pounds)	Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
5	61.21	64.62	61.21	70.49	48.45	48.45	70.59	70.17	61.34	48.45
6	62.40	66.98	62.40	72.20	50.04	50.04	73.23	72.04	63.06	50.04
7	63.59	69.34	63.59	73.91	51.63	51.63	75.87	73.91	64.78	51.63
8	64.78	71.70	64.78	75.62	53.22	53.22	78.51	75.78	66.50	53.22
9	65.97	74.06	65.97	77.33	54.81	54.81	81.15	77.65	68.22	54.81
10	67.16	76.42	67.16	79.04	56.40	56.40	83.79	79.52	69.94	56.40
11	68.35	78.78	68.35	80.75	57.99	57.99	86.43	81.39	71.66	57.99
For each additional pound or fraction thereof	6.21	7.16	6.21	7.35	5.28	5.28	7.85	7.39	6.52	5.28

2325 International Surface Air Lift (ISAL)

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2325.6 Prices

International Surface Air Lift Letters and Postcards

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers	1.00	0.76	0.58	0.58	0.60	0.30	0.92	1.01	1.00	0.77
Mixed Country Containers	-	-	0.65	0.63	0.63	0.35	0.95	1.04	1.03	0.80

	Price Group									
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**	**20 ($)**
Direct Country Containers	0.81	1.04	0.82	0.76	1.00	1.00	1.02	0.78	0.98	1.02
Mixed Country Containers	0.84	-	-	-	-	-	-	-	-	-

ii. Per Pound

	Price Group

	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	10.28	12.19	11.11	10.68	14.64	14.91	12.47	12.40	12.65	13.76
Direct Country Containers (ISC Drop Shipment)	6.94	7.64	8.26	8.15	11.53	9.83	8.99	8.96	9.25	10.67
Mixed Country Containers (ISC Drop Shipment)	-	-	8.33	8.43	11.74	10.34	9.99	10.44	9.73	10.95

	Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
Direct Country Containers (Full Service)	14.91	13.97	15.10	13.76	12.38	12.61	13.57	12.79	11.11	11.80
Direct Country Containers (ISC Drop Shipment)	9.83	10.44	9.96	10.67	9.26	9.48	10.15	9.73	8.26	8.80
Mixed Country Containers (ISC Drop Shipment)	10.34	-	-	-	-	-	-	-	-	-

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.84

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	16.98
Worldwide Nonpresorted Containers (ISC Drop Shipment)	13.38

International Surface Air Lift Large Envelopes (Flats)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers	1.00	0.76	0.58	0.58	0.60	0.30	0.92	1.01	1.00	0.77
Mixed Country Containers	-	-	0.65	0.63	0.63	0.35	0.95	1.04	1.03	0.80

	Price Group									
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**	**20 ($)**

Direct Country Containers	0.81	1.04	0.82	0.76	1.00	1.00	1.02	0.78	0.98	1.02
Mixed Country Containers	0.84	-	-	-	-	-	-	-	-	-

ii. Per Pound

	Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	8.76	10.48	11.11	10.68	14.64	14.91	12.47	10.60	10.79	11.76
Direct Country Containers (ISC Drop Shipment)	5.96	6.56	8.26	8.15	11.53	9.83	8.99	7.67	7.92	9.13
Mixed Country Containers (ISC Drop Shipment)	-	-	8.33	8.43	11.74	10.34	9.99	10.06	8.32	9.35

	Price Group									
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**	**20 ($)**
Direct Country Containers (Full Service)	14.91	11.96	12.92	11.76	10.59	10.80	11.60	10.95	11.11	10.11
Direct Country Containers (ISC Drop Shipment)	9.83	8.90	8.54	9.13	7.94	8.12	8.68	8.34	8.26	7.51
Mixed Country Containers (ISC Drop Shipment)	10.34	-	-	-	-	-	-	-	-	-

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.84

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	16.98
Worldwide Nonpresorted Containers (ISC Drop Shipment)	13.38

International Surface Air Lift Packages (Small Packets and Rolls)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers	3.15	1.51	0.30	0.31	0.45	0.29	1.80	2.53	4.06	1.53
Mixed Country Containers	-	-	0.35	0.34	0.48	0.34	1.83	2.56	4.09	1.56

	Price Group									
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**	**20 ($)**
Direct Country Containers	1.75	2.37	7.53	1.51	3.81	3.28	1.74	1.55	1.77	0.73
Mixed Country Containers	1.78	-	-	-	-	-	-	-	-	-

ii. Per Pound

	Price Group									
	1 ($)	**2 ($)**	**3 ($)**	**4 ($)**	**5 ($)**	**6 ($)**	**7 ($)**	**8 ($)**	**9 ($)**	**10 ($)**
Direct Country Containers (Full Service)	8.21	9.72	13.20	12.70	14.31	14.57	12.19	9.88	10.10	10.99
Direct Country Containers (ISC Drop Shipment)	5.55	6.10	9.82	9.68	11.27	9.61	8.78	7.15	7.37	8.55
Mixed Country Containers (ISC Drop Shipment)	-	-	9.90	10.03	11.47	10.10	9.76	9.74	7.77	8.74

	Price Group									
	11 ($)	**12 ($)**	**13 ($)**	**14 ($)**	**15 ($)**	**16 ($)**	**17 ($)**	**18 ($)**	**19 ($)**	**20 ($)**
Direct Country Containers (Full Service)	14.57	10.95	12.06	10.99	9.87	10.06	10.81	10.21	13.20	23.01
Direct Country Containers (ISC Drop Shipment)	9.61	8.21	7.95	8.55	7.39	7.55	8.09	7.80	9.82	17.02
Mixed Country Containers (ISC Drop Shipment)	10.10	-	-	-	-	-	-	-	-	-

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	2.08

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	16.60
Worldwide Nonpresorted Containers (ISC Drop Shipment)	13.08

International Surface Air Lift M-Bags

The price to be paid is applicable per-pound price. The per-pound price applies to the total weight of the sack (M-bag) for the specific price group.

a. International Surface Air Lift M-Bag (Full Service)

Maximum Weight (pounds)	Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
11	28.38	30.47	41.80	46.42	58.08	41.80	36.19	36.19	37.40	48.95
For each additional pound or fraction thereof	2.58	2.77	3.80	4.22	5.28	3.80	3.29	3.29	3.40	4.45

Maximum Weight (pounds)	Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20
11	41.80	46.42	41.80	48.95	35.64	35.64	49.61	46.42	41.80	35.64
For each additional pound or fraction thereof	3.80	4.22	3.80	4.45	3.24	3.24	4.51	4.22	3.80	3.24

b. International Surface Air Lift M-Bag (ISC Drop Shipment)

Maximum Weight (pounds)	Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
5	26.25	24.14	22.01	20.49	27.60	24.35	19.16	19.16	20.17	21.45
6	26.44	24.95	24.69	24.16	32.08	26.61	21.38	21.38	22.41	25.41
7	26.63	25.76	27.37	27.83	36.56	28.87	23.60	23.60	24.65	29.37
8	26.82	26.57	30.05	31.50	41.04	31.13	25.82	25.82	26.89	33.33
9	27.01	27.38	32.73	35.17	45.52	33.39	28.04	28.04	29.13	37.29
10	27.20	28.19	35.41	38.84	50.00	35.65	30.26	30.26	31.37	41.25
11	27.39	29.00	38.09	42.51	54.48	37.91	32.48	32.48	33.61	45.21
For each additional pound or fraction thereof	2.48	2.63	3.47	3.88	4.95	3.47	2.94	2.94	3.07	4.10

Maximum Weight (pounds)	Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
5	24.35	25.85	24.35	21.45	18.84	18.84	26.70	20.49	22.01	18.84
6	26.61	28.69	26.61	25.41	21.00	21.00	30.28	24.16	24.69	21.00
7	28.87	31.53	28.87	29.37	23.16	23.16	33.86	27.83	27.37	23.16
8	31.13	34.37	31.13	33.33	25.32	25.32	37.44	31.50	30.05	25.32
9	33.39	37.21	33.39	37.29	27.48	27.48	41.02	35.17	32.73	27.48
10	35.65	40.05	35.65	41.25	29.64	29.64	44.60	38.84	35.41	29.64
11	37.91	42.89	37.91	45.21	31.80	31.80	48.18	42.51	38.09	31.80
For each additional pound or fraction thereof	3.47	3.91	3.47	4.10	2.89	2.89	4.39	3.88	3.47	2.89

2330 International Direct Sacks—Airmail M-Bags

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2330.6 Prices

Outbound International Direct Sacks—Airmail M-Bags

The price is based on the applicable per-pound price. The per-pound price applies to the total weight of the sack (M-Bag) for the specific price group.

Maximum Weight (pounds)	Price Group[1]								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
11	56.10	52.80	104.50	79.20	73.70	97.35	79.75	83.60	81.95
For each additional pound or fraction thereof	5.10	4.80	9.50	7.20	6.70	8.85	7.25	7.60	7.45

Notes

1. Same as Price Groups 1-9 for Single-Piece First-Class Mail International (SPFCMI).

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2335 Outbound Single-Piece First-Class Package International Service

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2335.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Pickup On Demand Service
- International Ancillary Services (2615)
  - International Certificate of Mailing (2615.1)
  - International Registered Mail (2615.2)
  - International Return Receipt (2615.3)
- Electronic USPS Delivery Confirmation® International

  Electronic USPS Delivery Confirmation® International, which is optionally provided at no charge for certain price tiers, offers scan events for customers using select software or online tools. It is available for Outbound Single-Piece First-Class Package International Service mailpieces meeting certain physical characteristics to select destinations.
- Competitive Ancillary Services (2645)
  - Premium Data Retention and Retrieval Service (USPS Tracking Plus) (2645.3), for Outbound Single-Piece First-Class Package International Service items for which Electronic USPS Delivery Confirmation International is available

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2335.6 Prices

Outbound Single-Piece First-Class Package International Service Retail Prices

Maximum Weight (ounces)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
1	14.85	15.35	16.35	15.85	15.85	15.85	15.40	16.65	17.40	16.45
2	14.85	15.35	16.35	15.85	15.85	15.85	15.40	16.65	17.40	16.45
3	14.85	15.35	16.35	15.85	15.85	15.85	15.40	16.65	17.40	16.45
4	14.85	15.35	16.35	15.85	15.85	15.85	15.40	16.65	17.40	16.45
5	14.85	15.35	16.35	15.85	15.85	15.85	15.40	16.65	17.40	16.45
6	14.85	15.35	16.35	15.85	15.85	15.85	15.40	16.65	17.40	16.45
7	14.85	15.35	16.35	15.85	15.85	15.85	15.40	16.65	17.40	16.45
8	14.85	15.35	16.35	15.85	15.85	15.85	15.40	16.65	17.40	16.45
12	22.10	22.60	30.00	28.05	26.50	27.55	25.45	26.50	29.45	26.50
16	22.10	22.60	30.00	28.05	26.50	27.55	25.45	26.50	29.45	26.50
20	22.10	22.60	30.00	28.05	26.50	27.55	25.45	26.50	29.45	26.50
24	22.10	22.60	30.00	28.05	26.50	27.55	25.45	26.50	29.45	26.50
28	22.10	22.60	30.00	28.05	26.50	27.55	25.45	26.50	29.45	26.50
32	22.10	22.60	30.00	28.05	26.50	27.55	25.45	26.50	29.45	26.50
36	33.65	34.15	46.40	46.25	43.10	44.15	41.55	42.60	47.55	42.65
40	33.65	34.15	46.40	46.25	43.10	44.15	41.55	42.60	47.55	42.65
44	33.65	34.15	46.40	46.25	43.10	44.15	41.55	42.60	47.55	42.65
48	33.65	34.15	46.40	46.25	43.10	44.15	41.55	42.60	47.55	42.65
52	45.40	45.95	63.20	62.95	58.35	59.40	56.35	57.35	64.20	58.35
56	45.40	45.95	63.20	62.95	58.35	59.40	56.35	57.35	64.20	58.35
60	45.40	45.95	63.20	62.95	58.35	59.40	56.35	57.35	64.20	58.35
64	45.40	45.95	63.20	62.95	58.35	59.40	56.35	57.35	64.20	58.35

Outbound Single-Piece First-Class Package International Service Retail Prices (Continued)

Maximum Weight (ounces)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
1	15.85	19.20	20.50	17.90	16.15	16.15	17.90	18.95	15.65	17.85
2	15.85	19.20	20.50	17.90	16.15	16.15	17.90	18.95	15.65	17.85
3	15.85	19.20	20.50	17.90	16.15	16.15	17.90	18.95	15.65	17.85
4	15.85	19.20	20.50	17.90	16.15	16.15	17.90	18.95	15.65	17.85
5	15.85	19.20	20.50	17.90	16.15	16.15	17.90	18.95	15.65	17.85
6	15.85	19.20	20.50	17.90	16.15	16.15	17.90	18.95	15.65	17.85
7	15.85	19.20	20.50	17.90	16.15	16.15	17.90	18.95	15.65	17.85
8	15.85	19.20	20.50	17.90	16.15	16.15	17.90	18.95	15.65	17.85
12	26.50	30.90	31.45	28.85	25.45	25.45	28.85	28.85	26.50	27.15
16	26.50	30.90	31.45	28.85	25.45	25.45	28.85	28.85	26.50	27.15
20	26.50	30.90	31.45	28.85	25.45	25.45	28.85	28.85	26.50	27.15
24	26.50	30.90	31.45	28.85	25.45	25.45	28.85	28.85	26.50	27.15
28	26.50	30.90	31.45	28.85	25.45	25.45	28.85	28.85	26.50	27.15
32	26.50	30.90	31.45	28.85	25.45	25.45	28.85	28.85	26.50	27.15
36	42.65	48.95	47.45	44.75	41.30	41.30	44.75	44.75	42.25	42.25
40	42.65	48.95	47.45	44.75	41.30	41.30	44.75	44.75	42.25	42.25
44	42.65	48.95	47.45	44.75	41.30	41.30	44.75	44.75	42.25	42.25
48	42.65	48.95	47.45	44.75	41.30	41.30	44.75	44.75	42.25	42.25
52	58.35	67.25	63.70	61.15	56.35	56.35	61.15	61.15	58.35	57.85
56	58.35	67.25	63.70	61.15	56.35	56.35	61.15	61.15	58.35	57.85
60	58.35	67.25	63.70	61.15	56.35	56.35	61.15	61.15	58.35	57.85
64	58.35	67.25	63.70	61.15	56.35	56.35	61.15	61.15	58.35	57.85

Outbound Single-Piece First-Class Package International Service
Commercial Base Prices

Maximum Weight (ounces)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
1	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
2	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
3	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
4	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
5	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
6	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
7	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
8	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
12	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
16	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
20	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
24	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
28	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
32	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
36	31.97	32.44	44.08	43.94	40.95	41.94	39.47	40.47	45.17	40.52
40	31.97	32.44	44.08	43.94	40.95	41.94	39.47	40.47	45.17	40.52
44	31.97	32.44	44.08	43.94	40.95	41.94	39.47	40.47	45.17	40.52
48	31.97	32.44	44.08	43.94	40.95	41.94	39.47	40.47	45.17	40.52
52	43.13	43.65	60.04	59.80	55.43	56.43	53.53	54.48	60.99	55.43
56	43.13	43.65	60.04	59.80	55.43	56.43	53.53	54.48	60.99	55.43
60	43.13	43.65	60.04	59.80	55.43	56.43	53.53	54.48	60.99	55.43
64	43.13	43.65	60.04	59.80	55.43	56.43	53.53	54.48	60.99	55.43

Outbound Single-Piece First-Class Package International Service Commercial Base Prices (Continued)

Maximum Weight (ounces)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
1	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
2	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
3	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
4	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
5	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
6	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
7	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
8	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
12	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
16	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
20	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
24	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
28	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
32	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
36	40.52	46.50	45.08	42.51	39.24	39.24	42.51	42.51	40.14	40.14
40	40.52	46.50	45.08	42.51	39.24	39.24	42.51	42.51	40.14	40.14
44	40.52	46.50	45.08	42.51	39.24	39.24	42.51	42.51	40.14	40.14
48	40.52	46.50	45.08	42.51	39.24	39.24	42.51	42.51	40.14	40.14
52	55.43	63.89	60.52	58.09	53.53	53.53	58.09	58.09	55.43	54.96
56	55.43	63.89	60.52	58.09	53.53	53.53	58.09	58.09	55.43	54.96
60	55.43	63.89	60.52	58.09	53.53	53.53	58.09	58.09	55.43	54.96
64	55.43	63.89	60.52	58.09	53.53	53.53	58.09	58.09	55.43	54.96

Outbound Single-Piece First-Class Package International Service Commercial Plus Prices

Maximum Weight (ounces)	Country Price Group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
1	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
2	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
3	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
4	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
5	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
6	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
7	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
8	14.11	14.58	15.53	15.06	15.06	15.06	14.63	15.82	16.53	15.63
12	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
16	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
20	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
24	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
28	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
32	21.00	21.47	28.50	26.65	25.18	26.17	24.18	25.18	27.98	25.18
36	31.97	32.44	44.08	43.94	40.95	41.94	39.47	40.47	45.17	40.52
40	31.97	32.44	44.08	43.94	40.95	41.94	39.47	40.47	45.17	40.52
44	31.97	32.44	44.08	43.94	40.95	41.94	39.47	40.47	45.17	40.52
48	31.97	32.44	44.08	43.94	40.95	41.94	39.47	40.47	45.17	40.52
52	43.13	43.65	60.04	59.80	55.43	56.43	53.53	54.48	60.99	55.43
56	43.13	43.65	60.04	59.80	55.43	56.43	53.53	54.48	60.99	55.43
60	43.13	43.65	60.04	59.80	55.43	56.43	53.53	54.48	60.99	55.43
64	43.13	43.65	60.04	59.80	55.43	56.43	53.53	54.48	60.99	55.43

Outbound Single-Piece First-Class Package International Service Commercial Plus Prices (Continued)

Maximum Weight (ounces)	Country Price Group									
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)	20 ($)
1	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
2	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
3	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
4	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
5	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
6	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
7	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
8	15.06	18.24	19.48	17.01	15.34	15.34	17.01	18.00	14.87	16.96
12	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
16	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
20	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
24	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
28	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
32	25.18	29.36	29.88	27.41	24.18	24.18	27.41	27.41	25.18	25.79
36	40.52	46.50	45.08	42.51	39.24	39.24	42.51	42.51	40.14	40.14
40	40.52	46.50	45.08	42.51	39.24	39.24	42.51	42.51	40.14	40.14
44	40.52	46.50	45.08	42.51	39.24	39.24	42.51	42.51	40.14	40.14
48	40.52	46.50	45.08	42.51	39.24	39.24	42.51	42.51	40.14	40.14
52	55.43	63.89	60.52	58.09	53.53	53.53	58.09	58.09	55.43	54.96
56	55.43	63.89	60.52	58.09	53.53	53.53	58.09	58.09	55.43	54.96
60	55.43	63.89	60.52	58.09	53.53	53.53	58.09	58.09	55.43	54.96
64	55.43	63.89	60.52	58.09	53.53	53.53	58.09	58.09	55.43	54.96

Fee for Return of Undeliverable as Addressed Outbound U.S. Origin Mail Posted through a Foreign Postal Administration or Operator

A fee is charged for the return of an undeliverable-as-addressed Outbound Single-Piece First-Class Mail International item bearing a U.S. return address which was originally posted to an international addressee through a foreign postal administration, consolidator, or operator. The fee for each returned item is equal to the First-Class Mail International postage which would have been charged if the item had been posted through the Postal Service as First-Class Mail International. The fee is charged to the return addressee.

Pickup On Demand Service

Add $25.00 for each Pickup On Demand stop.

* * *

2600 Special Services

2600.1 Group Description

Special Services are services offered by the Postal Service related to the delivery of mailpieces, including acceptance, collection, sorting, transportation, or other functions. Some Special Services products can be purchased on a stand-alone basis.

2600.2 Products Included in Group

- Address Enhancement Services (2605)
- Greeting Cards and Stationery (2610)
- International Ancillary Services (2615)
  - International Certificate of Mailing (2615.1)
  - Competitive International Registered Mail (2615.2)
  - International Return Receipt (2615.3)
  - Outbound International Insurance (2615.5)
  - Custom Clearance and Delivery Fee (2615.6)
- International Money Transfer Service—Outbound (2620)
- International Money Transfer Service—Inbound (2625)
- Premium Forwarding Service (2630)
- Shipping and Mailing Supplies (2635)
- Post Office Box Service (2640)
- Competitive Ancillary Services (2645)
  - Adult Signature (2645.1)
  - Package Intercept Service (2645.2)
  - Premium Data Retention and Retrieval Service (USPS Tracking Plus) (2645.3)

2605 Address Enhancement Services

2605.1 Description

Address Enhancement Services ensures that address elements and address lists are correct and up-to-date. In addition to providing software or information about ZIP Code lists, addresses, or moves, the services also include certifying systems to ensure that the proper address information is used. Some services allow the purchaser or licensee to make unlimited copies or to make additional copies for a fee.

AEC (Address Element Correction)

AEC service identifies and corrects bad or incomplete addresses using enhanced computer logic.

AMS API (Address Matching System Application Program Interface)

AMS API is a core set of compiled address-matching software instructions that developers incorporate into their software so that address lists can be updated with address data from the following databases, which are integrated into the AMS-API: City State, ZIP + 4, Five-Digit ZIP, eLOT, DPV, and LACS^{Link}.

For an additional fee, a developer may install the AMS-API on multiple computers for its own use. Additional fees are charged if the developer wants to resell its address-matching software. ~~Developers, for an additional fee, may obtain computer software instructions that permit the API to access the RDI data when licensed separately. Additional fees are charged if the developer wants to resell RDI-API (Residential Delivery Indicator Application Program Interface).~~

2605.2 Prices

	($)
AEC	
Per record processed	0.032
Minimum charge per list	32.00
AMS API Address Matching System Application Program Interface (per year, per platform) [1]	
Developer's Kit, one platform	6,750.00
Each Additional, per platform	2,400.00
Resell License, one platform	30,600.00
Each Additional, per platform	15,300.00
Additional Database License	
Number of Additional Licenses	
1-100	3,850.00
101-200	7,700.00
201-300	11,550.00
301-400	15,400.00
401-500	19,250.00
501-600	23,100.00
601-700	26,950.00
701-800	30,800.00
801-900	34,650.00
901-1,000	38,500.00
1,001-10,000	55,000.00
10,001-20,000	66,000.00
20,001-30,000	77,000.00
30,001-40,000	88,000.00

	~~($)~~
~~RDI API Developer's Kit[1]~~	
~~Each, per platform~~	~~930.00~~
~~Resell License, one platform~~	~~3,500.00~~
~~Each Additional, per platform~~	~~1980.00~~

Notes

1. Above API License Fees prorated during the first year based on the date of the license agreement.

* * *

2615 International Ancillary Services

2615.1 International Certificate of Mailing

* * *

2615.1.2 Prices

Individual Pieces Prices

	($)
Original certificate of mailing for listed pieces of ordinary Outbound Single-Piece First-Class Package International Service	1.65
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.57
Each additional copy of original certificate of mailing or firm mailing bills (each copy)	1.65

Multiple Pieces Prices

	($)
Up to 1,000 identical-weight pieces (one certificate for total number)	9.35
Each additional 1,000 identical-weight pieces or fraction thereof	1.20
Duplicate copy	1.65

2615.2 Competitive International Registered Mail

* * *

2615.2.2 Prices

Outbound Competitive International Registered Mail

	($)
Per Piece	17.15

* * *

2615.3 Outbound International Return Receipt

* * *

2615.3.2 Prices

Outbound International Return Receipt

	($)
Per Piece	4.75

* * *

2615.5 Outbound International Insurance

* * *

2615.5.3 Prices

Outbound International Insurance

a. Priority Mail International Insurance and Priority Mail Express International Merchandise Insurance

Indemnity Limit Not Over ($)	Price ($)
200[1]	0.00
300	7.15
400	9.05
500	10.95
600	12.85
700	14.75
800	16.60
900	18.50
Over 900	18.50 plus 1.90 for each 100.00 or fraction thereof over 900.00. Maximum indemnity varies by country.

Notes

1. Insurance coverage is provided, for no additional charge, up to $200.00 for merchandise, and up to $100.00 for document reconstruction.

b. Global Express Guaranteed Insurance

($)		($)	($)
Amount of coverage:			
0.01	to	100.00	0.00
100.01	to	200.00	1.35
200.01	to	300.00	2.70
300.01	to	400.00	4.05
400.01	to	500.00	5.40
For document reconstruction insurance or non-document insurance coverage above 500.00, add 1.35 per 100.00 or fraction thereof, up to a maximum of 2,499.00 per shipment. Maximum indemnity varies by country.			
Up to		2,499.00	32.40

2615.6 Custom Clearance and Delivery Fee

* * *

2615.6.2 Prices

	($)
Per Dutiable Item	7.05

2620 International Money Transfer Service—Outbound

* * *

2620.3 Prices

International Money Order

	($)
Per International Money Order	12.25
Inquiry Fee	9.00

Vendor Assisted Electronic Money Transfer

	Transfer Amount		
	Minimum Amount ($)	Maximum Amount ($)	Per Transfer ($)
Electronic Money Transfer	0.01	750.00	17.10
	750.01	1,500.00	24.75
Refund	0.01	1,500.00	37.50
Change of Recipient	0.01	1,500.00	19.95

Electronic Money Transfer

[Reserved]

* * *

2630 Premium Forwarding Service

* * *

2630.2 Prices

	($)
Online Enrollment (Commercial, Residential, and Local)	21.95
Retail Counter Enrollment (Residential Only)	23.90
Weekly Reshipment (Residential Only)	23.90
Per-Container Reshipment (Local Only)	23.90
Priority Mail Half Tray Box (Commercial Only)	26.65
Priority Mail Full Tray Box (Commercial Only)	48.70
Priority Mail Express Half Tray Box (Commercial Only)	61.15
Priority Mail Express Full Tray Box (Commercial Only)	121.20

2635 Shipping and Mailing Supplies

* * *

2635.2 Prices[1]

	($)
Mailers	0.39 to 100.00
Cartons	0.99 to 100.00
Supplies	0.49 to 50.00
Shipping Fees	0.00 to 50.00
Expedited Shipping Fees	2.50

Notes

1. Minimum price applies to average price paid per item when multiple items are purchased together.

2640 Post Office Box Service

* * *

Ancillary Post Office Box Services

	($)
Key duplication or replacement	9.00
Lock replacement	25.00
Key deposit[1]	5.00

Notes

1. Key deposit only applies to additional keys or replacement keys.

2645 Competitive Ancillary Services

2645.1 Adult Signature

* * *

2645.1.2 Prices

	($)
Adult Signature Required	8.50
Adult Signature Restricted Delivery	8.75

2645.2 Package Intercept Service

* * *

2645.2.2 Prices

	($)
Package Intercept Service	15.95

2645.3 Premium Data Retention and Retrieval Service (USPS Tracking Plus)

2645.3.1 Description

a. Premium Data Retention and Retrieval Service allows a customer to request that the Postal Service retain: (1) scan data or (2) scan and signature data for the customer's ~~packages~~ pieces beyond the Postal Service's standard data retention period, for up to a certain number ~~often~~ years. The customer will be charged for the retrieval of any archived statement of tracking or signature letter.

b. Premium Data Retention and Retrieval Service is available for certain pieces sent ~~packages shipped~~ via Priority Mail Express, Priority Mail, First-Class Package Service, ~~and~~ Parcel Select, Bound Printed Matter Flats and Parcels, Media and Library Mail, Certified Mail, Registered Mail, Priority Mail Express International, Outbound Priority Mail International, Outbound Single-Piece First-Class Package International Service for which Electronic USPS Delivery Confirmation® International Service is available, and certain pieces for those services for which Insurance has been purchased (not to include Global Express Guaranteed). For Scan and Signature Retention on domestic products other than Priority Mail Express, the customer must have purchased an underlying signature service, such as Signature Confirmation service.

2645.3.2 Prices

Data Retention (per package)

Retention Period	Scan Retention ($)	Scan + Signature Retention ($)
6 months	0.99	N/A
1 year	1.20	N/A
3 years	1.50	3.75
5 years	2.00	4.75
7 years	3.00	5.75
10 years (for Domestic Products only)	4.20	6.75

Data Retrieval (per retrieved report)

Archived Item	($)
Archive Statement of Tracking	8.75
Archive Signature Letter	15.75

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Part V

Department of Energy

10 CFR Parts 429 and 430
Energy Conservation Program: Test Procedure for Battery Chargers; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE–2020–BT–TP–0012]

RIN 1904–AE49

Energy Conservation Program: Test Procedure for Battery Chargers

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

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The U.S. Department of Energy (''DOE'') proposes to amend the test procedures for battery chargers to improve test procedure representativeness. The proposal would: Establish a new appendix Y1 that would expand coverage of inductive wireless battery chargers and establish associated definitions and test provisions; establish a new test procedure approach that relies on separate metrics for active mode, stand-by, and off-mode (consequently removing the battery charger usage profiles and unit energy consumption calculation); and update the wall adapter selection criteria. DOE also proposes changes to appendix Y to reorganize two subsections, to clarify symbology and references, to correct an incorrect cross reference and section title, to update the list of battery chemistries, and to terminate an existing test procedure waiver because the covered subject models have been discontinued. DOE further proposes to mirror these changes in the newly proposed appendix Y1. DOE is seeking comment from interested parties on the proposals.

DATES: DOE will accept comments, data, and information regarding this proposal no later than January 24, 2022. See section V, ''Public Participation,'' for details. DOE will hold a webinar on Wednesday, December 15, 2021, from 12:30 p.m. to 4:00 p.m. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants. If no participants register for the webinar, it will be cancelled.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Alternatively, interested persons may submit comments, identified by docket number EERE–2020–BT–TP–0012, by any of the following methods:

(1) *Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.*

(2) *Email: BatteryChargers2020TP0012@ee.doe.gov. Include the docket number EERE–2020–BT–TP–0012 or regulatory information number (''RIN'') 1904–AE49 in the subject line of the message.*

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section V ''Public Participation,'' of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail or hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing COVID–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if a public meeting is held), 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, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *www.regulations.gov/docket?D=EERE-2020-BT-TP-0012.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section V, ''Public Participation,'' for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *michael.kido@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in a public meeting (if one is held), contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE proposes to maintain the previously incorporated by reference standards and to incorporate by reference the following industry standards into part 430:

IEC 62301, (''IEC 62301''), ''Household electrical appliances—Measurement of standby power, (Edition 2.0, 2011–01).''

Copies IEC 62301 can be obtained from the International Electrotechnical Commission at 446 Main Street, Sixteenth Floor, Worcester, MA 01608, or by going to *www.iec.ch*.

See section IV.M. for a discussion of this standard.

Table of Contents

I. Authority and Background

Battery chargers are included among the consumer products for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6295(u)) DOE's energy conservation standards and test procedures for battery chargers are currently prescribed at title 10 CFR 430.32(z), and 10 CFR part 430, subpart B, appendix Y (''Appendix Y''), respectively. The following sections discuss DOE's authority to establish test procedures for battery chargers and relevant background information regarding DOE's consideration of test procedures for this product.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. This NOPR covers battery chargers, which are included under EPCA. (42 U.S.C. 6291(32); 42 U.S.C 6295(u))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) 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).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

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) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, EPCA requires that DOE amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A); *see also* 42 U.S.C. 6295(u)(1)(B)(i)) Standby mode and off mode energy consumption must be incorporated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product unless the current test procedures already account for and incorporate standby and off mode energy consumption or unless such integration is technically infeasible. If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product, if such test procedures are technically feasible. (42 U.S.C. 6295(gg)(2)(A)(ii)) Any such amendment must consider the most current versions of the International Electrotechnical Commission (''IEC'') Standard 62301 [3] and IEC Standard 62087 [4] as applicable. (42 U.S.C. 6295(gg)(2)(A))

If DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written data, views, and arguments with respect to such procedures. (42 U.S.C. 6293(b)(2)) EPCA also requires that DOE evaluate test procedures for each type of covered product at least once every 7 years to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A)) If the Secretary determines, on her own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. (42 U.S.C. 6293(b)(2) The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. *Id.* In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. *Id.* If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. (42 U.S.C. 6293(b)(1)(A)(ii)) DOE is publishing this NOPR in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A))

B. Background

On May 4, 2020, DOE published a request for information (''May 2020 RFI'') seeking stakeholder comments and data on whether, since the last test procedure update, there have been changes in battery charger testing methodology or new products

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

[2] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[3] IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01).

[4] IEC 62087, *Methods of measurement for the power consumption of audio, video, and related equipment* (Edition 3.0, 2011–04).

introduced to the market that may necessitate amending the test procedure for battery chargers. 85 FR 26369. DOE specifically solicited feedback on possible approaches to testing inductive wireless battery chargers not designed for use in a wet environment, and whether any industry test procedures have been developed or were being developed to specifically address such products. 85 FR 26369, 26371. DOE requested data on how inductive wireless chargers were used in the field, particularly with regard to the placement of the wireless charging receiver found in end use products on the transmitting surface of the charger. *Id.* For battery charger products that require a wall adapter but do not come prepackaged with one, DOE requested comment on the characteristics of the wall adapters typically used by manufacturers for testing and certification purposes and, if different, the characteristics of the wall adapters used by consumers in real-world settings. DOE also requested comment on whether using a reference wall adapter for testing would be appropriate in such a situation. *Id.* DOE similarly requested comment on the appropriateness of testing a battery charger using a reference battery load. 85 FR 26369, 26372. DOE further requested comment on whether other parts of the battery charger test procedure need to be updated such as end-of-discharge voltages, prescribed battery chemistries, consumer usage profiles, battery selection criteria, and the battery charger waiver process. 85 FR 26369, 26372–26373.

DOE received comments in response to the May 2020 RFI from the interested parties listed in Table I.1.

TABLE I.1—WRITTEN COMMENTS RECEIVED IN RESPONSE TO MAY 2020 RFI

Commenter(s)	Reference in this NOPR	Commenter type
Association of Home Appliance Manufacturers	AHAM	Trade Association.
Association of Home Appliance Manufacturers, Power Tool Institute, Inc	Joint Commenters	Trade Association.
California Investor Owned Utilities (Pacific Gas and Electric Company, San Diego Gas and Electric, Southern California Edison).	CA IOUs	Utility Association.
Delta-Q Technologies Corp	Delta-Q	Manufacturer.
Information Technology Industry Council	ITI	Trade Association.
Northwest Energy Efficiency Alliance	NEEA	Efficiency Organization.
Techtronic Cordless GP	TTI	Manufacturer.
Wireless Power Consortium	WPC	Efficiency Organization.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[5]

II. Synopsis of the Notice of Proposed Rulemaking

In this notice of proposed rulemaking (''NOPR''), DOE proposes to update appendix Y to reflect updates in battery chemistry and user profiles, to provide more explicit direction, correct cross-reference errors, and to improve organization of the test procedure, as follows:

(1) Update terms used in the battery chemistry table;

(2) Provide further direction regarding the application for a battery charger test procedure waiver when battery energy cannot be directly measured;

(3) Provide more descriptive terms for battery energy and battery voltage values used for determining product class and calculating unit energy; and

(4) Correct a cross-reference and a table title, further clarify certain references, and reorganize certain subsections for improved readability.

DOE is also proposing to establish an amended test procedure for all covered battery chargers in a new appendix Y1, which would generally require that testing be conducted as provided in the proposed amendments to appendix Y, but with the following additional changes:

(1) Establish definitions associated with inductive wireless power transfer, and differentiate between those that incorporate a physical receiver locating feature (*e.g.,* a peg, cradle, dock, locking mechanism, magnet, etc.) for aligning or orienting the position of the receiver (''fixed-location'' wireless chargers) with respect to the transmitter and those that do not (''open-placement'' wireless chargers);

(2) Include within the scope of the test procedure fixed-location inductive wireless battery chargers, and add a separate no-battery mode test for open-placement wireless chargers;

(3) Remove the unit energy consumption (''UEC'')[6] calculations and usage profiles and instead rely on separate metrics for active mode, standby mode, and off mode using E_a, P_{sb}, and P_{off}, respectively, as measured by the newly established appendix Y1; and

(4) Specify wall adapter selection priority and amend selection requirements for battery chargers that do not ship with a wall adapter and for which one is not recommended by the manufacturer.

If the proposed amendments for appendix Y are finalized, manufacturers testing and reporting battery charger's energy use will have to do so based on the DOE test procedure as amended beginning 180 days following the final rule. Furthermore, as proposed, manufacturers would not be required to test according to proposed appendix Y1 until such time as compliance is required with amended energy conservation standards, should such standards be amended.

Additionally, DOE is not proposing amendments to address an existing test procedure waiver and extension of waiver (Case Nos. BC–001 and 2018–012), having initially determined that the basic models subject to the waiver are no longer available on the market.

DOE's proposed actions are summarized in Table II.1 compared to the current test procedure as well as the reason for the proposed change.

[5] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop energy conservation standards for pool heaters. (Docket No. EERE–2020–BT–TP–0012, which is maintained at *www.regulations.gov/#!docketDetail;D=EERE-2020-BT-TP-0012*). The references are arranged as follows: (Commenter name, comment docket ID number, page of that document).

[6] The UEC represents the annualized amount of the non-useful energy consumed by a battery charger among all tested modes of operation. Non-useful energy is the energy consumed by a battery charger that is not transferred and stored in a battery as a result of charging, *i.e.,* the losses.

TABLE II.1—SUMMARY OF CHANGES TO THE CURRENT TEST PROCEDURE AND THE NEW PROPOSED TEST PROCEDURE RELATIVE TO CURRENT TEST PROCEDURE

Current DOE test procedure	Proposed test procedure	Applicable test procedure	Attribution
Only those wireless chargers that operate in ''wet environments'' and have a battery energy of less than or equal to 5 watt-hours (Wh) are in scope of the battery charger test procedure.	Proposes to increase the 5 Wh limit to 100Wh and to replace the ''wet environment'' designation with ''fixed-location wireless chargers'', such that wireless chargers meant for dry as well as wet environments would be in scope.	Appendix Y1	To reflect changes in the market.
Does not differentiate between types of wireless chargers.	Addresses open-placement wireless chargers and fixed-location wireless chargers, and proposes definitions for both.	Appendix Y1	To reflect changes in the market.
Does not provide a test method for open-placement wireless chargers.	Adds a no-battery mode test method for open-placement wireless chargers in a newly created section of the appendix.	Appendix Y1	To reflect changes in the market and to improve representativeness.
Does not provide wall adapter selection priority for chargers that do have associated wall adapters. For those that do not, current test procedure requires DC battery chargers be tested with 5.0 V DC for USB port powered devices, or the midpoint of the rated input voltage range for others.	Adds wall adapter selection order priority and removes the 5.0V DC input criteria. For battery chargers that do not ship with a wall adapter and do not have a recommended adapter, proposes that the charger be tested using a wall adapter that is minimally compliant with the applicable energy conservation standard and supplies the rated input voltage and current.	Appendix Y1	To reflect changes in technology and to improve representativeness and comparability of results.
Battery chemistries specified in Table 3.3.2 do not reflect the latest industry naming convention.	Updates ''Lithium Polymer'' to ''Lithium-ion Polymer,'' and changes ''Nanophosphate Lithium-ion'' to ''Lithium Iron Phosphate''.	Appendix Y and Appendix Y1.	To reflect changes in the market.
UEC calculation relies on usage profiles to determine the length of time spent in each mode of operation.	Removes battery charger usage profiles and the UEC calculation; adopts separate metrics, E_a, P_{sb} and P_{off}, for the energy performance of a battery charger in each of the following three modes of operation respectively: Active mode, standby mode and off mode.	Appendix Y1	To improve representativeness.
Total test duration might not capture the true maintenance mode power of certain battery chargers.	Prolongs the test duration until maintenance mode power has been captured representatively, if needed.	Appendix Y1	To improve representativeness.
Manufacturer can report the battery discharge energy and the charging and maintenance mode energy as ''Not Applicable'' if the measurements cannot be made.	Provides specific direction to apply for a test procedure waiver if the battery energies cannot be directly measured.	Appendix Y and Appendix Y1.	To improve representativeness.
Uses the designation ''E_{batt}'' for both experimentally measured battery energy and representative battery energy.	Changes the denotations to ''Measured E_{batt}'' for experimentally measured battery energy, and ''Representative E_{batt}'' for representative battery energy, with further clarification in the footnotes.	Appendix Y	To improve readability.
Section 3.3.4 incorrectly references section 3.3.2 for instructions on how to discharge batteries.	Corrects the cross-section reference to Table 3.3.2.	Appendix Y and Appendix Y1.	To improve readability.
Table 3.3.2 is located after Section 3.3.10 (Determining the 24-hour Energy Consumption) but is required for use in section 3.3.8 (Battery Discharge Energy Test).	Moves Table 3.3.2 to Section 3.3.8	Appendix Y and Appendix Y1.	To improve readability.
Certain sections use terms such as ''above'' or ''below'' for references.	Further clarifies the referenced sections	Appendix Y and Appendix Y1.	To improve readability.
Battery charger standby mode and off mode can be inappropriately tested if manufacturer does not follow the test procedure in order.	Reorganizes sections 3.3.11 and 3.3.12 so battery charger standby and off modes can be tested correctly even if the test procedure order is not followed.	Appendix Y and Appendix Y1.	To improve readability.
Column title in Table 3.3.3 states ''Special characteristic or rated battery voltage''.	Corrects the title to read ''Special characteristic or highest rated battery voltage'' to clarify that for multi-voltage chargers, the highest battery voltage must be used to determine product class.	Appendix Y and Appendix Y1.	To improve readability.

DOE has tentatively determined that, of the proposed amendments described in section III of this NOPR, the proposals in appendix Y1 to require testing with a minimally compliant wall adapter, increase the scope of wireless chargers, and to remove the usage profiles and UEC calculation would result in a value for measured energy use that is different from that measured using the current test procedure. However, as proposed, testing in accordance with these specific proposed changes would not be required until such time as compliance is required with new and amended energy conservation standards. DOE further clarifies that if the proposed

amendments for appendix Y were made final manufacturers testing and reporting a battery charger's energy use will have to do so based on the DOE test procedure at appendix Y as amended beginning 180 days following the final rule. DOE has also determined that the test procedure will not be unduly burdensome to conduct. Discussion of DOE's proposed actions are addressed in detail in section III of this NOPR.

III. Discussion

As stated, EPCA requires DOE to periodically review the test procedure for battery chargers and determine whether amendments to the test procedure would more accurately or fully comply with the requirements regarding representativeness and test burden. (42 U.S.C. 6293(b)(1)(A)) In the following sections, DOE discusses in detail relevant test procedure issues, proposes changes to the current DOE test procedure for battery chargers, and responds to relevant comments received in response to the May 2020 RFI. The Joint Commenters and AHAM stated in response to the May 2020 RFI that there are no product or testing changes that would warrant a significant update to DOE's current battery charger test procedure, recommended only minor revisions, and urged DOE to prioritize other issues. (Joint Commenters, No. 6 at pp. 1–2, AHAM, No. 5 at p. 2) DOE is undertaking this rulemaking pursuant to the periodic review as required by EPCA. As discussed in the following sections, DOE has initially determined that amending the current test procedure (and adding a new appendix) as proposed would more fully comply with the requirements in EPCA regarding representativeness and test burden. (42 U.S.C. 6293(b)(3))

A. Scope of Applicability

1. Battery Chargers

This rulemaking applies to battery chargers, which are devices that charge batteries for consumer products, including battery chargers embedded in other consumer products. 10 CFR 430.2. (*See also* 42 U.S.C. 6291(32)) Functionally, a battery charger is a power conversion device used to transform input voltage to a suitable voltage for charging batteries used to power consumer products. (*See* 42 U.S.C. 6291(32)) A battery charger may be wholly embedded in another consumer product, partially embedded in another consumer product, or wholly separate from another consumer product. *Id.*

DOE's current battery charger test procedure applies to battery chargers that operate at either direct current (''DC'') or United States alternating current (''AC'') line voltage (115 Volts at 60 Hertz), as well as to uninterruptible power supplies that have an AC output and utilize the standardized National Electrical Manufacturer Association (''NEMA'') plug, 1–15P or 5–15P, as specified in American National Standards Institute ''ANSI''/NEMA WD 6–2016.

Appendix Y differentiates among different types of battery chargers, including batch chargers, multi-port chargers, and multi-voltage chargers, as well as various battery chemistries. For each type of battery charger, appendix Y specifies test setup requirements and test battery selection, such as battery preparation steps, battery end-of-discharge voltages, and battery charger usage profiles [7] based on the respective product classes. These different specifications ensure that each battery charger is tested to produce results that measure energy use during a representative average use cycle or period of use.

2. Inductive Wireless Battery Chargers

DOE's current energy conversation standards for battery chargers were published on June 13, 2016 (''June 2016 Final Rule''). The standards cover inductive wireless battery charger products (also referred to as ''wireless power devices'') only to the extent that such products are designed and manufactured to operate in a wet environment (*i.e.,* Product Class 1). 81 FR 38266, 38282; 10 CFR 430.32(z)(1). DOE established standards for these wet-environment inductive wireless battery chargers (*e.g.,* battery chargers found in wireless toothbrushes and electric shavers) after finding that the technology used in those products was mature. *Id.* DOE did not establish standards for other types of inductive wireless battery chargers to avoid restricting the development of newer, less mature inductively charged products. *Id.* Similarly, DOE did not generate usage profiles for other types of inductive wireless chargers at the time because of their nascent state of development and their lack of widespread availability in the marketplace. *Id.* Without usage profiles, a corresponding unit energy consumption value cannot be calculated. *Id.*

In the May 2020 RFI, DOE requested comment on whether DOE should further clarify the term ''wet environment,'' whether any industry test procedures have been developed (or are being developed) to specifically address inductive wireless chargers other than those used in a wet environment, and data on how inductive wireless chargers are used in the field. 85 FR 26369, 26371.

In response, CA IOUs and NEEA recommended that DOE create and define categories of wireless chargers based on whether they are dedicated wireless chargers, interoperable single device wireless chargers, and interoperable multiple device wireless chargers, and that DOE expand the scope to include all dedicated wireless chargers rather than just those that are under 5Wh or designed to work in wet environments. (CA IOUs, No. 9 at pp. 2–4, NEEA, No. 8 at p. 11) NEEA stated that wireless charging is expected to continue to be integrated into new consumer products and cited research suggesting that wireless charging could nearly double national energy use of battery chargers by 2030. (NEEA, No. 8 at p. 1) NEEA noted that DOE's current test procedure already covers wired chargers associated with the same end uses as dedicated wireless charging systems. (NEEA, No. 8 at pp. 1–2). CA IOUs recommended that DOE eliminate the wet environment distinction, but that if DOE maintains the wet environment distinction that an ingress protection (''IP'') rating of IPX7 or IPX8 [8] would be suitable to identify wet rated products. (CA IOUs, No. 9 at p. 5) Similarly, the Joint Commenters suggested that DOE re-define Product Class 1 as pertaining to inductive chargers that use a locating feature rather than ''inductive chargers for wet environments'' to avoid confusion. (Joint Commenters, No. 6 at p. 2) ITI stated that the term ''wet environments'' would benefit from further clarification, and requested that DOE provide more examples of products within this category. (ITI, No. 7 at p. 3) Delta-Q commented that the distinction of use in a wet environment does not sufficiently define the scope of covered wireless charger products. (Delta-Q, No. 10 at p. 1) Delta-Q claimed that, although Product Class 1 is intended for low-power personal hygiene products, other chargers such as those for outdoor lawn mowers and drones may also be covered

[7] In section III.B.4, DOE discusses a proposal to remove the UEC metric and the associated usage profile in favor of a multi-metric approach that would measure the energy performance of battery chargers in each mode of operation (active, standby and off modes) independently. If such a proposal were to be finalized, usage profiles would no longer be unnecessary.

[8] IPX7 and IPX8 are both ingress protection levels as defined by IEC 60529, ''Degrees of Protection Provide by Enclosures (IP Code)''.

by the wet environment characterization. *Id.* Delta-Q recommended that DOE continue to exclude non-hygiene products, asserting that they represent a rapidly-changing emerging market and that regulating their efficiency at this time could stifle innovation. (Delta-Q, No. 10 at p. 1)

As stated previously, inductive wireless battery chargers are subject to the DOE test procedures and energy conservation standards only to the extent that such battery chargers have an inductive connection and are designed for use in a wet environment. (*See* Table 3.3.3 of appendix Y, footnote to Product Class 1) This scope of coverage includes those wireless charging products for which DOE determined in the June 2016 Final Rule had sufficiently mature designs such that regulation would not impede innovation, *e.g.,* electric toothbrushes and shavers. 81 FR 38266, 38283. While DOE refers to these as ''wet environment'' products, this term refers to products found in wet environment applications, not the level of waterproofing. But, as discussed further in this section, DOE is proposing to remove the ''wet environment'' distinction altogether.

The wet environment products covered in scope require sealing to prevent moisture ingress, and typically use a locating feature, such as a peg, cradle or a dock, to confine the physical engagement of the receiver (*i.e.*, consumer product) and the transmitter (*i.e.*, charger). 85 FR 26369, 26371. This feature provides relatively consistent placement of the receiver during testing. *Id.* The consistent physical alignment of the receiver to the transmitter enables the battery charger's energy performance to be measured repeatably using DOE test procedure. But DOE tentatively finds that approaches providing consistent receiver-transmitter alignment are now being used in non-wet environments.

Therefore, by adding a new appendix Y1 and eliminating the ''wet-environment'' limitation on inductive wireless battery chargers currently contained in appendix Y, DOE would be subjecting inductive wireless battery chargers as a whole to testing in appendix Y1testingY1. DOE further proposes to define the term ''fixed-location'' wireless charger in appendix Y1 to refer to inductive wireless battery chargers that incorporate a physical receiver locating feature (*e.g.,* a peg, cradle, dock, locking mechanism, magnet, etc.) to repeatably align or orient the position of the receiver with respect to the transmitter, and to require that battery chargers meeting such a definition be subject to the DOE test procedure regardless of whether it is for a wet-environment. This proposed amendment to include fixed-location inductive wireless chargers would cover products such as inductive chargers for electronic watches, fitness bands, smartphones, wireless earbuds, and wireless speakers, if the basic model prioritizes wireless charging of a battery and has a physical receiver locating feature.

DOE also proposes to increase the rated battery energy limit of fixed-location wireless chargers in appendix Y1 from ≤5 Wh to <100 Wh in order to address the broader scope of battery chargers that currently employ inductive wireless connections and to accommodate potential future product designs that may have larger battery energies. For battery chargers, the UEC metric represents an annualized amount of non-useful energy consumed by a battery charger in all modes of operation by combining the energy or power consumption in each mode with specified usage profiles (*i.e.* the time spent in that mode) and subtracting from it the discharged energy of a fully charged battery. Table 3.3.3 of appendix Y established such usage profiles for different classes of battery chargers, including inductive wireless chargers, defined by ranges of battery energy and voltage. At the time of the June 2016 Final Rule, inductive wireless chargers designed for use in wet environments were all found to have a battery energy under 5Wh. 81 FR 38266, 38283. As such, Table 3.3.3 of appendix Y specifies a rated battery energy of ≤5 Wh for Product Class 1. But, since the June 2016 Finale Rule, products on the market that rely on such inductive wireless charger designs have grown to include electronic wearable devices such as watches, fitness trackers, wireless earbuds, and even some smartphones. DOE has conducted initial research and found that although most of the fixed-location inductive wireless chargers were designed for batteries with lower energy ratings, typically within 20Wh, there are some fixed-location inductive wireless chargers that can charge products with higher battery energy levels of around 80Wh, namely inductively charged power tool products. DOE is not able to find fixed-location inductive chargers designed for products with battery energy of more than 100Wh. Therefore, DOE tentatively concludes that a rated battery energy limit of <100 Wh would appropriately cover the range of products that would be newly included in scope as a result of DOE's proposal to remove the wet environment designation.

As noted, in section III.B.4, DOE discusses the proposal to remove the UEC metric and the associated usage profile in favor of a multi-metric approach that provides the energy performance of battery chargers in each mode of operation (active, standby, and off modes) independently. If such a proposal were finalized, usage profiles based on battery energy limits would be unnecessary altogether.

DOE seeks comment on its proposal to define fixed-location wireless chargers in appendix Y1 and whether this definition accurately captures all the types of wireless chargers with locating features that are on the market; its proposal to remove the ''wet environment'' designation for wireless chargers; its proposal to revise the scope of Product Class 1 to include all fixed-location wireless chargers in appendix Y1; and its proposal to increase the rated battery energy limit for fixed-location wireless chargers from ≤5 Wh to <100 Wh in appendix Y1 to accommodate the range of inductive wireless battery chargers on the market and potential future product designs that may have larger battery energies. DOE also requests information on which types of inductive wireless battery chargers would be subject to DOE regulations due to the proposed change in scope, including any corresponding usage data, if available.

DOE also proposes to define the term ''open-placement'' wireless chargers in appendix Y1 to address wireless charging products that do not have a physical locating feature (*e.g.,* charging mats). CA IOUs, NEEA, and ITI stated in response to the May 2020 RFI that there are difficulties in testing open-placement wireless chargers, but encouraged DOE to continue working with stakeholders to establish either its own uniform wireless charger test method or adopt one being developed by the industry, such as ANSI/Consumer Technology Association (''CTA'') 2042.3 [9] (''ANSI/CTA 2042.3''), the WPC protocol,[10] or the IEC 63288 test procedure.[11] (CA IOUs, No. 9 at pp.

[9] American National Standards Institute/Consumer Technology Association Standard 2042.3, ''Methods of Measurement for Power Transfer Efficiency and Standby Power of Wireless Power Systems''.

[10] Wireless Power Consortium, ENERGY STAR Test Method for Wireless Power Transmitters, test procedure development in progress.

[11] International Electrotechnical Commission IEC 63288, ''Wireless Power Transfer—Measuring method for wireless power transfer efficiency and standby power—mobile phone''. For more information on the development of IEC 63288,

Continued

1–2, ITI, No. 7 at pp. 1, 3–4, NEEA, No. 8 at p. 6) CA IOUs suggested that wireless chargers are no longer a nascent technology; however, NEEA claimed that wireless chargers are still relatively nascent when compared to other charging technologies. (CA IOUs, No. 9 at p. 2, NEEA, No. 8 at p. 5) CA IOUs and NEEA commented that wireless chargers are rapidly growing in popularity, and that because of the wide variation in efficiency, wireless chargers present significant opportunities for energy savings. (CA IOUs, No. 9 at pp. 1–2, NEEA, No. 8 at pp. 1–3, ITI, No. 7 at pp. 3–4) WPC further commented that wireless chargers still need to be tested uniquely to account for the wide charging area, unique standby, and end of charge behavior, irrespective of whether the system is treated as a battery charger or as an external power supply (''EPS''). (WPC, No. 4 at p. 2) NEEA suggested that interoperable (*i.e.,* open-placement) wireless chargers are similar to EPSs, in which standby power and active mode efficiency are regulated separately. (NEEA, No. 8 at pp. 4–5 and 7–9) WPC also asserted that the term ''wireless battery chargers'' may be misleading and cause overly burdensome testing for wireless power sources, and that wireless chargers are better classified as EPSs because of their lack of battery charging circuitry and their AC-to-DC power conversion nature. (WPC, No. 4 at p. 2) Similarly, for open-placement wireless power transfer devices, CA IOUs and NEEA suggested that DOE implement a standby power measurement in the interim while an active mode test method continues to be developed. (CA IOUs, No. 9 at p. 2, NEEA, No. 8 at pp. 9–10).

DOE recognizes the increasing usage of open-placement inductive wireless chargers designed to work with a range of products by supporting multiple wireless charging protocols and having physical form factors that do not restrict engagement or alignment to one specific end use device. DOE also recognizes that, as indicated by commenters, a number of challenges remain with establishing a representative test procedure for these interoperable open-placement inductive wireless products. First, efficiency of wireless power transfer varies greatly depending on the alignment of the receiver with respect to the transmitter. A test procedure designed to capture the representative energy performance of such a device would need to repeatably measure the average power transfer efficiency across the full range of possible placement positions on the transmitter. Second, representative test load(s) would need to account for all charging scenarios because these open-placement wireless chargers are designed to work with various third-party products. Third, these devices also typically incorporate other non-battery-charging related features inherent to implementing an open-placement design, such as foreign object detection circuits, that may affect charging efficiency.

DOE acknowledges the industry's progress in developing test methods for open-placement wireless chargers, such as ANSI/CTA 2042.3, the WPC protocol, and the IEC 63288 test procedure. These test methods specify the use of either one reference receiver at multiple charging positions on the transmitter or require using multiple receivers at an optimal receiver placement point. DOE has reviewed these industry test standards, and tentatively finds that they do not sufficiently address the challenges with respect to repeatability of placement and ensuring use of a representative third-party receiver. DOE, working in conjunction with industry organizations such as the WPC, has found that mitigating these challenges is difficult. To-date, that work has yielded test methods that either lack repeatability or result in significant test burden. In addition, evaluating whether a particular test procedure measures the energy performance of open-placement wireless chargers during a representative average use cycle, specifically during active mode operation, requires data on consumer usage at the various modes of operation. DOE lacks, and is unaware of, such data.

Because data are lacking to develop a test procedure that would provide representative measurements of such a technology during active mode operation, DOE is not proposing a test procedure for measuring the active mode energy performance of open-placement wireless chargers in this NOPR. DOE will continue its efforts, working with industry bodies, such as WPC, IEC, and ANSI/CTA, to develop an active mode test procedure for open-placement wireless chargers that appropriately addresses the impact of receiver placement on charging efficiency, and will continue to gather relevant consumer usage data.

DOE finds, however, that measuring the no-battery mode energy performance of an open-placement wireless charger would not be affected by the same issues discussed above for active-mode testing, and is more straightforward than measuring active-mode energy. Therefore, DOE proposes to create a new section 5 of appendix Y1 titled, ''Testing requirements for all open-placement wireless chargers,'' which would include instructions for testing open-placement wireless chargers in no-battery mode according to IEC 62301 Ed. 2.0. DOE proposes that, after observing a period of stability, the AC input power of the open-placement wireless charger would be measured without any foreign objects (*i.e.,* without any load) placed on the charging surface. DOE also proposes that if the open-placement wireless charger has power supplied by an EPS but does not come pre-packaged with such an EPS, then testing must be conducted with any compatible and commercially-available EPS that is minimally compliant with DOE's energy conservation standards for EPSs as prescribed in 10 CFR 430.32(w). DOE notes that open-placement wireless chargers are not currently subject to energy conservation standards and are not subject to requirements regarding standby energy use. Were the proposed standby test procedure provisions to be adopted, open-placement wireless chargers would not be required to be tested according to such provisions until such time as compliance is required with any energy conservation standards that DOE may establish for these chargers. If the proposed amendments were made final, manufacturers voluntarily testing and reporting the energy usage of any open-placement wireless chargers would have to be based on the DOE test procedure as amended beginning 180 days following the final rule.

DOE seeks comment on its proposal to define open-placement wireless chargers in appendix Y1 and whether this definition accurately captures all the types of wireless chargers without physical locating features that are on the market. DOE also requests comment on its proposal to require testing of the no-battery mode power consumption of these open-placement wireless chargers.

B. Test Procedure

1. External Power Supply Selection

Most battery chargers require the use of a power adapter to convert 120 volt (''V'') AC line voltage into a low-voltage DC or AC output suitable for powering the battery charger. DOE's battery charger test procedure specifies that the battery charger be tested with the power adapter packaged with the charger, or the power adapter that is sold or recommended by the manufacturer. If a power adapter is not packaged with the charger, or if the manufacturer does not

including access to drafts of the test procedure, visit *www.iec.ch/dyn/www/f?p=103:7:516407272337837::::SP_ORG_ID,FSP_LANG_ID:10039,25.*

sell or recommend a power adapter, then the battery charger is tested using a 5.0V DC input for products that draw power from a computer USB port, or using the midpoint of the rated input voltage range for all other products. Appendix Y, sections 3.1.4.(b) and 3.1.4.(c). However, the 5.0 V DC specification for products drawing power from a computer USB port may not be representative for battery chargers designed for operation only on DC input voltage and for which the manufacturer does not package the charger with a wall adapter or sell or recommend a wall adapter. The current generation USB specification can support up to 20 V, per the voltage and current provisions of the most recent version of the International Electrotechnical Commission's (''IEC'') ''Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery'' (''IEC 62680–1–2'') specification.

In the May 2020 RFI, DOE requested information on the characteristics and technical specifications of the wall adapters typically used when testing battery chargers shipped without a wall adapter and for which a wall adapter is not recommended by the manufacturer. 85 FR 26369, 26371. DOE also sought detailed technical information and data on the characteristics of the wall adapters typically used in the real world with such battery chargers including, but not limited to, input and output voltages, output wattage, power supply topologies, output connector type, and the impact of these on average efficiencies. *Id.* Additionally, DOE sought comment on whether testing such battery chargers using a reference wall adapter would be appropriate, and if so, how a reference wall adapter should be defined.

Both CA IOUs and ITI supported providing additional direction on the AC adapter used to test chargers that do not come with one. (CA IOUs, No. 9 at p. 4; ITI, No. 7 at p. 5) CA IOUs and ITI recommended that DOE provide minimum technical characteristics that must be met when testing battery chargers with external power supplies without an AC adapter pre-packaged, sold, or recommended by the manufacturer. *Id.* ITI further commented that the cable used can also affect power consumption, and that a reference wall adapter would work only if DOE designs one for universal connection types. (ITI, No. 7 at p. 5) The Joint Commenters stated that the test procedure already addresses USB chargers and therefore amendments are not necessary regarding the wall adapter provisions. (Joint Commenters, No. 6 at p. 2)

Considering the current market and these comments, DOE proposes to require in appendix Y1 that when wall adapter is not pre-packaged with a battery charger (and the charger manufacturer does not sell or recommend a compatible charger), testing would be performed using any commercially-available EPS that is both minimally compliant with DOE's energy conservation standards for external power supplies (''EPS'') found in 10 CFR 430.32(w) and satisfies the EPS output criteria specified by the battery charger manufacturer. DOE recognizes that these battery chargers are always operated with an EPS by the consumer, and that testing them without one is unrepresentative of their actual use. Because the battery charger energy consumption is measured at the input, under the proposed appendix Y1 requirement to test these battery chargers with a minimally compliant EPS, the energy consumption of the minimally compliant EPS will be included when calculating the battery charger product's unit energy consumption, similar to the testing condition in which an EPS is supplied with the charger. DOE has tentatively concluded that this proposal would not result in additional test burden; the current battery charger test procedure already requires input power to be captured, and this proposal does not lead to additional test steps. Furthermore, this proposed EPS selection criterion would not be required until DOE amends the energy conservation standards to account for the updated EPS selection criteria, if adopted. However, manufacturers are still required to continue testing their battery charger products following the amended appendix Y, if made final, during the meantime. If the proposed appendix Y1 amendments were made final, manufacturers can voluntarily test and report any such representations based on the appendix Y1 test procedure as amended beginning 180 days following the test procedure final rule.

When performing compliance or enforcement testing on such a battery charger basic model, DOE proposes that if the certified EPS is no longer available in the market, DOE would test the battery charger with any compatible minimally compliant EPS that meets the performance criteria. The intent of the proposal to test with a minimally compliant power supply is to allow manufacturers a wider selection of EPSs that are readily available, while ensuring that the battery charger is tested in a configuration representative of actual use. This proposal would also only apply to appendix Y1.

Additionally, DOE is proposing to specify in section 3.1.4(b) of appendix Y the order of preference for the test configuration when a wall adapter is provided or recommended. DOE is proposing that a battery charger would be tested using the pre-packaged wall adapter; if the battery charger does not include a pre-packaged wall adapter, then the battery charger would be tested with a wall adapter sold and recommended by the manufacturer; if the manufacturer does not recommend a wall adapter that it sells, then the battery charger is to be tested with a wall adapter recommended by the manufacturer.

ITI commented that input or output cables can affect a battery charger's power consumption but stopped short of quantifying their impact. (ITI, No. 7 at p. 5) DOE's analysis suggests that only output cables have the potential to notably impact power consumption, but that battery chargers are rarely shipped without an output cable. DOE, therefore, continues to require that battery chargers be tested with the output cable that is supplied with the device.

DOE requests comment on the proposal to specify the priority of wall adapter selection in appendix Y1. DOE also requests comment on the proposal in appendix Y1 to replace the 5 V DC input requirement for those chargers that do not ship with an adapter, and one is not recommended, with the requirement that these chargers be tested with any compatible and commercially-available EPS that is minimally compliant with DOE's energy conservation standards for EPSs. DOE also requests comments on whether these proposals would result in increased test burden.

2. Battery Chemistry and End-of-Discharge Voltages

The battery charger test procedure requires that, as part of the battery discharge energy test, the battery must be discharged at a specified discharge rate until it reaches the specified end-of-discharge voltage stipulated in Table 3.3.2 of appendix Y. Appendix Y, section 3.3.8(c)(2). Table 3.3.3 defines different end-of-discharge voltages for different battery chemistries. A footnote to Table 3.3.2 provides that if the presence of protective circuitry prevents the battery cells from being discharged to the end-of-discharge voltage specified, then the battery cells must be discharged to the lowest possible voltage permitted by the protective circuitry. *Id.*

In the May 2020 RFI, DOE requested information on whether there have been any new battery chemistries that are not covered by the categories listed in Table 3.3.2 of appendix Y. 85 FR 26369, 26372. DOE also requested information on whether any of the end-of-discharge voltages listed for the battery chemistries under Table 3.3.2 of appendix Y need to be updated. *Id.*

ITI and the Joint Commenters stated that they were not aware of any new battery technologies or changes to existing chemistries that would warrant an update to Table 3.3.2 of appendix Y. (ITI, No. 7 at p. 6; Joint Commenters, No. 6 at pp. 1–2) The Joint Commenters stated that the footnote to Table 3.3.2 addresses the end-of-discharge voltage of battery chemistries not explicitly included in Table 3.3.2. (Joint Commenters, No. 6 at p. 2)

Delta-Q commented that, normally, the battery management system would terminate discharge before reaching the appendix Y specified end-of-discharge voltage, which is consistent with the Table 3.3.2 footnote. (Delta-Q, No. 10 at p. 1) Delta-Q stated that because of this, DOE should keep the protective circuitry guidelines in the test procedure, as it is representative of the charger's energy use. *Id.* Delta-Q also commented that the term ''Lithium Polymer'' listed in Table 3.3.2 is not clear because the term can refer to either an existing, but commercially unsuccessful, battery technology with cells that rely on a polymer electrolyte instead of a liquid electrolyte; or the term may refer to non-rigid laminated pouch packing, as is found in small consumer products. *Id.* Delta-Q also asserted that the term is altogether unnecessary in Table 3.3.2 since ''Lithium-Ion'' captures all lithium battery sub-types. *Id.* Delta-Q suggested that DOE remove the term ''Lithium Polymer'' from the table. *Id.* Delta-Q also commented that ''Nanophosphate Lithium-ion,'' which is included in Table 3.3.2, is a registered trademark and should be re-designated as ''Lithium Iron Phosphate,'' a common battery chemistry, to avoid unintentional referral to a proprietary product. *Id.*

CA IOUs encouraged DOE to incorporate emerging battery chemistries but did not suggest any specific new battery chemistries. (CA IOUs, No. 9 at p. 5)

DOE is proposing to replace the term ''Lithium Polymer'' in Table 3.3.2 of appendix Y with ''Lithium-ion Polymer.'' Lithium-ion polymer batteries are structurally different from lithium-ion batteries in that lithium-ion polymer batteries incorporate a polymer separator to reduce safety hazards. Although having the same end-of-discharge voltage as lithium-ion batteries, DOE proposes a separate listing for lithium-ion polymer batteries to reflect the structural differences of these batteries. DOE also proposes to update the term ''nanophosphate lithium-ion'' to refer to the non-proprietary version of this battery chemistry, *i.e.,* ''lithium iron phosphate.'' DOE is proposing to incorporate these changes in the proposed appendix Y1, as well.

Although the presence of protective circuitries allows some batteries to discharge to end-of-discharge voltages that are different from the voltages prescribed in Table 3.3.2 of appendix Y, such circuits are not universal, and accurate values for end-of-discharge voltages are required to ensure batteries are safely and representatively discharged when such circuits are not present. Therefore, no changes are proposed for the footnote regarding protective circuitries.

DOE requests comment on the proposal to update the term ''Lithium Polymer'' to ''Lithium-ion Polymer''. DOE also requests comment on the proposal to rename the term ''Nanophosphate Lithium'' to the non-proprietary term ''Lithium Iron Phosphate''.

3. Battery Selection

Table 3.2.1 of appendix Y specifies battery selection criteria based on the type of charger being tested; specifically, whether the charger is multi-voltage, multi-port, and/or multi-capacity. For multi-capacity chargers, Table 3.2.1 specifies using a battery with the highest charge capacity. Similarly, for multi-voltage chargers, Table 3.2.1 specifies using the highest voltage battery. Section 3.2.3(b)(2) of appendix Y specifies that if the battery selection criteria specified in Table 3.2.1 results in two or more batteries or configurations of batteries with same voltage and capacity ratings, but made of different chemistries, the battery or configuration of batteries that results in the highest maintenance mode power must be used for testing.

As indicated, some battery chargers (*e.g.,* lead-acid battery chargers) can charge numerous combinations of batteries from third-party vendors, and these battery chargers generally do not have a maximum battery capacity limit because, theoretically, multiple batteries can be connected in parallel to a single charger. For these devices, finding the most consumptive combination of charger and battery could require a number of trials.

In the May 2020 RFI, DOE requested comment on how manufacturers are certifying battery chargers that can charge third-party batteries from different manufacturers but do not ship with batteries themselves. 85 FR 26369, 26372. To address this scenario, DOE also requested feedback on possible alternate approaches to testing battery chargers, such as by replacing the batteries with a reference load during testing. *Id.*

CA IOUs supported both the current battery selection criteria, and the concept of replacing the test batteries with a representative resistive load. (CA IOUs, No. 9 at p. 5) CA IOUs stated that this latter approach would require comprehensive study of multiple batteries with different chemistries from multiple manufacturers at various states to be accurate. *Id.* CA IOUs suggested that DOE analyze any developed dataset and validate it against actual battery values. *Id.* CA IOUs recommended that while a representative resistive load is being developed, DOE collect a set of reference measurements for a test laboratory to use in choosing batteries that meet the specified attributes and tolerances—and if multiple batteries meet the same criteria, the batteries shall be selected according to Table 3.2.1 of appendix Y. (CA IOUs, No. 9 at pp. 5–6)

Delta-Q commented that for its multi-capacity chargers sold without a dedicated battery pack, it would choose commercially-available batteries with a maximum charge capacity based on the individual charger, following Table 3.2.1 of appendix Y. (Delta-Q, No. 10 at p. 2) Delta-Q further stated that it would choose a flooded lead acid battery to test with chargers that support multiple battery chemistries, asserting that flooded lead acid batteries have the lowest efficiency. *Id.* Delta-Q discouraged an approach that would test battery chargers with a reference load that simulates the characteristics of a battery. *Id.* Delta-Q stated that although using a reference load could improve test repeatability, it would be almost impossible to simulate the non-linear response of many common battery chemistries in a way that would be representative of real-world energy consumption. *Id.* Delta-Q further stated that if DOE were to take this approach, it would propose testing a charger's power conversion efficiency at several steady-state operating points and calculating a weighted average. *Id.*

As suggested by commenters, deriving a representative reference load that accurately models the performance of a battery would require a considerable amount of testing and development; in

addition, the rapid pace of evolution in battery design would require frequent updates that would likely outpace DOE's regulatory processes. Therefore, DOE is not proposing the use of reference test loads.

Furthermore, none of the comments received indicated any particular difficulty testing battery chargers that can charge numerous combinations of batteries from third-party vendors. Therefore, DOE is not proposing any changes to the current battery selection criteria in Table 3.2.1 of appendix Y, or the proposed new appendix Y1.

4. Battery Charger Usage Profile and Unit Energy Consumption

The UEC equation in section 3.3.13 of appendix Y combines various performance parameters, including 24-hour energy, measured battery energy, maintenance mode power, standby mode power, off mode power, charge test duration, and usage profiles. Table 3.3.3 specifies values for time spent (in hours per day) in active and maintenance mode, standby mode, off mode; number of charges per day; and threshold charge time (in hours). The usage profiles are based on data for a variety of applications and that primarily consisted of user surveys, metering studies, and stakeholder input that DOE considered during the rulemaking culminating in the June 2016 Final Rule. 81 FR 38266, 38287.

In the May 2020 RFI, DOE requested feedback on whether the usage profiles listed in Table 3.3.3 of appendix Y required updating, with a particular interest in data specific to end-use device type and battery voltage. 85 FR 26369, 26372.

Delta-Q and NEEA stated that they were not aware of any usage profile changes for both wired and wireless battery chargers. (Delta-Q, No. 10 at p. 2; NEEA, No. 8 at p. 10) NEEA recommended that DOE study and update the usage profiles to help develop a test procedure for dedicated and interoperable wireless chargers. (NEEA, No. 8 at p. 10) The Joint Commenters stated that the current usage profiles are sufficient and that there is no need to change them since manufacturers have already familiarized themselves with the current profile. (Joint Commenters, No. 6 at p. 3) CA IOUs commented that wireless chargers can have different user profiles that result in a longer maintenance charging period, but that most overnight charging profiles remain the same as wired chargers. (CA IOUs, No. 9 at pp. 5–6) CA IOUs recommended that DOE conduct additional research to develop a comprehensive set of usage profiles. (CA IOUs, No. 9 at p. 6)

Currently, the energy use of a battery charger is captured by a single metric, UEC. UEC integrates active mode, standby mode, and off mode energy use in order to estimate the amount of non-useful energy (*i.e.* energy not transferred to the battery) consumed by the battery charger over the course of a year. UEC requires the use of usage profiles to appropriately reflect the period of time a product spends in each mode. DOE's product class-specific usage profiles were initially developed using the shipment weighted average usage hours of all the applications of battery chargers whose battery voltage and energy met the criteria for each product class. The intended result is for each usage profile to be appropriately representative of the usage of the product class as a whole. As the battery charger market continues to evolve, DOE has observed that the relative share of shipments among different types of products within a product class has changed; the types of products within a given product class as well as the usage patterns of the products within a product class have become more varied. For example, the current Product Class 2 includes both smartphones and home power tools—two products with widely different usage patterns and annual shipments. A more recent market review shows that the shipments for certain applications, such as smartphones, cordless phones, wireless headsets etc. have changed significantly since the usage profiles in appendix Y were originally established. Additionally, the market and shipments of battery chargers has shown to change over short periods of time as new products that rely on battery chargers emerge and are adopted by the market, and as consumer use of products that rely on battery chargers changes. As an example, note that the shipments for Digital Audio Players and Digital Cameras have declined significantly with the advent of smart phones that have similar built-in capabilities.

As discussed, EPCA requires DOE to amend its test procedures for all covered products to include standby mode and off mode energy consumption, with such energy consumption integrated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that (i) the current test procedures for a covered product already fully account for and incorporate the standby mode and off mode energy consumption of the covered product; or (ii) such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)) DOE is also required to establish test procedures that are reasonably designed to produce test results which measure energy efficiency and/or energy use of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and such test procedures must not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) Therefore, when considering the feasibility of a test procedure that provides for a metric that integrates active mode, standby mode, and off mode energy use DOE must also consider the representativeness and burden of the test procedure.

The current test procedure approach specifies an integrated metric relying on usage profiles, but changes in consumer use of a limited number of products within a product class and the emergence of new products can both impact the representativeness of that usage profile. As the market and usage of battery chargers continues to evolve, the current test procedure approach risks becoming less representative, absent additional and continuously-revised usage profiles. Because the test procedure metric requires integrating active mode, standby mode, and off mode energy use, the need for new or amended usage profiles would potentially result in the need to repeatedly amend test procedures, which in turn potentially would require manufacturers to update representations, increasing manufacturer burden.

In an effort to maintain the representativeness of the test procedure for battery chargers while minimizing the potential need for future amendments, DOE is proposing an approach that does not rely on the UEC equation or usage profiles. Specifically, DOE is proposing in appendix Y1 to establish an approach that relies on a separate metric for each of the following modes of operation: Active mode, standby mode and off mode. This proposal is discussed in further detail in section III.B.5 of this NOPR.

DOE notes that if it were to adopt the proposed multi-metric approach, compliance with the test procedure in appendix Y1 would not be required until such time as DOE were to amend the energy conservation standards for battery chargers based on the revised test procedure in compliance with EPCA. (42 U.S.C. 6295(o) and 42 U.S.C. 6295(gg)(3)(A)–(B))

DOE requests feedback on the proposal to remove the specification of usage profiles and the associated UEC calculation in appendix Y1, to be replaced with an approach that relies on separate metrics for active mode, standby mode, and off mode. For further consideration of the existing approach, DOE requests, for all applications in each product class, data such as the percentage of time spent in each mode of operation along with data sources for consideration in updating the usage profiles for battery chargers.

5. Battery Charger Modes of Operation

a. Active Mode

Battery charger active mode is the state in which the battery charger system is connected to the main electricity supply and is actively delivering power to bring the battery to a fully charged state, as defined in section 2.1 of appendix Y. Appendix Y currently tests the active mode power consumption along with battery maintenance mode power [12] to produce a consolidated 24-hour energy consumption value, or E_{24}, which is then used in the UEC calculation. As previously discussed, DOE is proposing to replace the UEC metric system with a discrete multi-metric approach that determines the energy efficiency and energy use of the active mode, standby mode, and off mode power consumption separately.

In the newly proposed appendix Y1, DOE proposes to use a charge test in which the test period would begin upon insertion of a depleted battery and would end when the battery is fully charged. The active mode energy, E_a would represent the accumulated input energy, meaning the average input power integrated over this test period.

Similar to the procedure currently in section 3.3.2 of appendix Y (*Determining the Duration of the Charge and Maintenance Mode Test*), if a battery charger has an indicator to show that the battery is fully charged, that indicator would be used to terminate the active mode test. If no indicator besides the manufacturer's instructions indicates how long it should take to charge the test battery, the active mode test would be conducted for the longest estimated charge time as provided in the manufacturer's materials. If the battery charger does not have such an indicator and a manufacturer does not provide such a time estimate, the length of the active mode test would be 1.4 multiplied by the rated charge capacity of the battery divided by the maximum charge current. DOE also proposes to arrange sections of appendix Y1 such that the battery discharge test is performed immediately after this active mode test is completed and prior to continuing to the 24-hour charge and maintenance mode test that would then be used to determine maintenance mode power.

In DOE's experience, it may be possible to analyze the resulting data from the 24-hour charge and maintenance mode energy consumption test and divide it into its constituents; *i.e.,* the active mode energy and maintenance mode power. Under this alternative approach, active mode energy consumption, E_a, would be the time series integral of the power consumed from the point when the battery was first inserted (or plugged in for chargers with integrated batteries) until the measured data indicate a drop in power associated with the transition from active charging to maintenance mode. Under this approach, a single test period would provide the necessary measurements for the active mode energy, E_a, from the 24-hour charge and maintenance mode test data.

DOE is proposing a separate test for active mode to allow the battery discharge test to be conducted immediately afterwards and prior to the maintenance mode test. This would ensure that the energy put into the battery can be directly compared to the energy extracted from it without any contribution from other modes of operation such as maintenance mode. However, DOE may also consider the discussed alternate approach in the development of the final rule.

DOE requests comment on the proposed approach to determining active mode energy, as well as the suggested alternate method. In particular, under the alternate method, DOE requests comment on how to define the drop in power associated with the transition from active charging to maintenance mode, such that this method would provide repeatable and reproducible results.

b. Standby Mode and Battery Maintenance Mode

Standby mode is the condition in which an energy-using product is:

(1) Connected to a mains power source; and

(2) Offers 1 or more of the following user-oriented or protective functions:

(aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer.

(bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

(42 U.S.C. 6295(gg)(1)(A)(iii))

Appendix Y defines standby mode for battery chargers as the condition in which a battery charger is connected to mains electricity supply, the battery is not connected to the charger—and for battery chargers with manual on-off switches, all switches are turned on. Appendix Y also includes a definition for maintenance mode in section 2.8 to mean the mode of operation in which the battery charger is connected to the main electricity supply and the battery is fully charged but still connected to the charger. In maintenance mode, a battery charger continuously monitors the voltage of the fully charged battery and periodically supplies charge current to maintain the battery at the fully-charged state.

As mentioned previously, because the current test procedure relies on a metric that integrates active mode, standby mode, and off mode, it is less critical as to whether maintenance mode is characterized as standby mode as compared to the proposed multi-metric approach. The current ''standby mode'' definition in appendix Y only captures what can be referred to as ''no-battery mode,'' *i.e.,* the condition where a battery charger is connected to a mains power source but a battery itself has not yet been inserted. In the context of the proposed multi-metric approach, DOE has tentatively determined that maintenance mode is also appropriately characterized as a standby power mode. In maintenance mode, a battery charger provides continuous monitoring of the battery charge. While a battery charger provides some limited charging in maintenance mode in order to maintain the battery at full charge, it is not charging a depleted battery. Unlike active mode, maintenance mode can persist indefinitely. As an example, power tool chargers in residential environments routinely spend an indefinite amount of time maintaining batteries that are not regularly used but are required to be fully charged. In addition to balancing and mitigating self-discharge of the cells, these chargers also typically provide a status display indicating that the battery is in the fully charged state and ready for use. As previously mentioned, DOE has tentatively determined that these continuous functions in maintenance

[12] Maintenance mode is the operation of a battery charger to maintain a battery at full charge while a battery remains in the charger after fully charged. Under the current test procedure the characterization of maintenance mode as active mode or standby mode is less critical because the current test procedure metric integrates the modes. As discussed in the following section, DOE has tentatively characterized maintenance mode as part of standby mode.

mode satisfies both EPCA's and IEC 62301's definition of standby.

To better account for these conditions, DOE proposes to rename what is currently defined in appendix Y as standby mode to ''no-battery mode'' in appendix Y1 (and reference this term, as appropriate, throughout appendix Y1). DOE also proposes to define in appendix Y1 the term ''standby mode'' to capture both no-battery mode and maintenance mode. Specifically, DOE proposes that in appendix Y1, standby mode power of a battery charger (P_{sb}), would be calculated as the sum of the no-battery mode power (P_{nb}), and maintenance mode power (P_m).

DOE requests feedback on its proposed definition of standby mode in newly proposed appendix Y1 to capture both no-battery mode as well as maintenance mode. DOE also requests feedback on its proposal to define standby power, or P_{sb}, to mean the summation of the no-battery mode (P_{nb}) and maintenance mode (P_m).

In proposing to replace the UEC metric with mode-specific metrics, DOE considered utilizing the existing E_{24} metric instead of the proposed active mode energy E_a. E_{24} captures the energy performance of a battery charger in active mode as well as some time spent in maintenance mode. However, in doing so maintenance mode would have been captured twice—once as part of E_{24} and again as part of the proposed definition of standby mode. DOE believes that regulating maintenance mode and no-battery mode in terms of their power consumption (*i.e.,* in watts), rather than as an energy consumption metric over a certain period of time (*i.e.,* in watt-hours), is more appropriate and representative because of the indefinite amount of time a battery charger may spend in either of these modes, as described above. As such, DOE is proposing that maintenance mode be accounted for as part of standby mode instead of within the E_{24} metric in conjunction with active mode.

Per section 3.3.9 of appendix Y, maintenance mode power is currently measured by examining the power-versus-time data from the charge and maintenance test, and computing the average power that spans a whole number of cycles, and includes, at least, the last 4 hours of the test data. DOE considered an alternative test method in which maintenance mode power would be calculated as the highest rolling average over at least a 4-hour continuous time period during the charge and maintenance mode test, starting from when active mode charging ends. DOE, however, did not propose this alternate test method in this NOPR due to lack of sufficient data needed to determine if such a method would be appropriate for all battery chargers.

DOE requests feedback on its proposed approach to rely on E_a, P_{sb} and P_{off} instead of E_{24}, P_{nb} and P_{off} to determine the energy performance of a battery charger, and whether a different approach exists that may provide test results that are more representative of the energy performance and energy use of battery chargers. DOE also requests comment on the described alternate approach to capturing maintenance mode power and whether such an approach would be representative of actual use for all battery chargers.

6. Test Procedure Waivers Regarding Non-Battery-Charging Related Functions

DOE granted Dyson, Inc. (''Dyson'') a waiver from the current battery charger test procedure for a specified battery charger model (used in a robotic vacuum cleaner) and provided an alternate means for disabling non-battery-charging functions during testing.[13] 82 FR 16580 (Apr. 5, 2017). As described in the petition for waiver, the battery charger basic models subject to the waiver have a number of settings and remote management features not associated with the battery charging function, but are instead associated with the vacuum cleaner end product that must remain on at all times. 82 FR 16580, 16581. Dyson explained that it would be inappropriate to make these functions user controllable, as they are integral to the function of the robot. *Id.* The DOE test procedure for battery chargers requires that any function controlled by the user and not associated with the battery charging process must be switched off; or, for functions not possible to switch off, be set to the lowest power consuming mode. Section 3.2.4.b of appendix Y. DOE determined that the current test procedure at appendix Y would evaluate the battery charger basic models specified in the Orders granting the waiver and (related waiver extension) in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparatively data. 82 FR 16580, 16581 and 84 FR 12240, 12241. Pursuant to the approved test procedure waiver, the specified basic models must be tested and rated such that power to functions not associated with the battery charging process are disabled by isolating a terminal of the battery pack using isolating tape. *Id.* In the May 2020 RFI, DOE requested comment on whether the waiver approach is generally appropriate for testing basic models with similar features. 85 FR 26369, 26372–26373.

Delta-Q supported incorporating the waiver language into the test procedure to make available the same testing method available for other chargers with integrated non-charging features, such as DC–DC converters, communication, diagnostics, and datalogging, that increase user value and reduce cost and complexity. (Delta-Q, No. 10 at p. 2) The Joint Commenters and ITI also supported physically disabling non-charging-related features, stating that the inclusion of these features during the charge and maintenance mode test would produce results that are not representative of a battery charger's actual use. (Joint Commenters, No. 6 at p. 3, ITI, No. 7 at p. 1, 8) The Joint Commenters suggested that DOE add a column to the certification report for manufacturers to indicate when special modifications were made to an end-use product for testing and certification purposes. (Joint Commenters, No. 6 at p. 3) The Joint Commenters recommended that DOE add additional anti-circumvention language that makes the intent of the approach to disable non-battery-charging functions clear. *Id.* ITI further commented that smart devices must be connected to a network and that DOE should update the test method to recognize the constant connectivity needs of these devices, including during charging. (ITI, No. 7 at p. 9) As an alternative, ITI suggested that DOE could also prescribe ''adders'' for different functions instead of allowing them to be disabled. (ITI, No. 7 at pp. 8–9)

CA IOUs recommended that DOE continue to rely on the use of waivers and review them on a case-by-case basis, granting them only when publicly available solutions to make the product compliant with DOE's standards are unavailable. (CA IOUs, No. 9 at pp. 4–5) Furthermore, CA IOUs recommended that DOE only prescribe waivers to those products with core components that cannot be disabled without risk of damaging the product. *Id.*

NEEA suggested that the robotic vacuum cleaner waivers should be discontinued, asserting that other manufacturers of similar products have been able to redesign their products to be successfully tested without a waiver in response to enforcement action taken

[13] Decision and Order Granting a Waiver to Dyson, Inc. From the Department of Energy Battery Charger Test Procedure (Case No. BC–001). Subsequently, DOE issued an Extension of Waiver to Dyson, Inc. to cover an additional basic model (Case No. 2018– 012). 84 FR 12240 (Apr. 1, 2019).

by the California Energy Commission (''CEC''). (NEEA, No. 8 at p. 10)

Based on DOE's review of the market indicating that products subject to the waivers granted to Dyson are no longer available, DOE is not proposing to amend the test procedure to include instructions regarding disabling power to functions not associated with the battery charging process that are not consumer controllable. If made final, this proposal would terminate the existing Dyson waivers consistent with 10 CFR 430.27(h)(3) and 10 CFR 430.27(l).

DOE is also not proposing to include different power consumption adders for non-battery-charging related functions. As stated, the DOE test procedure applies to battery chargers as that term is defined by EPCA and in the DOE regulations. Inclusion of power consumption adders for non-battery charging-related functions would result in a UEC or active energy consumption value unrepresentative of the energy use by the battery charger.

C. Corrections and Non-Substantive Changes

Since the publication of DOE's current battery charger test procedure and energy conservation standards, DOE has received numerous stakeholder inquiries regarding various topics involving battery charger testing and certification. Based on these inquiries, DOE identified the need for certain minor corrections. These corrections are addressed in the following sections. Additionally, in the interest of improving overall clarity, DOE will include a flowchart in the docket outlining the required testing and certification process upon publication of a final rule.

1. Certification Flow Charts

Upon publication of a final rule, DOE will include flowcharts in the docket, shown in Figure III.C.1 and Figure III.C.2,[14] to help manufacturers better understand the battery charger testing and certification process. In particular, the flow charts would provide an overview of the testing and certification process including an overview of the basic model definition; the scope of DOE's battery charger test procedure; the required sample size; difference between a rated value, a represented value, and a certified rating; and the statistical criteria for determining compliance with energy conservation standards. The flow charts are not intended to address all aspects of the testing and certification requirements, but instead provide a general-level guide to the process. As such, manufacturers should not rely solely on the flow charts for testing and compliance. Manufacturers of battery chargers are required to comply with the applicable provisions under 10 CFR parts 429 and 430.

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[14] Figures III.C.1 and III.C.2 are included to clarify the process in this rulemaking only. Manufacturers should not rely solely on the flow charts as substantive guides for testing and compliance, should changes proposed in this NOPR be finalized.

Figure III.C.1 Appendix Y Battery Charger Certification Testing and Certification Flow Chart

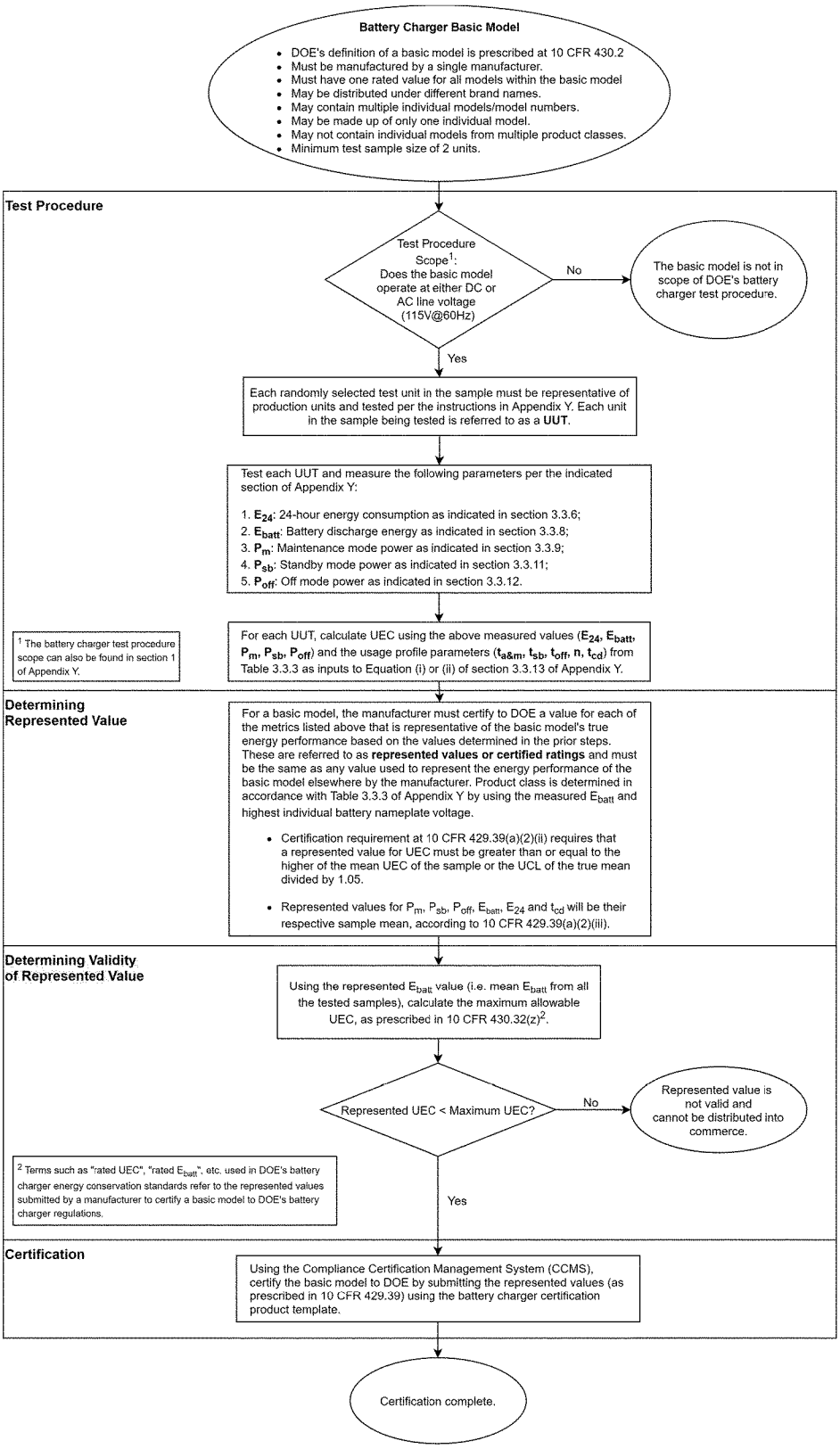
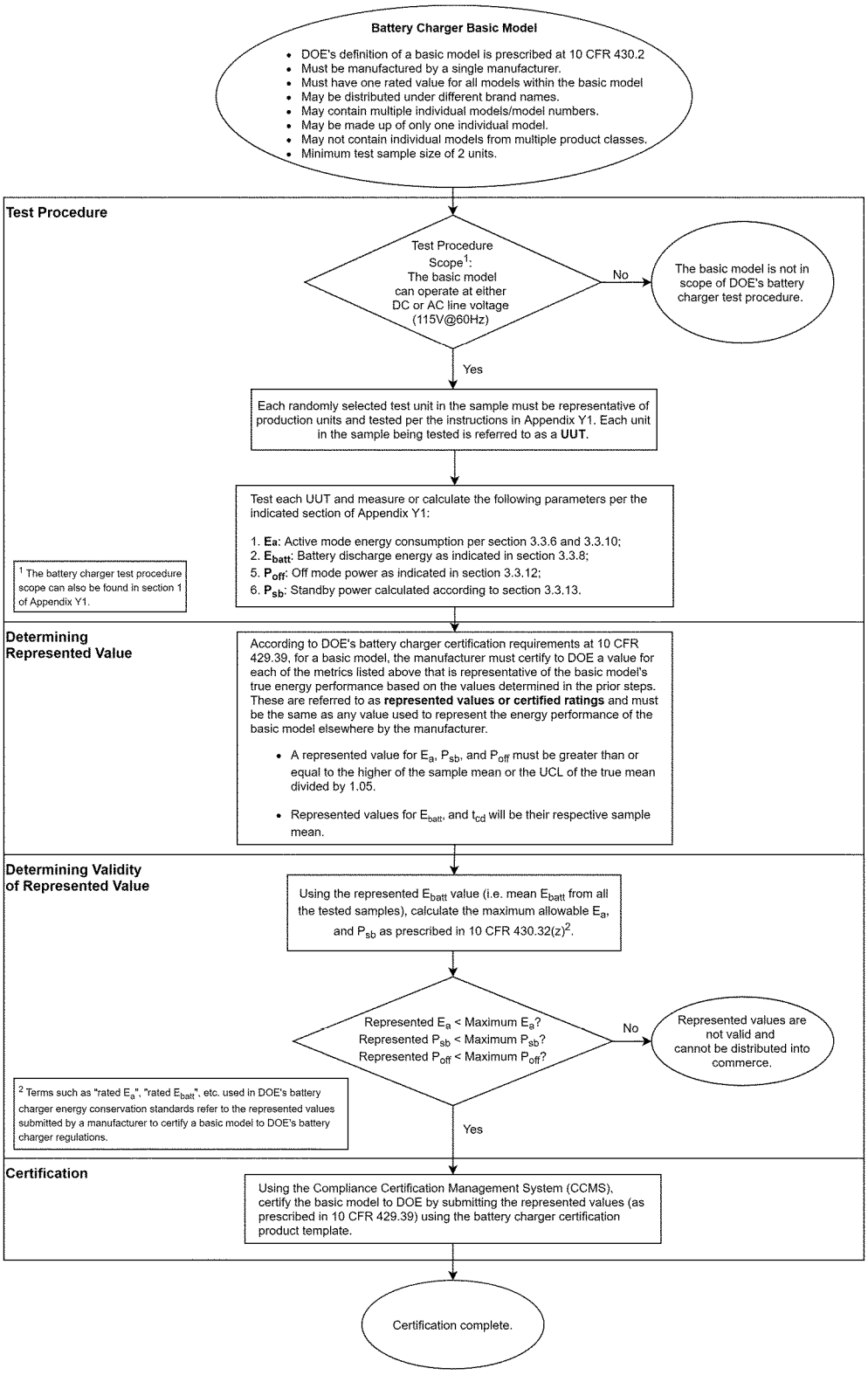


Figure III.C.2 Appendix Y1 Battery Charger Testing and Certification Flow Chart



BILLING CODE 6450–01–C

DOE requests stakeholder feedback on whether such flow charts will assist manufacturers through the certification testing and certification process. DOE also requests comment on whether the flow charts would benefit from the inclusion of any additional information.

2. Testing and Certification Clarifications

DOE's current battery charger UEC calculation is prescribed in section 3.3.13 of appendix Y, with product

specific certification requirements prescribed in 10 CFR 429.39. In response to the May 2020 RFI, stakeholders submitted comments suggesting areas regarding the testing and certification requirements that may benefit from additional detail or re-organization.

a. Multiple Battery Combinations

ITI suggested that DOE add the term ''representative testing'' to make it clear that testing is not required for every combination of battery pack and EPS if the battery packs and EPSs are identical in electrical ratings. (ITI, No. 7 at pp. 1–2) ITI commented that testing every combination would be time-consuming, costly, and requires excessive test samples, which produces nearly identical test results between combinations. (ITI, No. 7 at p. 2) ITI also suggested that the sample size should be reduced for products that pass DOE's energy conservation standards by more than a certain margin. (ITI, No. 7 at pp. 1–2)

Manufacturers are required to test and certify basic models of battery chargers, as defined in 10 CFR 430.2. For battery chargers, the term ''basic model'' means all units of a given battery charger class manufactured by one manufacturer; having the same primary energy source; and, which have essentially identical electrical, physical, and functional characteristics that affect energy consumption and energy efficiency. 10 CFR 430.2. Individual units within a basic model may be distributed under different brand names but must be made by the same manufacturer. If the battery selection criteria specified in Table 3.2.1 of appendix Y results in two or more batteries or configurations of batteries of different chemistries, but with equal voltage and capacity ratings, the battery or configuration of batteries with the highest maintenance mode power, as determined in section 3.3.9 of appendix Y, should be selected for testing. This would result in a single battery or a single configuration of batteries for conducting the test.

In cases where the battery charger basic model's UEC passes DOE's energy conservation standards and shows consistent energy consumption, manufacturers have the potential to certify the product with only 2 units tested so long as they follow the test procedure and the certification requirement. Otherwise, more samples would need to be tested until the sampling requirements of 10 CFR 429.39 are met.

b. Measured vs. Rated Battery Energy

The product class distinctions provided in Table 3.3.3 of appendix Y are based in part on rated battery energy as determined in 10 CFR 429.39(a), which in turn references the represented value of battery discharge energy. 10 CFR 429.29(a)(1). The calculation of UEC in section 3.3.13 of appendix Y is based in part on the tested (*i.e.,* measured) battery energy.

TTI commented that there is inconsistency when determining the battery charger product class between appendix Y and DOE's battery charger standard at 10 CFR 430.32(z). Under appendix Y, the term ''E_{batt}'' refers to the measured battery energy while under the standard (10 CFR 430.32(z), the term ''E_{batt}'' refers to the rated battery energy determined in 10 CFR 429.39(a). (TTI, No. 3 at p. 1) TTI commented that because of this, different labs are using different battery energy values to determine battery charger product class and energy conservation standards, resulting in possibly inaccurate certifications. *Id.*

As described, UEC calculation in section 3.3.13 of appendix Y incorporates the measured battery energy as determined in section 3.3.8 of appendix Y. In contrast, determining the appropriate product class determination for purposes of standards compliance is based on the ''rated'' battery energy (*i.e.,* the represented value of the battery energy). To better distinguish between measured battery energy and rated (*i.e.,* represented) battery energy, DOE proposes updating the nomenclature in appendix Y by modifying the ''E_{batt}'' term used in the UEC calculation and usage profile selection in Table 3.3.3 to ''Measured E_{batt}''. DOE notes, however, that if the proposal to remove the UEC equation and usage profiles, as described in III.B.4 are finalized, all remaining instructions within appendix Y1 will rely on measured E_{batt}, such that distinguishing between measured and rated E_{batt} would not be required.

DOE requests comments on whether manufacturers and test laboratories are currently using ''measured'' battery energy or ''rated''/''represented'' battery energy values to determine battery charger product class. DOE requests comment on its proposal to update the nomenclature in appendix Y to refer to ''Measured E_{batt}'' and ''Represented E_{batt}'' to better distinguish between the two values.

c. Alternate Test Method for Small Electronic Devices

ITI recommended that DOE simplify the test procedure for small electronic devices by relying on the battery capacity as marked on the battery pack/cell instead of direct measurements. (ITI, No. 7 at p. 2) ITI claimed that this approach would simplify sample preparation for certain samples, avoid the need for obtaining special samples from the factory with unsealed enclosures, and avoid the difficulty of soldering test leads to a very small battery terminals in mobile products. *Id.*

DOE has observed several occasions where the measured battery energy was lower than the capacity as marked on the battery pack/cell (*i.e.,* nameplate) battery energy. In such cases, a test procedure reliant on the nameplate battery energy, rather than measured battery energy, could result in an unrepresentative value of UEC or active energy consumption. Accordingly, DOE is not proposing to amend the requirement to rely on the measured battery energy value for the purpose of the testing and certification.

d. Inability To Directly Measure Battery Energy

Section 3.2.5.(f) of appendix Y states that when the battery discharge energy and the charging and maintenance mode energy cannot be measured directly due to any of the following conditions: (1) Inability to access the battery terminals; (2) access to the battery terminals destroys charger functionality; or (3) inability to draw current from the test battery, the battery discharge energy and the charging and maintenance mode energy shall be reported as ''Not Applicable.'' In such cases, the test procedure does not provide instruction on how to proceed with the remainder of the test, and an alternate test method must be used to measure battery discharge energy and the charging and maintenance mode energy. DOE therefore proposes to update section 3.2.5(f) of appendix Y to explicitly state that if any of the aforementioned conditions are applicable, preventing the measurement of the battery discharge energy and the charging and maintenance mode energy, a manufacturer must submit a petition for a test procedure waiver in accordance with 10 CFR 430.27. The same provision would also be included as part of the new appendix Y1.

e. Determining Battery Voltage

The product class distinctions provided in Table 3.3.3 of appendix Y are based in part on ''battery voltage'' in addition to rated battery energy or special charging characteristics, as described previously. Section 3.3.1 of appendix Y specifies recording the nameplate battery voltage of the test

battery. Section 2.21 of appendix Y defines ''nameplate battery voltage'' as specified by the battery manufacturer and typically printed on the label of the battery itself. If there are multiple batteries that are connected in a series, the nameplate battery voltage of the batteries is the total voltage of the series configuration—that is, the nameplate voltage of each battery multiplied by the number of batteries connected in series. Connecting multiple batteries in parallel does not affect the nameplate battery voltage. Section 2.21 of appendix Y.

Additionally, for a multi-voltage charger, the battery with the highest battery voltage must be selected for testing, as prescribed by Table 3.2.1 of appendix Y. Consequently, the highest supported battery voltage should also be used to determine product class, which is not reflected by the current term ''battery voltage'' in Table 3.3.3. Updating the language in Table 3.3.3 would avoid the potential for future confusion with regard to multi-voltage products.

TTI asked DOE to provide a method to determine battery voltage for certification purposes. (TTI, No. 3 at p. 1)

DOE proposes to amend Table 3.3.3 of appendix Y by replacing the term ''battery voltage'' with ''highest nameplate battery voltage'' to provide clearer direction that the battery voltage used to determine product class is based on its nameplate battery voltage, and that for multi-voltage products, the highest voltage is used. This proposed change would also be reflected in the proposed appendix Y1.

DOE is not aware of any multi-voltage battery chargers that are currently incorrectly certified. Updating the language in appendix Y would further avoid the potential for future confusion with regard to multi-voltage products. DOE requests comments on its proposal to amend Table 3.3.3 of appendix Y, and the corresponding language in the proposed appendix Y1, with the term ''highest nameplate battery voltage.''

3. Cross-Reference Corrections

Section 3.3.4 of appendix Y, ''Preparing the Battery for Charge Testing,'' specifies that the test battery shall be fully discharged for the duration specified in section 3.3.2 of appendix Y, or longer using a battery analyzer. However, DOE's intention was to instruct the user to discharge a test battery not for a set duration but until it reaches the end of discharge voltages listed in Table 3.3.2 of appendix Y. While a battery would be fully discharged with either set of instructions, current instructions would lead to a battery preparation step that is significantly longer. Additionally, there are several instances in appendix Y of which DOE used generic terms such as ''specified above'' or ''noted below''. While these generic reference terms are referring to the test procedure sections immediately preceding or following, identifying the specific referenced sections would improve the test procedure clarity. Therefore, DOE proposes to further clarify these cross-references in appendix Y, and incorporate this same change into proposed appendix Y1, to reduce test burden and avoid potential confusion. To further streamline the readability of appendix Y, DOE also proposes to move the end-of-discharge Table 3.3.2 so that it immediately follows the battery discharge energy test at section 3.3.8.

4. Sub-Section Corrections

Sections 3.3.11(b) and 3.3.12(b) of appendix Y provide instructions for testing the standby and off mode power consumption, respectively, of a battery charger with integral batteries. Section 2.6 of appendix Y describes an integral battery as a battery that is contained within the consumer product and is not removed from the consumer product for charging purposes. Sections 3.3.11(c), 3.3.11(d), 3.3.12(c), and 3.3.12(d) provide instructions applicable to products containing ''integrated power conversion and charging circuitry,'' which is intended to refer to products with integral batteries for which the circuitry is integrated within the battery charger, in contrast to being integrated within a cradle or an external adapter (as referred to in sections 3.3.11(b) and 3.3.12(b)). To improve the readability of the test procedure and avoid potential confusion as to the applicability of sections 3.3.11(c), 3.3.11(d), 3.3.12(c), and 3.3.12(d) in relation to sections 3.3.11(b) and 3.3.12(b), DOE proposes to reorder these sections of appendix Y such that section 3.3.11(b) would include only the statement that standby mode may also apply to products with integral batteries. The remainder of current section 3.3.11(b), as well as 3.3.11(c) and 3.3.11(d) would be reorganized as subsections (1) through (3) subordinate to section 3.3.11(b), to provide clearer indication that these three subsections refer to three different types of products with integral batteries. The same structure would be applied in section 3.3.12(b) for off mode. This proposed change would also be mirrored in the proposed appendix Y1.

D. Test Procedure Costs and Harmonization

1. Test Procedure Costs and Impact

In this NOPR, DOE proposes to incorporate some editorial changes in the existing test procedure for battery chargers at appendix Y to: (1) Update battery chemistry table to improve representativeness; (2) explicitly refer manufacturers to the test procedure waiver provisions when battery energy cannot be measured; and (3) provide more descriptive designation of the different battery energy and battery voltage values used for determining product class and calculating unit energy consumption. The proposed changes to appendix Y also include minor cross reference corrections and test procedure organization improvements. DOE is also proposing to terminate the existing Dyson test procedure waiver.

Newly proposed appendix Y1 would include all the changes previously listed, as well as: (1) Remove the ''wet environment'' designation and expand the 5 Wh battery energy limit to 100 Wh for fixed-location wireless chargers; (2) add definitions for ''fixed-location'' and ''open-placement'' wireless chargers; (3) introduce a new no-battery mode only test for open-placement wireless chargers; (4) amend the wall adapter selection for chargers that do not come with one; and (5) establish an approach that relies on separate metrics for active mode, standby mode, and off mode, in place of the UEC calculation in appendix Y. DOE has tentatively determined that these proposed amendments would not be unduly burdensome for manufacturers to conduct.

Appendix Y Test Procedure Amendments

The proposals specific to appendix Y would not alter the scope of applicability or the measured energy use of basic models currently certified to DOE. DOE does not anticipate that the proposals specific to appendix Y would cause any manufacturer to re-test any currently covered battery chargers or incur any additional testing costs.

Appendix Y1 Test Procedure Proposal

All the proposals specific to appendix Y1 would not be required to be used until DOE amends energy conservation standards for battery chargers in a future rulemaking and requires battery charger manufacturers to rate their products using appendix Y1. DOE is aware that certain manufacturers may be voluntarily reporting under state programs the energy efficiency as

determined under appendix Y of a limited number of fixed-location wireless chargers that are not currently subject to the DOE test procedure. DOE is not aware of such representations being included in manufacturer literature. Given that such reporting appears limited to state programs and manufacturers are not otherwise making representations of the energy efficiency or energy use of such products, DOE is unable to estimate the extent of such reporting. If the proposed amendments were made final, beginning 180 days following the final rule, were manufacturers to continue such voluntary reporting, any such representations would have to be based on the DOE test procedure as amended. To the extent there is a limited number of models for which manufacturers are making voluntary representations, such models may require re-testing were the proposed amendments finalized. Further details regarding the cost impact of the proposed amendments for when battery charger manufacturers are required to test their products using appendix Y1 are presented in the following paragraphs.

Appendix Y1—Wireless Chargers

The proposal to remove the ''wet environment'' designation and increase the battery energy limit will increase the scope of the existing battery charger test procedure to include wireless battery chargers other than those with inductive connection and designed for use in a wet environment. DOE has estimated the testing cost associated to test these fixed-location and open-placement wireless chargers in accordance with the proposed test procedures, if finalized. DOE estimates that it would take approximately 48 hours to conduct the test for one fixed-location wireless charger unit and 2.2 hours to conduct the no-battery mode only test for one open-placement wireless charger unit. These tests do not require the wireless charger unit being tested to be constantly monitored by a lab technician. DOE estimates that a lab technician would spend approximately 4.2 hours to test a fixed-location wireless charger unit and one hour to test an open-placement wireless charger unit.

Based on data from the Bureau of Labor Statistics' (''BLS's'') Occupational Employment and Wage Statistics, the mean hourly wage for electrical and electronic engineering technologist and technician is $32.84.[15] DOE also used data from BLS's Employer Costs for Employee Compensation to estimate the percent that wages comprise the total compensation for an employee. DOE estimates that wages make up 70.4 percent of the total compensation for private industry employees.[16] Therefore, DOE estimates that the total hourly compensation (including all fringe benefits) of a technician performing these tests is approximately $46.65.[17] Using these labor rates and time estimates, DOE estimates that it would cost wireless charger manufacturers approximately $196 to conduct a single test on a fixed-location wireless charger unit and approximately $47 to conduct a single test on an open-placement wireless charger unit.[18]

DOE requires that at least two units to be tested for each basic model prior to certifying a rating with DOE. Therefore, DOE estimates that manufacturers would incur testing costs of approximately $392 per fixed-location wireless charger basic model and approximately $94 per open-placement wireless charger basic model, when testing these wireless chargers. However, this proposal to remove the ''wet environment'' designation and increase the battery energy limit for wireless battery chargers, if finalized, would only be applicable for appendix Y1, and manufacturers would not be required to use appendix Y1 for wireless battery chargers that are not currently covered by appendix Y until DOE amends the energy conservation standards for battery chargers as part of a future rulemaking. DOE will further address the expected costs to industry if and when DOE establishes energy conservation standards for wireless chargers.

Appendix Y1—Wall Adapter Selection

The proposed update to require the use of a minimally compliant power supply selection criteria for battery chargers that are not sold with one ensures that these products are tested in a manner that is representative of actual use in accordance with EPCA. This proposal would not create additional cost or require additional time as compared to the current test procedure, as these battery chargers currently require a low voltage input; this proposal would only specify how the low voltage input must be provided and would not result in additional costs. DOE also anticipates this proposal to impact the measured energy consumption of battery chargers, but only for scenarios where the manufacturer previously certified the product using an EPS that is either not minimally compliant or used a bench power supply and failed to include its energy consumption as part of the battery charger system.

However, the proposed test procedure would only apply to the proposed new appendix Y1, meaning it would not be required for testing until DOE amends energy conservation standards and requires manufacturers to use appendix Y1. Based on DOE's market research, DOE estimates that most battery charger models do not remain on the market for more than four years because of frequent battery charger new model updates and retirement of old models. Therefore, DOE anticipates that most battery chargers required to use appendix Y1 will likely be introduced into the market after this test procedure amendment is finalized.[19] Because of this, DOE does not anticipate that battery charger manufacturers would have to re-test battery charger models that were introduced into the market prior to DOE finalizing this proposed test procedure. Should use of appendix Y1 be required due to amended energy conservation standards, battery chargers introduced prior to this test procedure's finalization would likely no longer be on the market. Battery charger manufacturers using the proposed selection criteria of a power supply would not incur any additional testing costs compared to the current battery charger testing costs. Therefore, battery chargers introduced into the market after DOE finalizes this proposed test procedure, is finalized, have the option to test those models using the proposed selection criteria of a power supply. Any manufacturer seeking to avoid any risk of retesting costs can choose to comply with the propose selection criteria of a power supply earlier. If a manufacturer chooses this option, they would incur the same testing costs when using the proposed selection criteria as they currently incur

[15] DOE used the mean hourly wage of the ''17–3023 Electrical and Electronic Engineering Technologists and Technicians'' from the most recent BLS Occupational Employment and Wage Statistics (May 2020) to estimate the hourly wage rate of a technician assumed to perform this testing. *See www.bls.gov/oes/current/oes173023.htm.* Last accessed on July 22, 2021.

[16] DOE used the March 2021 ''Employer Costs for Employee Compensation'' to estimate that for ''Private Industry Workers,'' ''Wages and Salaries'' are 70.4 percent of the total employee compensation. *See www.bls.gov/news.release/archives/ecec_06172021.pdf.* Last accessed on July 22, 2021.

[17] $32.84 ÷ 0.704 = $46.65.

[18] Fixed-location wireless charger: $46.65 × 4.2 hours = $195.93 (rounded to $196)

Open-placement wireless charger: $46.65 × 1 hour = $46.65 (rounded to $47).

[19] For this cost analysis DOE estimates that the battery charger test procedures will be finalized in 2022. Similarly, amended energy conservation standards, if justified, would be finalized in 2024 with an estimated 2026 compliance date.

and would not have to retest those battery chargers after appendix Y1 is required to comply with future energy conservation standards. DOE will examine the potential retesting costs of manufacturers continuing to test battery charger models that do not use the proposed selection criteria of a power supply in the future energy conservation standard.

Appendix Y1—Modes of Operation

DOE has also estimated the testing costs associated with battery charger testing under the proposed appendix Y1. Removing usage profiles and switching the UEC metric to an active, standby, and off modes separate multi-metric system in appendix Y1 will cause battery charger manufacturers to re-test their products when DOE amends energy conservation standards requiring manufacturers to test their products using appendix Y1. Under appendix Y1, if the manufacturer has (i) already tested and certified the battery charger basic model under the current appendix Y and (ii) still has the original testing data from the appendix Y testing available for standby power calculation, those battery charger basic models would only need to be retested with the active charge energy and discharge tests with additional standby power data analysis. For these battery charger basic models, DOE estimates an extra labor time of 1.5 hours would be needed to set up and analyze the test results.[20] Using the previously calculated fully-burdened labor rate of $46.65 per hour for an employee conducting these tests, DOE estimates manufacturers would incur approximately $70 to analyze the test results for these battery chargers. DOE requires at least two units be tested per basic model. Therefore, DOE estimates manufacturers would incur approximately $140 per battery charger basic model for these battery chargers.

Basic models that will either be newly covered under the expanded scope or that are missing the original test data from their appendix Y testing would need to be fully tested under appendix Y1. DOE estimates a total testing time ranging from 43 to 62 hours would be needed, with 4.2 hours of technician intervention required to test each additional battery charger unit. Using the previously calculated fully-burdened labor rate of $46.65 for an electrical technician to conduct these tests, manufacturers would incur approximately $196 per unit. DOE requires at least two units be tested per basic model. Therefore, DOE estimates manufacturers would incur approximately $392 per battery charger basic model to conduct the complete testing under appendix Y1.

All Other Test Procedure Amendments

The remainder of the proposal would add additional detail and instruction to improve the readability of the test procedure. The cross-reference corrections, sub-section corrections and reorganizations also help improve the test procedure readability and clarity without modifying or adding any steps to the test method. As such, these proposals, if finalized, will not result in increased test burden.

DOE requests comment on its understanding of the impact of the proposals presented in this document in relation to test burden, costs, and impact on the measured unit energy consumption of battery charger products. Specifically, DOE requests comment on the per basic model test costs associated with testing battery chargers and wireless chargers to the proposed appendix Y1. DOE also requests comment on DOE's initial assumption that manufacturers would not incur any additional testing burden associated with the proposed changes to appendix Y and the proposed changes regarding the power supply selection criteria in appendix Y1.

2. Harmonization With Industry Standards

DOE's established practice is to adopt relevant industry standards as DOE test procedures unless such methodology would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use (as specified in EPCA) or estimated operating costs of that product during a representative average use cycle or period of use. Section 8(c) of appendix A, 10 CFR part 430 subpart C. But where the industry standard does not meet EPCA statutory criteria for test procedures, DOE will make modifications to the DOE test procedure via these standards through the rulemaking process.

The test procedures for battery chargers at 10 CFR part 430, subpart B, appendix Y currently incorporates by reference certain provisions of IEC 62301 (testing equipment and measuring device specifications), IEC 62040 (specifies testing conditions and measurement specifications for uninterruptible power supplies), and ANSI/NEMA WD 6–2016 for uninterruptible power supply plug standards. DOE is proposing to maintain the incorporation of these standards and incorporate these standards in the new appendix Y1.

Different organizations either have developed or are in the process of developing their own test procedures for measuring the wireless charging efficiency of interoperable chargers, including the ANSI/CTA 2042.3, WPC protocol, and the IEC TC 100 TA 15 test method. The WPC protocol provides a ranking of various wireless battery chargers by comparing their relative power transfer efficiencies when a reference receiver is placed on the most optimum charging location. The WPC protocol, however, does not provide an absolute value for a wireless charger's efficiency, and because it currently relies on a small number of reference receivers to represent the entire breadth of real-world loading conditions it may not be representative of actual use. Similarly, ANSI/CTA 2042.3 and IEC TC 100 TA 15 requires receivers to be placed at precise optimal charging locations.

DOE tentatively finds that these approaches are likely to lead to significant repeatability issues. Even a slight variation in alignment between the wireless transmitter and receiver can result in significantly different efficiency measurements. These approaches also require that the receiver be placed at the highest signal strength area, which may not be representative of real-world usage. Furthermore, IEC's test method utilizes 5 reference receivers with 4 different load ratings, requiring a total of 20 tests for a single wireless charger; this creates a total testing time considerably longer than the current DOE test procedure. Due to the potential issues with repeatability, non-representativeness of actual use, and test burden, DOE is not proposing to incorporate the aforementioned industry standards in its test procedure for battery chargers.

DOE recognizes that adopting industry standards with modifications may increase overall testing costs if the modifications needed to meet the conditions under EPCA require different testing equipment or facilities. DOE seeks comment on the degree to which the DOE test procedure should consider and be harmonized further with the most recent relevant industry standards for battery chargers, and whether there are any changes to the Federal test method that would provide additional benefits to the public. DOE also requests comment on the benefits and burdens of, or any other comments regarding adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification.

[20] The total additional testing time for conducting the extra active charge energy charge and discharge test can range from 8 hours to 21 hours. However, only 1.5 hours of the total extra testing time would require technician intervention.

E. Compliance Date and Waivers

EPCA prescribes that, if DOE amends a test procedure, all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with that amended test procedure, beginning 180 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2)) To the extent the modified test procedure proposed in this document is required only for the evaluation and issuance of updated efficiency standards, use of the modified test procedure, if finalized, would not be required until the implementation date of updated standards. *See* 10 CFR part 430, subpart C, appendix A, section 8(d). Manufacturers are still required to continue testing their battery charger products following the amended appendix Y, if made final, during the meantime. If the proposed appendix Y1 amendments are made final, manufacturers can voluntarily test and report any such representations based on the appendix Y1 test procedure beginning 180 days following the test procedure final rule.

If DOE were to amend the test procedure, EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. *Id.*

Upon the compliance date of test procedure provisions of an amended test procedure that DOE issues, any waivers that had been previously issued and are in effect that pertain to issues addressed by such provisions are terminated. 10 CFR 430.27(h)(2). Recipients of any such waivers would be required to test the products subject to the waiver according to the amended test procedure as of the compliance date of the amended test procedure.

As discussed previously, DOE is not proposing to amend the test procedure to address the waiver and waiver extension granted to Dyson (Case No. BC–001 and Case No. 2018–012), as the products for which the waiver and waiver extension were required are no longer available, making the waiver and waiver extension no longer necessary. If this proposed rulemaking were made final, the final rule would terminate the waiver and waiver extension consistent with 10 CFR 430.27(h)(3) and 10 CFR 430.27(l).

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (''OMB'') has determined that this test procedure rulemaking does not constitute ''significant regulatory actions'' under section 3(f) of Executive Order (''E.O.'') 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive order by the Office of Information and Regulatory Affairs (''OIRA'') in OMB.

B. Review Under the Regulatory Flexibility Act

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

The following sections detail DOE's IRFA for this test procedure rulemaking.

1. Description of Reasons Why Action Is Being Considered

DOE is proposing to amend the existing DOE test procedures for battery chargers. DOE shall amend test procedures with respect to any covered product, if the Secretary determines that amended test procedures would more accurately produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A))

2. Objective of, and Legal Basis for, Rule

DOE is required to review existing DOE test procedures for all covered products every 7 years. (42 U.S.C. 6293(b)(1)(A))

3. Description and Estimate of Small Entities Regulated

For manufacturers of battery chargers, the Small Business Administration (''SBA'') has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. The size standards are listed by North American Industry Classification System (''NAICS'') code and industry description and are available at: *www.sba.gov/document/support—table-size-standards*. Battery charger manufacturing is classified under NAICS 335999, ''All Other Miscellaneous Electrical Equipment and Component Manufacturing.'' The SBA sets a threshold of 500 employees or fewer for an entity to be considered as a small business in this category.

DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the proposed rule. 13 CFR part 121. DOE reviewed the test procedures proposed in this NOPR under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

Wired Battery Chargers

DOE used data from DOE's publicly available Compliance Certification Database (''CCD'') [21] and California Energy Commission's Modernized Appliance Efficiency Database System (''MAEDbS'').[22] DOE identified over 2,000 companies that submitted entries for Federally regulated battery chargers.[23] DOE screened out companies that do not meet the SBA definition of a ''small entity'' or are foreign-owned and operated. DOE identified approximately 294 potential small businesses that currently certify battery chargers or applications using battery chargers to DOE's CCD. These 294 potential small businesses manufacture approximately 3,456 unique basic models of battery chargers or applications using battery chargers. The number of battery charger models made by each potential small business ranges from 1 model to 263 models,

[21] *See www.regulations.doe.gov/certification-data*. Last accessed on August 11, 2021.

[22] *See cacertappliances.energy.ca.gov/Pages/ApplianceSearch.aspx*. Last accessed on August 11, 2021.

[23] These entities consist of both battery charger manufacturers and manufacturers of devices that use a battery charger (*e.g.,* toys or small electronic devices that have a battery charger embedded in the product).

with an average of approximately 12 unique basic models.

Wireless Battery Chargers

DOE used publicly available data from the Wireless Power Consortium to estimate the number of wireless battery charger manufacturers and number of wireless battery charger models.[24] The majority of these companies are foreign owned and operated, as most wireless battery charger manufacturing is done abroad. DOE identified 13 potential domestic small businesses that manufacture approximately 327 wireless battery charger models. The number of wireless battery charger models made by each potential small business ranges from 1 model to 183 models, with an average of approximately 25 models.

4. Description and Estimate of Compliance Requirements

Wired Battery Chargers

DOE assumes that each small business's regulatory costs would depend on the number of unique basic battery charger models and applications using a battery charger that small business manufactures. It is likely that some unique applications using a battery charger may use the same battery charging component as another unique application listed in DOE's CCD, meaning the cost of testing would be double counted in this analysis. However, DOE has conservatively estimated the cost associated with re-testing each unique application using a battery charger. Additionally, while some battery charger manufacturers could partially rely on previous testing conducted under appendix Y for their battery chargers (as described in section III.D.1), DOE conservatively estimates each small business would need to conduct the entire test under appendix Y1 for each unique basic model they manufacture.

As discussed in section III.D.1, battery chargers would only need to be tested under appendix Y1 when DOE sets future energy conservation standards for battery chargers that require appendix Y1. DOE estimates that the total time for conducting testing under appendix Y1 would range from 43 to 62 hours, and that it would require approximately 4.2 hours of technician intervention to test each additional battery charger unit. Using the previously calculated fully-burdened labor rate of $46.65 for an electrical technician to conduct these tests,[25] manufacturers would incur approximately $196 of testing costs per unit. DOE requires at least two units be tested per basic model. Therefore, DOE estimates manufacturers would incur approximately $392 of testing costs per battery charger basic model to conduct the complete testing under appendix Y1.

DOE estimates that all small businesses combined would incur approximately $1.35 million [26] if these small businesses re-tested all their unique basic models of battery chargers or applications using battery chargers under appendix Y1. An The potential range of testing costs for an individual small business would be between $392 (to re-test one basic model to) and approximately $103,000 (to re-test 263 basic models,), with an average cost of approximately $4,704 to re-test 12 basic models (the average number of models) under appendix Y1.

DOE was able to find annual revenue estimates for 289 of the 294 small businesses DOE identified. DOE was not able to identify any reliable annual revenue estimates for the remaining five small businesses. Based on the number of unique basic models of battery chargers or applications using battery chargers each small business manufactures, DOE estimates that the $392 per model potential re-testing cost would represent less than 2 percent of annual revenue for 286 of the 289 small businesses. DOE estimates that three small businesses could incur re-testing costs that would exceed 2.0 percent of their annual revenue.[27]

Wireless Battery Chargers

DOE assumed that each small business's regulatory costs would depend on the number of wireless battery charger models that small business manufactures. As discussed in section III.D.1, wireless battery chargers would only need to be tested under appendix Y1 when DOE sets future energy conservation standards for battery chargers. DOE estimates that a total testing time for conducting testing under appendix Y1 for wireless battery chargers would take approximately 48 hours to conduct the test for one fixed-location wireless charger unit, and 2.2 hours to conduct the no-battery mode only test for one open-placement wireless charger unit. These tests do not require the wireless charger unit being tested to be constantly monitored by a lab technician. DOE estimates that a lab technician would spend approximately 4.2 hours to test a fixed-location wireless charger unit and one hour to test an open-placement wireless charger unit.

The Wireless Power Consortium database does not identify if the wireless charger is a fixed-location or an open-placement wireless charger. Based on DOE's market research, the vast majority of wireless chargers are open-placement wireless chargers. Therefore, DOE is estimating the costs to small businesses using the estimated per unit open-placement wireless charger testing costs.

Using the previously calculated fully-burdened labor rate of $46.65 for an electrical technician to conduct these tests, manufacturers would incur approximately $47 per unit. DOE requires at least two units be tested per basic model. Therefore, DOE estimates manufacturers would incur approximately $94 to conduct the no-battery mode test for one open-placement wireless charger unit under appendix Y1.

DOE estimates that all small businesses combined would incur approximately $31,000 to test all their wireless chargers under appendix Y1.[28] The potential range of testing costs for an individual small business would be between $94 (to test one wireless charger model) to approximately $17,200 (to test 183 wireless charger models,), with an average cost of approximately $2,350 to test 25 wireless charger models (the average number of models) under appendix Y1.

DOE was able to find annual revenue estimates for 12 of the 13 wireless

[24] *See www.wirelesspowerconsortium.com/products.* Last accessed on September 8, 2021.

[25] Based on data from the BLS's Occupational Employment and Wage Statistics, the mean hourly wage for an electrical and electronic engineering technologist and technician is $32.84 (*www.bls.gov/oes/current/oes173023.htm*). Additionally, DOE used data from BLS's Employer Costs for Employee Compensation to estimate the percent that wages comprise the total compensation for an employee. DOE estimates that wages make up 70.4 percent of the total compensation for private industry employees (*www.bls.gov/news.release/archives/ecec_06172021.pdf*). $32.84 ÷ 0.704 = $46.65.

[26] $392 (testing cost per basic model) × 3,456 (number of unique basic models manufactured by all small businesses) = $1,354,752.

[27] One small business manufactures eight unique basic models, which if all basic models were re-tested could cost up to $3,136. This small business has an estimated annual revenue of $52,000, meaning testing costs could comprise up to 6.0 percent of their annual revenue. Another small business manufactures six basic models, which if all basic models were re-tested could cost up to $2,352. This small business has an estimated annual revenue of $94,000, meaning testing costs could comprise up to 2.5 percent of their annual revenue. The remaining small business manufactures five basic models, which if all basic models were re-tested could cost up to $1,960. This small business has an estimated annual revenue of $68,400, meaning testing costs could comprise up to 2.9 percent of their annual revenue.

[28] $94 (testing cost per model) × 327 (number of wireless charger models manufactured by all small businesses) = $30,738.

charger small businesses DOE identified. DOE was not able to identify any reliable annual revenue estimates for the remaining wireless charger small businesses DOE identified. Based on the number of wireless charger models each small business manufactures, DOE estimates that the $94 per model testing cost would represent less than 2 percent of annual revenue for all 12 of the wireless charger small businesses that DOE found annual revenue estimates for.

DOE requests comment on the number of small businesses DOE identified; the number of battery charger models assumed these small business manufacture; and the per model re-testing or testing costs and total re-testing or testing costs DOE estimated small businesses may incur to re-test wired battery chargers or to test wireless chargers to appendix Y1. DOE also requests comment on any other potential costs small businesses may incur due to the proposed amended test procedures, if finalized.

5. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being considered today.

6. Significant Alternatives to the Rule

As previously stated in this section, DOE is required to review existing DOE test procedures for all covered products every 7 years. Additionally, DOE shall amend test procedures with respect to any covered product, if the Secretary determines that amended test procedures would more accurately produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A)) DOE has initially determined that appendix Y1 would more accurately produce test results to measure the energy efficiency of battery chargers.

While DOE recognizes that requiring that battery charger manufacturers use appendix Y1 to comply with future energy conservation standards would cause manufacturers to re-test some battery charger models or test some wireless chargers, for most battery charger manufacturers it will be inexpensive to re-test or test these models. Additionally, some manufacturers might be able to partially rely on previous test data used manufacturers tested their wired battery chargers under appendix Y.

DOE has tentatively determined that there are no better alternatives than the proposed amended test procedures in terms of meeting the agency's objectives to more accurately measure energy efficiency and reducing burden on manufacturers. Therefore, DOE is proposing in this NOPR to amend the existing DOE test procedure for battery chargers.

Additional compliance flexibilities may be available through other means. EPCA provides that a manufacturer whose annual gross revenue from all of its operations does not exceed $8 million may apply for an exemption from all or part of an energy conservation standard for a period not longer than 24 months after the effective date of a final rule establishing the standard. (42 U.S.C. 6295(t)) Additionally, section 504 of the Department of Energy Organization Act, 42 U.S.C. 7194, provides authority for the Secretary to adjust a rule issued under EPCA in order to prevent ''special hardship, inequity, or unfair distribution of burdens'' that may be imposed on that manufacturer as a result of such rule. Manufacturers should refer to 10 CFR part 430, subpart E, and part 1003 for additional details.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of battery chargers 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, including battery chargers. (*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.

D. Review Under the National Environmental Policy Act of 1969

In this proposed rule, DOE proposes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for battery chargers. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on 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. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), 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. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 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, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *https://www.energy.gov/gc/office-general-counsel*. DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule 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

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

J. Review Under 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 agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (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 proposed rule 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

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

The proposed regulatory action to amend the test procedure for measuring the energy efficiency of battery chargers is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the

commercial or industry standards on competition. DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review). DOE will consult with both the Attorney General and the Chairman of the FTC concerning the impact of this test procedure on competition, prior to prescribing a final rule.

M. Description of Materials Incorporated by Reference

DOE proposes to maintain previously approved incorporation by reference standards in appendix Y. Additionally, DOE proposes to incorporate by reference the following industry standards into the new appendix Y1:

1. IEC 62301, ''Household electrical appliances—Measurement of standby power, (Edition 2.0, 2011–01)'' into the new appendix Y1. Appendix Y1 references various sections from IEC 62301 for test conditions, standby power measurement, and measurement uncertainty determination.

2. EC 62040–3, ''Uninterruptible power systems (UPS)—Part 3: Methods of specifying the performance and test requirements,'' Edition 2.0, 2011–03. Appendix Y1 references various sections from IEC 62040 for test requirements of uninterruptible power supplies.

3. ANSI/NEMA WD 6–2016, ''Wiring Devices—Dimensional Specifications,'' ANSI approved February 11, 2016. Appendix Y1 references the input plug requirements in Figure 1–15 and Figure 5–15 of ANSI/NEMA WD 6–2016.

Copies of IEC 62301 and IEC 62040–3 can be obtained from the International Electrotechnical Commission at 446 Main Street, Sixteenth Floor, Worcester, MA 01608, or by going to *www.iec.ch*.

Copies of ANSI/NEMA WD 6–2016 can be obtained from American National Standards Institute, 25 W. 43rd Street, 4th Floor, New York, NY 10036, 212–642–4900, or by going to *www.ansi.org*.

V. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.[29]

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential

[29] DOE has historically provided a 75-day comment period for test procedure NOPRs pursuant to the North American Free Trade Agreement, U.S.-Canada-Mexico (''NAFTA''), Dec. 17, 1992, 32 I.L.M. 289 (1993); the North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057 (1993) (codified as amended at 10 U.S.C.A. 2576) (1993) (''NAFTA Implementation Act''); and Executive Order 12889, ''Implementation of the North American Free Trade Agreement,'' 58 FR 69681 (Dec. 30, 1993). However, on July 1, 2020, the Agreement between the United States of America, the United Mexican States, and the United Canadian States (''USMCA''), Nov. 30, 2018, 134 Stat. 11 (*i.e.,* the successor to NAFTA), went into effect, and Congress's action in replacing NAFTA through the USMCA Implementation Act, 19 U.S.C. 4501 *et seq.* (2020), implies the repeal of E.O. 12889 and its 75-day comment period requirement for technical regulations. Thus, the controlling laws are EPCA and the USMCA Implementation Act. Consistent with EPCA's public comment period requirements for consumer products, the USMCA only requires a minimum comment period of 60 days. Consequently, DOE now provides a 60-day public comment period for test procedure NOPRs.

status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE seeks comment on its proposal to define fixed-location wireless chargers in appendix Y1 and whether this definition accurately captures all the types of wireless chargers with locating features that are on the market; its proposal to remove the ''wet environment'' designation for wireless chargers; its proposal to revise the scope of Product Class 1 to include all fixed-location wireless chargers in appendix Y1; and its proposal to increase the rated battery energy limit for fixed-location wireless chargers from ≤ 5 Wh to < 100 Wh in appendix Y1 to accommodate the range of inductive wireless battery chargers on the market and potential future product designs that may have larger battery energies. DOE also requests information on which types of inductive wireless battery chargers would be subject to DOE regulations due to the proposed change in scope, including any corresponding usage data, if available.

(2) DOE seeks comment on its proposal to define open-placement wireless chargers in appendix Y1 and whether this definition accurately captures all the types of wireless chargers without physical locating features that are on the market. DOE also requests comment on its proposal to require testing of the no-battery mode power consumption of these open-placement wireless chargers.

(3) DOE requests comment on the proposal to specify the priority of wall adapter selection in appendix Y1. DOE also requests comment on the proposal in appendix Y1 to replace the 5 V DC input requirement for those chargers that do not ship with an adapter, and one is not recommended, with the requirement that these chargers be tested with any compatible and commercially-available EPS that is minimally compliant with DOE's energy conservation standards for EPSs. DOE also requests comments on whether these proposals would result in increased test burden.

(4) DOE requests comment on the proposal to update the term ''Lithium Polymer'' to ''Lithium-ion Polymer''. DOE also requests comment on the proposal to rename the term ''Nanophosphate Lithium'' to the non-proprietary term ''Lithium Iron Phosphate''.

(5) DOE requests feedback on the proposal to remove the specification of usage profiles and the associated UEC calculation in appendix Y1, to be replaced with an approach that relies on separate metrics for active mode, standby mode, and off mode. For further consideration of the existing approach, DOE requests, for all applications in each product class, data such as the percentage of time spent in each mode of operation along with data sources for consideration in updating the usage profiles for battery chargers.

(6) DOE requests comment on the proposed approach to determining active mode energy, as well as the suggested alternate method. In particular, under the alternate method, DOE requests comment on how to define the drop in power associated with the transition from active charging to maintenance mode, such that this method would provide repeatable and reproducible results.

(7) DOE requests feedback on its proposed definition of standby mode in newly proposed appendix Y1 to capture both no-battery mode as well as maintenance mode. DOE also requests feedback on its proposal to define standby power, or Psb, to mean the summation of the no-battery mode (Pnb) and maintenance mode (Pm).

(8) DOE requests feedback on its proposed approach to rely on Ea, Psb and Poff instead of E24, Pnb and Poff to determine the energy performance of a battery charger, and whether a different approach exists that may provide test results that are more representative of the energy performance and energy use of battery chargers. DOE also requests comment on the described alternate approach to capturing maintenance mode power and whether such an approach would be representative of actual use for all battery chargers.

(9) DOE requests stakeholder feedback on whether such flow charts will assist manufacturers through the testing and certification process. DOE also requests comment on whether the flow charts would benefit from the inclusion of additional information.

(10) DOE requests comments on whether manufacturers and test laboratories are currently using ''measured'' battery energy or ''rated''/''represented'' battery energy values to determine battery charger product class. DOE requests comment on its proposal to update the nomenclature in appendix Y to refer to ''Measured Ebatt'' and ''Represented Ebatt'' to better distinguish between the two values.

(11) DOE is not aware of any multi-voltage battery chargers that are currently incorrectly certified. Updating the language in appendix Y would further avoid the potential for future confusion with regard to multi-voltage products. DOE requests comments on its proposal to amend Table 3.3.3 of appendix Y, and the corresponding language in the proposed appendix Y1, with the term ''highest nameplate battery voltage.''

(12) DOE requests comment on its understanding of the impact of the proposals presented in this document in relation to test burden, costs, and impact on the measured unit energy consumption of battery charger products. Specifically, DOE requests comment on the per basic model test costs associated with testing battery chargers and wireless chargers to the proposed appendix Y1. DOE also requests comment on DOE's initial assumption that manufacturers would not incur any additional testing burden associated with the proposed changes to appendix Y and the proposed changes regarding the power supply selection criteria in appendix Y1.

(13) DOE requests comment on the number of small businesses DOE identified; the number of battery charger models assumed these small business manufacture; and the per model re-testing or testing costs and total re-testing or testing costs DOE estimated small businesses may incur to re-test wired battery chargers or to test wireless chargers to appendix Y1. DOE also requests comment on any other potential costs small businesses may incur due to the proposed amended test procedures, if finalized.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports,

Incorporation by reference, Intergovernmental relations, Small businesses.

Signing Authority

This document of the Department of Energy was signed on November 3, 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**.

Signed in Washington, DC, on November 3, 2021.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE is proposing to amend parts 429 and 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291—6317; 28 U.S.C. 2461 note.

■ 2. Section 429.39 is amended by revising the introductory text of paragraphs (a) and paragraphs (a)(1) through (2)(iii) to read as follows:

§ 429.39 Battery chargers.

(a) *Determination of represented value.* Manufacturers must determine represented values, which include certified ratings, for each basic model of battery charger in accordance with the following sampling provisions.

(1) *Represented values include.* The unit energy consumption (UEC) in kilowatt-hours per year (kWh/yr) (if applicable), battery discharge energy (E_{batt}) in watt hours (Wh), 24-hour energy consumption (E_{24}) in watt hours (Wh) (if applicable), active mode energy consumption (E_a) in watt hours (Wh) (if applicable), maintenance mode power (P_m) in watts (W), no-battery mode power (P_{nb}) in watts (W) (if applicable), standby mode power (P_{sb}) in watts (W), off mode power (P_{off}) in watts (W), and duration of the charge and maintenance mode test (t_{cd}) in hours (hrs) (if applicable) for all battery chargers other than uninterruptible power supplies (UPSs); and average load adjusted efficiency (Eff_{avg}) for UPSs.

(2) *Units to be tested.* (i) The general requirements of § 429.11 are applicable to all battery chargers; and

(ii) For each basic model of battery chargers other than UPSs, a sample of sufficient size must be randomly selected and tested to ensure that the represented value of UEC or E_a is greater than or equal to the higher of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the UEC or E_a of the *i*th sample; or,

(B) The upper 97.5-percent confidence limit (UCL) of the true mean divided by 1.05, where:

$$UCL = \bar{x} + t_{0.975}\left(\frac{s}{\sqrt{n}}\right)$$

And, $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.975}$ is the t-statistic for a 97.5-percent one-tailed confidence interval with $n-1$ degrees of freedom (from appendix A of this subpart).

(iii) For each basic model of battery chargers other than UPSs, using the sample from paragraph (a)(2)(ii) of this section, calculate the represented values of each metric (*i.e.,* maintenance mode power (P_m), no-battery mode power (P_{nb}), standby power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), and duration of the charge and maintenance mode test (t_{cd})), where the represented value of the metric is:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean, n is the number of samples, and x_i is the measured value of the *i*th sample for the metric.

* * * * *

■ 3. Section 429.134 is amended by adding paragraph (s) to read as follows:

§ 429.134 Product specific enforcement provisions.

* * * * *

(s) *Battery chargers—verification of reported represented value obtained from testing in accordance with appendix Y1 of 10 CFR part 430 subpart B when using an external power supply.* If the battery charger basic model requires the use of an external power supply (''EPS''), and the manufacturer reported EPS is no longer available on the market, then DOE will test the battery charger with any compatible EPS that is minimally compliant with DOE's energy conservation standards for EPSs as prescribed in § 430.32(w) of this subchapter and that meets the battery charger input power criteria.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 4. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.3 [Amended]

■ 5. Section 430.3 is amended by:
■ a. Removing the words ''IBR approved for Appendix Y'', in paragraph (e)(22), and adding in its place the words ''IBR approved for appendices Y and Y1'';
■ b. Removing the words ''appendix Y to subpart B'', in paragraph (o)(3), and adding in its place the words ''appendices Y and Y1 to subpart B''; and
■ c. Removing the words ''Y, Z,'', in paragraph (o)(6), and adding in its place the words ''Y, Y1, Z,''.
■ 6. Section 430.23 is amended by revising paragraph (aa) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(aa) *Battery Chargers.* (1) For battery chargers subject to compliance with the relevant standard at § 430.32 as that standard appeared in the January 1, 2021 edition of 10 CFR parts 200–499:

(i) Measure the maintenance mode power, standby power, off mode power, battery discharge energy, 24-hour energy consumption and measured duration of the charge and maintenance mode test for a battery charger other than uninterruptible power supplies in accordance with appendix Y to this subpart,

(ii) Calculate the unit energy consumption of a battery charger other than uninterruptible power supplies in accordance with appendix Y to this subpart,

(iii) Calculate the average load adjusted efficiency of an uninterruptible power supply in accordance with appendix Y to this subpart.

(2) For a battery charger subject to compliance with any amended relevant standard provided in § 430.32 that is published after January 1, 2021:

(i) Measure active mode energy, maintenance mode power, no-battery mode power, off mode power and battery discharge energy for a battery charger other than uninterruptible power supplies in accordance with appendix Y1 to this subpart.

(ii) Calculate the standby power of a battery charger other than uninterruptible power supplies in accordance with appendix Y1, to this subpart.

(iii) Calculate the average load adjusted efficiency of an uninterruptible power supply in accordance with appendix Y1 to this subpart.

* * * * *

■ 7. Appendix Y to subpart B of part 430 is amended by:

■ a. Revising the introductory paragraph;

■ b. Revising sections 3.2.5.(f), 3.3.4., and 3.3.8.;

■ c. Revising Table 3.3.2 through 3.3.10.; and

■ d. Revising sections 3.3.11. through 3.3.13.

The revisions read as follows:

Appendix Y to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Battery Chargers

Note: Manufacturers must use the results of testing under appendix Y to determine compliance with the relevant standard from § 430.32(z) as that standard appeared in the January 1, 2021 edition of 10 CFR parts 200–499. Specifically, before [Date 180 days following publication of the final rule] representations must be based upon results generated either under this appendix or under appendix Y as it appeared in the 10 CFR parts 200–499 edition revised as of January 1, 2021.

For any amended standards for battery chargers published after January 1, 2021, manufacturers must use the results of testing under appendix Y1 to determine compliance. Representations related to energy consumption must be made in accordance with the appropriate appendix that applies (*i.e.,* appendix Y or appendix Y1) when determining compliance with the relevant standard. Manufacturers may also use appendix Y1 to certify compliance with amended standards, published after January 1, 2021, prior to the applicable compliance date for those standards.

* * * * *

3.2.5. Accessing the Battery for the Test

* * * * *

(f) If any of the following conditions noted immediately below in sections 3.2.5.(f)(1) to 3.2.5.(f)(3) are applicable, preventing the measurement of the Battery Discharge Energy and the Charging and Maintenance Mode Energy, a manufacturer must submit a petition for a test procedure waiver in accordance with § 430.27:

(1) Inability to access the battery terminals;

(2) Access to the battery terminals destroys charger functionality; or

(3) Inability to draw current from the test battery.

* * * * *

3.3.4. Preparing the Battery for Charge Testing

Following any conditioning prior to beginning the battery charge test (section 3.3.6 of this appendix), the test battery shall be fully discharged to the end of discharge voltage prescribed in Table 3.3.2 of this appendix, or until the UUT circuitry terminates the discharge.

* * * * *

3.3.8. Battery Discharge Energy Test

(a) If multiple batteries were charged simultaneously, the discharge energy is the sum of the discharge energies of all the batteries.

(1) For a multi-port charger, batteries that were charged in separate ports shall be discharged independently.

(2) For a batch charger, batteries that were charged as a group may be discharged individually, as a group, or in sub-groups connected in series and/or parallel. The position of each battery with respect to the other batteries need not be maintained.

(b) During discharge, the battery voltage and discharge current shall be sampled and recorded at least once per minute. The values recorded may be average or instantaneous values.

(c) For this test, the technician shall follow these steps:

(1) Ensure that the test battery has been charged by the UUT and rested according to sections 3.3.6. and 3.3.7.

(2) Set the battery analyzer for a constant discharge rate and the end-of-discharge voltage in Table 3.3.2 of this appendix for the relevant battery chemistry.

(3) Connect the test battery to the analyzer and begin recording the voltage, current, and wattage, if available from the battery analyzer. When the end-of-discharge voltage is reached or the UUT circuitry terminates the discharge, the test battery shall be returned to an open-circuit condition. If current continues to be drawn from the test battery after the end-of-discharge condition is first reached, this additional energy is not to be counted in the battery discharge energy.

(d) If not available from the battery analyzer, the battery discharge energy (in watt-hours) is calculated by multiplying the voltage (in volts), current (in amperes), and sample period (in hours) for each sample, and then summing over all sample periods until the end-of-discharge voltage is reached.

* * * * *

TABLE 3.3.2—REQUIRED BATTERY DISCHARGE RATES AND END-OF-DISCHARGE BATTERY VOLTAGES

Battery chemistry	Discharge rate (C)	End-of-discharge voltage* (volts per cell)
Valve-Regulated Lead Acid (VRLA)	0.2	1.75
Flooded Lead Acid	0.2	1.70
Nickel Cadmium (NiCd)	0.2	1.0
Nickel Metal Hydride (NiMH)	0.2	1.0
Lithium-ion (Li-Ion)	0.2	2.5
Lithium-ion Polymer	0.2	2.5
Lithium Iron Phosphate	0.2	2.0
Rechargeable Alkaline	0.2	0.9
Silver Zinc	0.2	1.2

* If the presence of protective circuitry prevents the battery cells from being discharged to the end-of-discharge voltage specified, then discharge battery cells to the lowest possible voltage permitted by the protective circuitry.

3.3.11. Standby Mode Energy Consumption Measurement

The standby mode measurement depends on the configuration of the battery charger, as follows:

(a) Conduct a measurement of standby power consumption while the battery charger is connected to the power source. Disconnect the battery from the charger, allow the charger to operate for at least 30 minutes, and record the power (*i.e.,* watts) consumed as the time series integral of the power consumed over a 10-minute test period, divided by the period of measurement. If the battery charger has manual on-off switches, all must be turned on for the duration of the standby mode test.

(b) Standby mode may also apply to products with integral batteries, as follows:

(1) If the product uses a cradle and/or adapter for power conversion and charging, then ''disconnecting the battery from the charger'' will require disconnection of the end-use product, which contains the batteries. The other enclosures of the battery charging system will remain connected to the main electricity supply, and standby mode power consumption will equal that of the cradle and/or adapter alone.

(2) If the product is powered through a detachable AC power cord and contains integrated power conversion and charging circuitry, then only the cord will remain connected to mains, and standby mode power consumption will equal that of the AC power cord (*i.e.,* zero watts).

(3) If the product contains integrated power conversion and charging circuitry but is powered through a non-detachable AC power cord or plug blades, then no part of the system will remain connected to mains, and standby mode measurement is not applicable.

3.3.12. Off Mode Energy Consumption Measurement

The off mode measurement depends on the configuration of the battery charger, as follows:

(a) If the battery charger has manual on-off switches, record a measurement of off mode energy consumption while the battery charger is connected to the power source. Remove the battery from the charger, allow the charger to operate for at least 30 minutes, and record the power (*i.e.,* watts) consumed as the time series integral of the power consumed over a 10-minute test period, divided by the period of measurement, with all manual on-off switches turned off. If the battery charger does not have manual on-off switches, record that the off mode measurement is not applicable to this product.

(b) Off mode may also apply to products with integral batteries, as follows:

(1) If the product uses a cradle and/or adapter for power conversion and charging, then ''disconnecting the battery from the charger'' will require disconnection of the end-use product, which contains the batteries. The other enclosures of the battery charging system will remain connected to the main electricity supply, and off mode power consumption will equal that of the cradle and/or adapter alone.

(2) If the product is powered through a detachable AC power cord and contains integrated power conversion and charging circuitry, then only the cord will remain connected to mains, and off mode power consumption will equal that of the AC power cord (*i.e.,* zero watts).

(3) If the product contains integrated power conversion and charging circuitry but is powered through a non-detachable AC power cord or plug blades, then no part of the system will remain connected to mains, and off mode measurement is not applicable.

3.3.13. Unit Energy Consumption Calculation

Unit energy consumption (UEC) shall be calculated for a battery charger using one of the two equations (equation (i) or equation (ii)) listed in this section. If a battery charger is tested and its charge duration as determined in section 3.3.2 of this appendix minus 5 hours is greater than the threshold charge time listed in Table 3.3.3 of this appendix (*i.e.,* $(t_{cd} - 5) * n > t_{a\&m}$), equation (ii) shall be used to calculate UEC; otherwise a battery charger's UEC shall be calculated using equation (i).

$$\text{(i) } UEC = 365\left(n(E_{24} - 5P_m - Measured\ E_{batt})\frac{24}{t_{cd}} + \left(P_m(t_{a\&m} - (t_{cd} - 5)n)\right) + (P_{sb}t_{sb}) + \left(P_{off}t_{off}\right)\right) \text{ or,}$$

$$\text{(ii) } UEC = 365\left(n(E_{24} - 5P_m - Measured\ E_{batt})\frac{24}{(t_{cd} - 5)} + (P_{sb}t_{sb}) + \left(P_{off}t_{off}\right)\right)$$

Where:

E_{24} = 24-hour energy as determined in section 3.3.10 of this appendix,

Measured E_{batt} = Measured battery energy as determined in section 3.3.8. of this appendix,

P_m = Maintenance mode power as determined in section 3.3.9. of this appendix,

P_{sb} = Standby mode power as determined in section 3.3.11. of this appendix,

P_{off} = Off mode power as determined in section 3.3.12. of this appendix,

t_{cd} = Charge test duration as determined in section 3.3.2. of this appendix, and

$t_{a\&m}$, n, t_{sb}, and t_{off}, are constants used depending upon a device's product class and found in the Table 3.3.3:

TABLE 3.3.3—BATTERY CHARGER USAGE PROFILES

Product class				Hours per day ***			Charges (n)	Threshold charge time *
Number	Description	Measured battery energy (measured E_{batt}) **	Special characteristic or highest nameplate battery voltage	Active + maintenance ($t_{a\&m}$)	Standby (t_{sb})	Off (t_{off})	Number per day	Hours
1	Low-Energy	≤20 Wh	Inductive Connection ****.	20.66	0.10	0.00	0.15	137.73
2	Low-Energy, Low-Voltage.	<100 Wh	<4 V	7.82	5.29	0.00	0.54	14.48
3	Low-Energy, Medium-Voltage.		4–10 V	6.42	0.30	0.00	0.10	64.20

TABLE 3.3.3—BATTERY CHARGER USAGE PROFILES—Continued

Product class				Hours per day ***			Charges (n)	Threshold charge time *
Number	Description	Measured battery energy (measured E_{batt}) **	Special characteristic or highest nameplate battery voltage	Active + maintenance ($t_{a\&m}$)	Standby (t_{sb})	Off (t_{off})	Number per day	Hours
4	Low-Energy, High-Voltage.		>10 V	16.84	0.91	0.00	0.50	33.68
5	Medium-Energy, Low-Voltage.	100–3000 Wh.	<20 V	6.52	1.16	0.00	0.11	59.27
6	Medium-Energy, High-Voltage.		≥20 V	17.15	6.85	0.00	0.34	50.44
7	High-Energy	>3000 Wh		8.14	7.30	0.00	0.32	25.44

* If the duration of the charge test (minus 5 hours) as determined in section 3.3.2. of appendix Y to subpart B of this part exceeds the threshold charge time, use equation (ii) to calculate UEC otherwise use equation (i).
** Measured E_{batt} = Measured battery energy as determined in section 3.3.8.
*** If the total time does not sum to 24 hours per day, the remaining time is allocated to unplugged time, which means there is 0 power consumption and no changes to the UEC calculation needed.
**** Fixed-location inductive wireless charger only.

* * * * *

■ 8. Appendix Y1 to subpart B of part 430 is added to read as follows:

Appendix Y1 to Subpart B of Part 430–Uniform Test Method for Measuring the Energy Consumption of Battery Chargers

Note: Manufacturers must use the results of testing under this appendix Y1 to determine compliance with any amended standards for battery chargers provided in § 430.32 that are published after January 1, 2021. Representations related to energy or water consumption must be made in accordance with the appropriate appendix that applies (*i.e.,* appendix Y or appendix Y1) when determining compliance with the relevant standard. Manufacturers may also use appendix Y1 to certify compliance with amended standards, published after January 1, 2021, prior to the applicable compliance date for those standards.

1. Scope

This appendix provides the test requirements used to measure the energy consumption of battery chargers, including fixed-location wireless chargers designed for charging batteries with less than 100 watt-hour battery energy and open-placement wireless chargers, operating at either DC or United States AC line voltage (115V at 60Hz). This appendix also provides the test requirements used to measure the energy efficiency of uninterruptible power supplies as defined in section 2 of this appendix that utilize the standardized National Electrical Manufacturer Association (NEMA) plug, 1–15P or 5–15P, as specified in ANSI/NEMA WD 6–2016 (incorporated by reference, see § 430.3) and have an AC output. This appendix does not provide a method for testing back-up battery chargers or open-placement wireless chargers.

2. Definitions

The following definitions are for the purposes of explaining the terminology associated with the test method for measuring battery charger energy consumption.[1]

2.1. *Active mode* or *charge mode* is the state in which the battery charger system is connected to the main electricity supply, and the battery charger is delivering current, equalizing the cells, and performing other one-time or limited-time functions in order to bring the battery to a fully charged state.

2.2. *Active power* or *real power* (P) means the average power consumed by a unit. For a two terminal device with current and voltage waveforms i(t) and v(t), which are periodic with period T, the real or active power P is:

$$P = \frac{1}{T}\int_0^T v(t)i(t)dt$$

2.3. *Ambient temperature* is the temperature of the ambient air immediately surrounding the unit under test.

2.4. *Apparent power (S)* is the product of root-mean-square (RMS) voltage and RMS current in volt-amperes (VA).

2.5. *Batch charger* is a battery charger that charges two or more identical batteries simultaneously in a series, parallel, series-parallel, or parallel-series configuration. A batch charger does not have separate voltage or current regulation, nor does it have any separate indicators for each battery in the batch. When testing a batch charger, the term ''battery'' is understood to mean, collectively, all the batteries in the batch that are charged together. A charger can be both a batch charger and a multi-port charger or multi-voltage charger.

2.6. *Battery* or *battery pack* is an assembly of one or more rechargeable cells and any integral protective circuitry intended to provide electrical energy to a consumer product, and may be in one of the following forms:

(a) Detachable battery (a battery that is contained in a separate enclosure from the consumer product and is intended to be removed or disconnected from the consumer product for recharging); or

(b) integral battery (a battery that is contained within the consumer product and is not removed from the consumer product

[1] For clarity on any other terminology used in the test method, please refer to IEEE Standard 1515–2000, (Sources for information and guidance, see § 430.4).

for charging purposes). The word ''intended'' in this context refers to the whether a battery has been designed in such a way as to permit its removal or disconnection from its associated consumer product.

2.7. *Battery energy* is the energy, in watt-hours, delivered by the battery under the specified discharge conditions in the test procedure.

2.8. *Battery maintenance mode* or *maintenance mode,* is a subset of standby mode in which the battery charger is connected to the main electricity supply and the battery is fully charged, but is still connected to the charger

2.9. *Battery rest period* is a period of time between discharge and charge or between charge and discharge, during which the battery is resting in an open-circuit state in ambient air.

2.10. *C-Rate* (C) is the rate of charge or discharge, calculated by dividing the charge or discharge current by the nameplate battery charge capacity of the battery.

2.11. *Cradle* is an electrical interface between an integral battery product and the rest of the battery charger designed to hold the product between uses.

2.12. *Energy storage system* is a system consisting of single or multiple devices designed to provide power to the UPS inverter circuitry.

2.13. *Equalization* is a process whereby a battery is overcharged, beyond what would be considered ''normal'' charge return, so that cells can be balanced, electrolyte mixed, and plate sulfation removed.

2.14. *Instructions* or *manufacturer's instructions* means the documentation packaged with a product in printed or electronic form and any information about the product listed on a website maintained by the manufacturer and accessible by the general public at the time of the test. It also includes any information on the packaging or on the product itself. ''Instructions'' also includes any service manuals or data sheets that the manufacturer offers to independent service technicians, whether printed or in electronic form.

2.15. *Measured charge capacity of a battery* is the product of the discharge current in amperes and the time in decimal hours required to reach the specified end-of-discharge voltage.

2.16. *Manual on-off switch* is a switch activated by the user to control power reaching the battery charger. This term does not apply to any mechanical, optical, or electronic switches that automatically disconnect mains power from the battery charger when a battery is removed from a cradle or charging base, or for products with non-detachable batteries that control power to the product itself.

2.17. *Multi-port charger* means a battery charger that charges two or more batteries (which may be identical or different) simultaneously. The batteries are not connected in series or in parallel but with each port having separate voltage and/or current regulation. If the charger has status indicators, each port has its own indicator(s). A charger can be both a batch charger and a multi-port charger if it is capable of charging two or more batches of batteries simultaneously and each batch has separate regulation and/or indicator(s).

2.18. *Multi-voltage charger* is a battery charger that, by design, can charge a variety of batteries (or batches of batteries, if also a batch charger) that are of different nameplate battery voltages. A multi-voltage charger can also be a multi-port charger if it can charge two or more batteries simultaneously with independent voltages and/or current regulation.

2.19. *Normal mode* is a mode of operation for a UPS in which:

(a) The AC input supply is within required tolerances and supplies the UPS,

(b) The energy storage system is being maintained at full charge or is under recharge, and

(c) The load connected to the UPS is within the UPS's specified power rating.

2.20. *Off mode* is the condition, applicable only to units with manual on-off switches, in which the battery charger:

(a) Is connected to the main electricity supply;

(b) Is not connected to the battery; and

(c) All manual on-off switches are turned off.

2.21. *Nameplate battery voltage* is specified by the battery manufacturer and typically printed on the label of the battery itself. If there are multiple batteries that are connected in series, the nameplate battery voltage of the batteries is the total voltage of the series configuration—that is, the nameplate voltage of each battery multiplied by the number of batteries connected in series. Connecting multiple batteries in parallel does not affect the nameplate battery voltage.

2.22. *Nameplate battery charge capacity* is the capacity, claimed by the battery manufacturer on a label or in instructions, that the battery can store, usually given in ampere-hours (Ah) or milliampere-hours (mAh) and typically printed on the label of the battery itself. If there are multiple batteries that are connected in parallel, the nameplate battery charge capacity of the batteries is the total charge capacity of the parallel configuration, that is, the nameplate charge capacity of each battery multiplied by the number of batteries connected in parallel. Connecting multiple batteries in series does not affect the nameplate charge capacity.

2.23. *Nameplate battery energy capacity* means the product (in watts-hours (Wh)) of the nameplate battery voltage and the nameplate battery charge capacity.

2.24. *No-battery mode* is a subset of standby mode and means the condition in which:

(a) The battery charger is connected to the main electricity supply;

(b) The battery is not connected to the charger; and

(c) For battery chargers with manual on-off switches, all such switches are turned on.

2.25. *Reference test load* is a load or a condition with a power factor of greater than 0.99 in which the AC output socket of the UPS delivers the active power (W) for which the UPS is rated.

2.26. *Standby mode* means the condition in which the battery charge is either in maintenance mode or no battery mode as defined in this appendix.

2.27. *Total harmonic distortion* (THD), expressed as a percent, is the root mean square (RMS) value of an AC signal after the fundamental component is removed and interharmonic components are ignored, divided by the RMS value of the fundamental component.

2.28. *Uninterruptible power supply* or *UPS* means a battery charger consisting of a combination of convertors, switches and energy storage devices (such as batteries), constituting a power system for maintaining continuity of load power in case of input power failure.

2.28.1. *Voltage and frequency dependent UPS* or *VFD UPS* means a UPS that produces an AC output where the output voltage and frequency are dependent on the input voltage and frequency. This UPS architecture does not provide corrective functions like those in voltage independent and voltage and frequency independent systems.

Note to 2.28.1: VFD input dependency may be verified by performing the AC input failure test in section 6.2.2.7 of IEC 62040–3 Ed. 2.0 (incorporated by reference, see § 430.3) and observing that, at a minimum, the UPS switches from normal mode of operation to battery power while the input is interrupted.

2.28.2. *Voltage and frequency independent UPS,* or *VFI UPS,* means a UPS where the device remains in normal mode producing an AC output voltage and frequency that is independent of input voltage and frequency variations and protects the load against adverse effects from such variations without depleting the stored energy source.

Note to 2.28.2: VFI input dependency may be verified by performing the steady state input voltage tolerance test and the input frequency tolerance test in sections 6.4.1.1 and 6.4.1.2 of IEC 62040–3 Ed. 2.0 respectively and observing that, at a minimum, the UPS produces an output voltage and frequency within the specified output range when the input voltage is varied by ±10% of the rated input voltage and the input frequency is varied by ±2% of the rated input frequency.

2.28.3. *Voltage independent UPS* or *VI UPS* means a UPS that produces an AC output within a specific tolerance band that is independent of under-voltage or over-voltage variations in the input voltage without depleting the stored energy source. The output frequency of a VI UPS is dependent on the input frequency, similar to a voltage and frequency dependent system.

Note to 2.28.3: VI input dependency may be verified by performing the steady state input voltage tolerance test in section 6.4.1.1 of IEC 62040–3 Ed. 2.0 and ensuring that the UPS remains in normal mode with the output voltage within the specified output range when the input voltage is varied by ±10% of the rated input voltage.

2.29. *Unit under test* (UUT) in this appendix refers to the combination of the battery charger and battery being tested.

2.30. *Wireless charger* is a battery charger that can charge batteries inductively.

2.30.1. *Fixed-location wireless charger* is an inductive wireless battery charger that incorporates a physical receiver locating

feature (*e.g.,* by physical peg, cradle, locking mechanism, magnet, etc.) to repeatably align or orient the position of the receiver with respect to the transmitter.

2.30.2. *Open-placement wireless charger* is an inductive wireless charger that does not incorporate a physical receiver locating feature (*e.g.,* by a physical peg, cradle, locking mechanism, magnet etc.) to repeatably align or orient the position of the receiver with respect to the transmitter.

3. Testing Requirements for all Battery Chargers Other Than Uninterruptible Power Supplies and Open-Placement Wireless Chargers

3.1. Standard Test Conditions

3.1.1. General

The values that may be measured or calculated during the conduct of this test procedure have been summarized for easy reference in Table 3.1.1 of this appendix.

TABLE 3.1.1—LIST OF MEASURED OR CALCULATED VALUES

Name of measured or calculated value	Reference
1. Duration of the maintenance mode test	Section 3.3.2.
2. Battery Discharge Energy (E_{batt})	Section 3.3.8.
3. Initial time and power (W) of the input current of connected battery	Section 3.3.6.
4. Maintenance Mode Energy Consumption	Section 3.3.6.
5. Maintenance Mode Power (P_m)	Section 3.3.9.
6. Active mode Energy Consumption (E_a)	Section 3.3.10.
7. No-Battery Mode Power (P_{nb})	Section 3.3.11.
8. Off Mode Power (P_{off})	Section 3.3.12.
9. Standby Mode Power (P_{sb})	Section 3.3.13.

3.1.2. Verifying Accuracy and Precision of Measuring Equipment

Any power measurement equipment utilized for testing must conform to the uncertainty and resolution requirements outlined in section 4, ''General conditions for measurement'', as well as annexes B, ''Notes on the measurement of low-power modes'', and D, ''Determination of uncertainty of measurement'', of IEC 62301 (incorporated by reference, see § 430.3).

3.1.3. Setting Up the Test Room

All tests, battery conditioning, and battery rest periods shall be carried out in a room with an air speed immediately surrounding the UUT of ≤0.5 m/s. The ambient temperature shall be maintained at 20 °C ± 5 °C throughout the test. There shall be no intentional cooling of the UUT such as by use of separately powered fans, air conditioners, or heat sinks. The UUT shall be conditioned, rested, and tested on a thermally non-conductive surface. When not undergoing active testing, batteries shall be stored at 20 °C ± 5 °C.

3.1.4. Verifying the UUT's Input Voltage and Input Frequency

(a) If the UUT is intended for operation on AC line-voltage input in the United States, it shall be tested at 115 V at 60 Hz. If the UUT is intended for operation on AC line-voltage input but cannot be operated at 115 V at 60 Hz, it shall not be tested.

(b) If a battery charger is powered by a low-voltage DC or AC input and the manufacturer packages the battery charger with a wall adapter, test the battery charger using the packaged wall adapter; if the battery charger does not include a pre-packaged wall adapter, then test the battery charger with a wall adapter sold and recommended by the manufacturer; if the manufacturer does not recommend a wall adapter that it sells, test the battery charger with a wall adapter that the manufacturer recommends for use in the manufacturer materials. The input reference source shall be 115 V at 60 Hz. If the wall adapter cannot be operated with AC input voltage at 115 V at 60 Hz, the charger shall not be tested.

(c) If a battery charger is designed for operation only on DC input voltage and if the provisions of section 3.1.4.(b) of this appendix do not apply, test the battery charger with an external power supply that minimally complies with the applicable energy conservation standard and meets the external power supply parameters specified by the battery charger manufacturer. The input voltage shall be within ±1 percent of the battery charger manufacturer specified voltage.

(d) If the input voltage is AC, the input frequency shall be within ±1 percent of the specified frequency. The THD of the input voltage shall be ≤2 percent, up to and including the 13th harmonic. The crest factor of the input voltage shall be between 1.34 and 1.49.

(e) If the input voltage is DC, the AC ripple voltage (RMS) shall be:

(1) ≤0.2 V for DC voltages up to 10 V; or

(2) ≤2 percent of the DC voltage for DC voltages over 10 V.

3.2. Unit Under Test Setup Requirements

3.2.1. General Setup

(a) The battery charger system shall be prepared and set up in accordance with the manufacturer's instructions, except where those instructions conflict with the requirements of this test procedure. If no instructions are given, then factory or ''default'' settings shall be used, or where there are no indications of such settings, the UUT shall be tested in the condition as it would be supplied to an end user.

(b) If the battery charger has user controls to select from two or more charge rates (such as regular or fast charge) or different charge currents, the test shall be conducted at the fastest charge rate that is recommended by the manufacturer for everyday use, or, failing any explicit recommendation, the factory-default charge rate. If the charger has user controls for selecting special charge cycles that are recommended only for occasional use to preserve battery health, such as equalization charge, removing memory, or battery conditioning, these modes are not required to be tested. The settings of the controls shall be listed in the report for each test.

3.2.2. Selection and Treatment of the Battery Charger

The UUT, including the battery charger and its associated battery, shall be new products of the type and condition that would be sold to a customer. If the battery is lead-acid chemistry and the battery is to be stored for more than 24 hours between its initial acquisition and testing, the battery shall be charged before such storage.

3.2.3. Selection of Batteries To Use for Testing

(a) For chargers with integral batteries, the battery packaged with the charger shall be used for testing. For chargers with detachable batteries, the battery or batteries to be used for testing will vary depending on whether there are any batteries packaged with the battery charger.

(1) If batteries are packaged with the charger, batteries for testing shall be selected from the batteries packaged with the battery charger, according to the procedure in section 3.2.3(b) of this appendix.

(2) If no batteries are packaged with the charger, but the instructions specify or recommend batteries for use with the charger, batteries for testing shall be selected from those recommended or specified in the instructions, according to the procedure in section 3.2.3(b) of this appendix.

(3) If no batteries are packaged with the charger and the instructions do not specify or recommend batteries for use with the charger, batteries for testing shall be selected from any that are suitable for use with the charger, according to the procedure in section 3.2.3(b) of this appendix.

(b)(1) From the detachable batteries specified in section 3.2.3.(a) above, use Table 3.2.1 of this appendix to select the batteries

to be used for testing, depending on the type of battery charger being tested. The battery charger types represented by the rows in the table are mutually exclusive. Find the single applicable row for the UUT, and test according to those requirements. Select only the single battery configuration specified for the battery charger type in Table 3.2.1 of this appendix.

(2) If the battery selection criteria specified in Table 3.2.1 of this appendix results in two or more batteries or configurations of batteries of different chemistries, but with equal voltage and capacity ratings, determine the maintenance mode power, as specified in section 3.3.9 of this appendix, for each of the batteries or configurations of batteries, and select for testing the battery or configuration of batteries with the highest maintenance mode power.

(c) A charger is considered as:

(1) Single-capacity if all associated batteries have the same nameplate battery charge capacity (see definition) and, if it is a batch charger, all configurations of the batteries have the same nameplate battery charge capacity.

(2) Multi-capacity if there are associated batteries or configurations of batteries that have different nameplate battery charge capacities.

(d) The selected battery or batteries will be referred to as the ''test battery'' and will be used through the remainder of this test procedure.

TABLE 3.2.1—BATTERY SELECTION FOR TESTING

Type of charger			Tests to perform
Multi-voltage	Multi-port	Multi-capacity	Battery selection (from all configurations of all associated batteries)
No	No	No	Any associated battery.
No	No	Yes	Highest charge capacity battery.
No	Yes	Yes or No	Use all ports. Use the maximum number of identical batteries with the highest nameplate battery charge capacity that the charger can accommodate.
Yes	No	No	Highest voltage battery.
Yes	Yes to either or both		Use all ports. Use the battery or configuration of batteries with the highest individual voltage. If multiple batteries meet this criteria, then use the battery or configuration of batteries with the highest total nameplate battery charge capacity at the highest individual voltage.

3.2.4. Limiting Other Non-Battery-Charger Functions

(a) If the battery charger or product containing the battery charger does not have any additional functions unrelated to battery charging, this subsection may be skipped.

(b) Any optional functions controlled by the user and not associated with the battery charging process (*e.g.,* the answering machine in a cordless telephone charging base) shall be switched off. If it is not possible to switch such functions off, they shall be set to their lowest power-consuming mode during the test.

(c) If the battery charger takes any physically separate connectors or cables not required for battery charging but associated with its other functionality (such as phone lines, serial or USB connections, Ethernet, cable TV lines, etc.), these connectors or cables shall be left disconnected during the testing.

(d) Any manual on-off switches specifically associated with the battery charging process shall be switched on for the duration of the charge, maintenance, and no-battery mode tests, and switched off for the off mode test.

3.2.5. Accessing the Battery for the Test

(a) The technician may need to disassemble the end-use product or battery charger to gain access to the battery terminals for the Battery Discharge Energy Test in section 3.3.8 of this appendix. If the battery terminals are not clearly labeled, the technician shall use a voltmeter to identify the positive and negative terminals. These terminals will be the ones that give the largest voltage difference and are able to deliver significant current (0.2 C or 1/hr) into a load.

(b) All conductors used for contacting the battery must be cleaned and burnished prior to connecting in order to decrease voltage drops and achieve consistent results.

(c) Manufacturer's instructions for disassembly shall be followed, except those instructions that:

(1) Lead to any permanent alteration of the battery charger circuitry or function;

(2) Could alter the energy consumption of the battery charger compared to that experienced by a user during typical use, *e.g.,* due to changes in the airflow through the enclosure of the UUT; or

(3) Conflict requirements of this test procedure.

(d) Care shall be taken by the technician during disassembly to follow appropriate safety precautions. If the functionality of the device or its safety features is compromised, the product shall be discarded after testing.

(e) Some products may include protective circuitry between the battery cells and the remainder of the device. If the manufacturer provides a description for accessing the connections at the output of the protective circuitry, these connections shall be used to discharge the battery and measure the discharge energy. The energy consumed by the protective circuitry during discharge shall not be measured or credited as battery energy.

(f) If any of the following conditions specified immediately below in sections 3.2.5.(f)(1) to 3.2.5.(f)(3) are applicable, preventing the measurement of the Battery Discharge Energy and the Charging and Maintenance Mode Energy, a manufacturer must submit a petition for a test procedure waiver in accordance with § 430.27:

(1) Inability to access the battery terminals;

(2) Access to the battery terminals destroys charger functionality; or

(3) Inability to draw current from the test battery.

3.2.6. Determining Charge Capacity for Batteries With No Rating

(a) If there is no rating for the battery charge capacity on the battery or in the instructions, then the technician shall determine a discharge current that meets the following requirements. The battery shall be fully charged and then discharged at this constant-current rate until it reaches the end-of-discharge voltage specified in Table 3.3.2 of this appendix. The discharge time must be not less than 4.5 hours nor more than 5 hours. In addition, the discharge test (section 3.3.8 of this appendix) (which may not be starting with a fully-charged battery) shall reach the end-of-discharge voltage within 5 hours. The same discharge current shall be used for both the preparations step (section 3.3.4 of this appendix) and the discharge test (section 3.3.8 of this appendix). The test report shall include the discharge current used and the resulting discharge times for both a fully-charged battery and for the discharge test.

(b) For this section, the battery is considered as ''fully charged'' when either: it has been charged by the UUT until an indicator on the UUT shows that the charge is complete; or it has been charged by a battery analyzer at a current not greater than the discharge current until the battery analyzer indicates that the battery is fully charged.

(c) When there is no capacity rating, a suitable discharge current must generally be determined by trial and error. Since the conditioning step does not require constant-current discharges, the trials themselves may also be counted as part of battery conditioning.

3.3. Test Measurement

The test sequence to measure the battery charger energy consumption is summarized in Table 3.3.1 of this appendix, and

explained in detail in this appendix. Measurements shall be made under test conditions and with the equipment specified in sections 3.1 and 3.2 of this appendix.

TABLE 3.3.1—TEST SEQUENCE

Step/description	Data taken?	Equipment needed				
		Test battery	Charger	Battery analyzer or constant-current load	AC power meter	Thermometer (for flooded lead-acid battery chargers only)
1. Record general data on UUT; Section 3.3.1.	Yes	X	X			
2. Determine Maintenance Mode Test duration; Section 3.3.2.	No					
3. Battery conditioning; Section 3.3.3	No	X	X	X		
4. Prepare battery for Active Mode test; Section 3.3.4.	No	X	X			
5. Battery rest period; Section 3.3.5	No	X				X
6. Conduct Active mode Test; Section 3.3.6.	Yes	X	X		X	
7. Battery Rest Period; Section 3.3.7	No	X				X
8. Battery Discharge Energy Test; Section 3.3.8.	Yes	X		X		
9. Conduct Battery Maintenance Mode Test; Section 3.3.9.	Yes	X	X		X	
10. Determine the Maintenance Mode Power; Section 3.3.10.	Yes	X	X		X	
11. Conduct No-Battery Mode Test; Section 3.3.11.	Yes		X		X	
12. Conduct Off Mode Test; Section 3.3.12.	Yes		X		X	
13. Calculating Standby Mode Power; Section 3.3.13.	Yes					

3.3.1. Recording General Data on the UUT

The technician shall record:

(a) The manufacturer and model of the battery charger;

(b) The presence and status of any additional functions unrelated to battery charging;

(c) The manufacturer, model, and number of batteries in the test battery;

(d) The nameplate battery voltage of the test battery;

(e) The nameplate battery charge capacity of the test battery; and

(f) The nameplate battery charge energy of the test battery.

(g) The settings of the controls, if battery charger has user controls to select from two or more charge rates.

3.3.2. Determining the Duration of the Maintenance Mode Test

(a) The maintenance mode test, described in detail in section 3.3.9 of this appendix, shall be 24 hours in length or longer, as determined by the items in sections 3.3.2.(a)(1) to 3.3.2.(a)(3) below. Proceed in order until a test duration is determined. In case when the battery charger does not enter its true battery maintenance mode, the test shall continue until 5 hours after the true battery maintenance mode has been captured.

(1) If the battery charger has an indicator to show that the battery is fully charged, that indicator shall be used as follows: if the indicator shows that the battery is charged after 19 hours of charging, the test shall be terminated at 24 hours. Conversely, if the full-charge indication is not yet present after 19 hours of charging, the test shall continue until 5 hours after the indication is present.

(2) If there is no indicator, but the manufacturer's instructions indicate that charging this battery or this capacity of battery should be complete within 19 hours, the test shall be for 24 hours. If the instructions indicate that charging may take longer than 19 hours, the test shall be run for the longest estimated charge time plus 5 hours.

(3) If there is no indicator and no time estimate in the instructions, but the charging current is stated on the charger or in the instructions, calculate the test duration as the longer of 24 hours or:

$$Duration = 1.4 * \frac{RatedChargeCapacity(Ah)}{ChargeCurrent(A)} + 5h$$

(b) If none of section 3.3.2.(a) applies, the duration of the test shall be 24 hours.

3.3.3. Battery Conditioning

(a) No conditioning is to be done on lithium-ion batteries. The test technician shall proceed directly to battery preparation, section 3.3.4 of this appendix, when testing chargers for these batteries.

(b) Products with integral batteries will have to be disassembled per the instructions in section 3.2.5 of this appendix, and the battery disconnected from the charger for discharging.

(c) Batteries of other chemistries that have not been previously cycled are to be conditioned by performing two charges and two discharges, followed by a charge, as sections 3.3.3.(c)(1) to 3.3.3.(c)(5) below. No data need be recorded during battery conditioning.

(1) The test battery shall be fully charged for the duration specified in section 3.3.2 of this appendix or longer using the UUT.

(2) The test battery shall then be fully discharged using either:

(i) A battery analyzer at a rate not to exceed 1 C, until its average cell voltage under load reaches the end-of-discharge voltage specified in Table 3.3.2 of this appendix for the relevant battery chemistry; or

(ii) The UUT, until the UUT ceases operation due to low battery voltage.

(3) The test battery shall again be fully charged per step in section 3.3.3(c)(1) of this appendix.

(4) The test battery shall again be fully discharged per step in section 3.3.3(c)(2) of this appendix.

(5) The test battery shall be again fully charged per step in section 3.3.3(c)(1) of this appendix.

(d) Batteries of chemistries, other than lithium-ion, that are known to have been through at least two previous full charge/discharge cycles shall only be charged once per step in section 3.3.3(c)(5) of this appendix.

3.3.4. Preparing the Battery for Charge Testing

Following any conditioning prior to beginning the battery charge test (section 3.3.6 of this appendix), the test battery shall be fully discharged to the end of discharge voltage prescribed in Table 3.3.2 of this appendix, or until the UUT circuitry terminates the discharge.

3.3.5. Resting the Battery

The test battery shall be rested between preparation and the battery charge test. The rest period shall be at least one hour and not exceed 24 hours. For batteries with flooded cells, the electrolyte temperature shall be less than 30 °C before charging, even if the rest period must be extended longer than 24 hours.

3.3.6. Testing Active Mode

(a) The Active Mode test measures the energy consumed by the battery charger as it delivers current, equalizes the cells, and performing other one-time or limited-time functions in order to bring the battery to a fully charged state. Functions required for battery conditioning that happen only with some user-selected switch or other control shall not be included in this measurement. (The technician shall manually turn off any battery conditioning cycle or setting.) Regularly occurring battery conditioning that are not controlled by the user will, by default, be incorporated into this measurement.

(b) During the measurement period, input power values to the UUT shall be recorded at least once every minute.

(1) If possible, the technician shall set the data logging system to record the average power during the sample interval. The total energy is computed as the sum of power samples (in watts) multiplied by the sample interval (in hours).

(2) If this setting is not possible, then the power analyzer shall be set to integrate or accumulate the input power over the measurement period and this result shall be used as the total energy.

(c) The technician shall follow these steps:

(1) Ensure that the user-controllable device functionality not associated with battery charging and any battery conditioning cycle or setting are turned off, as instructed in section 3.2.4 of this appendix;

(2) Ensure that the test battery used in this test has been conditioned, prepared, discharged, and rested as described in sections 3.3.3 through 3.3.5 of this appendix;

(3) Connect the data logging equipment to the battery charger;

(4) Record the start time of the measurement period, and begin logging the input power;

(5) Connect the test battery to the battery charger within 3 minute of beginning logging. For integral battery products, connect the product to a cradle or wall adapter within 3 minutes of beginning logging;

(6) After the test battery is connected, record the initial time and power (W) of the input current to the UUT;

(7) Record the input power until the battery is fully charged. If the battery charger has an indicator to show that the battery is fully charged, that indicator will be used to terminate the active mode test. If there is no indicator but the manufacturer's instructions indicate how long it should take to charge the test battery, the test active mode test shall be run for the longest estimated charge time. If the battery charger does not have such an indicator and manufacturer's instructions do not provide such a time estimate, the length of the active mode test will be 1.4 times the rated charge capacity of the battery divided by the maximum charge current; and

(8) Disconnect power to the UUT, terminate data logging, and record the final time.

(9) The accumulated energy or the average input power, integrated over the active mode test period (*i.e.* when the depleted test battery is initially connected to the charger up until the battery is fully charged) shall be the active mode energy consumption of the battery charger, E_a.

3.3.7. Resting the Battery

The test battery shall be rested between charging and discharging. The rest period shall be at least 1 hour and not more than 4 hours, with an exception for flooded cells. For batteries with flooded cells, the electrolyte temperature shall be less than 30 °C before charging, even if the rest period must be extended beyond 4 hours.

3.3.8. Battery Discharge Energy Test

(a) If multiple batteries were charged simultaneously, the discharge energy (E_{batt}) is the sum of the discharge energies of all the batteries.

(1) For a multi-port charger, batteries that were charged in separate ports shall be discharged independently.

(2) For a batch charger, batteries that were charged as a group may be discharged individually, as a group, or in sub-groups connected in series and/or parallel. The position of each battery with respect to the other batteries need not be maintained.

(b) During discharge, the battery voltage and discharge current shall be sampled and recorded at least once per minute. The values recorded may be average or instantaneous values.

(c) For this test, the technician shall follow these steps:

(1) Ensure that the test battery has been charged by the UUT and rested according to the procedures prescribed in sections 3.3.6 and 3.3.7 of this appendix.

(2) Set the battery analyzer for a constant discharge rate and the end-of-discharge voltage in Table 3.3.2 of this appendix for the relevant battery chemistry.

(3) Connect the test battery to the analyzer and begin recording the voltage, current, and wattage, if available from the battery analyzer. When the end-of-discharge voltage is reached or the UUT circuitry terminates the discharge, the test battery shall be returned to an open-circuit condition. If current continues to be drawn from the test battery after the end-of-discharge condition is first reached, this additional energy is not to be counted in the battery discharge energy.

(d) If not available from the battery analyzer, the battery discharge energy (in watt-hours) is calculated by multiplying the voltage (in volts), current (in amperes), and sample period (in hours) for each sample, and then summing over all sample periods until the end-of-discharge voltage is reached.

TABLE 3.3.2—REQUIRED BATTERY DISCHARGE RATES AND END-OF-DISCHARGE BATTERY VOLTAGES

Battery chemistry	Discharge rate (C)	End-of-discharge voltage* (volts per cell)
Valve-Regulated Lead Acid (VRLA)	0.2	1.75
Flooded Lead Acid	0.2	1.70
Nickel Cadmium (NiCd)	0.2	1.0
Nickel Metal Hydride (NiMH)	0.2	1.0
Lithium-ion (Li-Ion)	0.2	2.5
Lithium-ion Polymer	0.2	2.5
Lithium Iron Phosphate	0.2	2.0
Rechargeable Alkaline	0.2	0.9
Silver Zinc	0.2	1.2

* If the presence of protective circuitry prevents the battery cells from being discharged to the end-of-discharge voltage specified, then discharge battery cells to the lowest possible voltage permitted by the protective circuitry.

3.3.9. Maintenance Mode Energy Consumption Measurement

(a) The Charge and Battery Maintenance Mode test measures the average power consumed in the maintenance mode of the UUT. Functions required for battery conditioning that happen only with some user-selected switch or other control shall not be included in this measurement. (The technician shall manually turn off any battery conditioning cycle or setting.) Regularly occurring battery conditioning or maintenance functions that are not controlled by the user will, by default, be incorporated into this measurement.

(b) During the measurement period, input power values to the UUT shall be recorded at least once every minute.

(1) If possible, the technician shall set the data logging system to record the average power during the sample interval. The total energy is computed as the sum of power samples (in watts) multiplied by the sample interval (in hours).

(2) If this setting is not possible, then the power analyzer shall be set to integrate or accumulate the input power over the measurement period and this result shall be used as the total energy.

(c) The technician shall follow these steps:

(1) Ensure that the user-controllable device functionality not associated with battery charging and any battery conditioning cycle or setting are turned off, as instructed in section 3.2.4 of this appendix;

(2) Ensure that the test battery used in this test has been conditioned, prepared, discharged, and rested as described in sections 3.3.3. through 3.3.5. of this appendix;

(3) Connect the data logging equipment to the battery charger;

(4) Record the start time of the measurement period, and begin logging the input power;

(5) Connect the test battery to the battery charger within 3 minutes of beginning logging. For integral battery products, connect the product to a cradle or wall adapter within 3 minutes of beginning logging;

(6) After the test battery is connected, record the initial time and power (W) of the input current to the UUT. These measurements shall be taken within the first 10 minutes of active charging;

(7) Record the input power for the duration of the ''Maintenance Mode Test'' period, as determined by section 3.3.2. of this appendix. The actual time that power is connected to the UUT shall be within ±5 minutes of the specified period; and

(8) Disconnect power to the UUT, terminate data logging, and record the final time.

3.3.10. Determining the Maintenance Mode Power

After the measurement period is complete, the technician shall determine the average maintenance mode power consumption (P_m) by examining the power-versus-time data from the charge and maintenance mode test and:

(a) If the maintenance mode power is cyclic or shows periodic pulses, compute the average power over a time period that spans a whole number of cycles and includes at least the last 4 hours.

(b) Otherwise, calculate the average power value over the last 4 hours.

3.3.11. No-Battery Mode Energy Consumption Measurement

The no-battery mode measurement depends on the configuration of the battery charger, as follows:

(a) Conduct a measurement of no-battery power consumption while the battery charger is connected to the power source. Disconnect the battery from the charger, allow the charger to operate for at least 30 minutes, and record the power (*i.e.,* watts) consumed as the time series integral of the power consumed over a 10-minute test period, divided by the period of measurement. If the battery charger has manual on-off switches, all must be turned on for the duration of the no-battery mode test.

(b) No-battery mode may also apply to products with integral batteries, as follows:

(1) If the product uses a cradle and/or adapter for power conversion and charging, then ''disconnecting the battery from the charger'' will require disconnection of the end-use product, which contains the batteries. The other enclosures of the battery charging system will remain connected to the main electricity supply, and no-battery mode power consumption will equal that of the cradle and/or adapter alone.

(2) If the product is powered through a detachable AC power cord and contains integrated power conversion and charging circuitry, then only the cord will remain connected to mains, and no-battery mode power consumption will equal that of the AC power cord (*i.e.,* zero watts).

(3) If the product contains integrated power conversion and charging circuitry but is powered through a non-detachable AC power cord or plug blades, then no part of the system will remain connected to mains, and no-battery mode measurement is not applicable.

3.3.12. Off Mode Energy Consumption Measurement

The off mode measurement depends on the configuration of the battery charger, as follows:

(a) If the battery charger has manual on-off switches, record a measurement of off mode energy consumption while the battery charger is connected to the power source. Remove the battery from the charger, allow the charger to operate for at least 30 minutes, and record the power (*i.e.,* watts) consumed as the time series integral of the power consumed over a 10-minute test period, divided by the period of measurement, with all manual on-off switches turned off. If the battery charger does not have manual on-off switches, record that the off mode measurement is not applicable to this product.

(b) Off mode may also apply to products with integral batteries, as follows:

(1) If the product uses a cradle and/or adapter for power conversion and charging, then ''disconnecting the battery from the charger'' will require disconnection of the end-use product, which contains the batteries. The other enclosures of the battery charging system will remain connected to the main electricity supply, and off mode power consumption will equal that of the cradle and/or adapter alone.

(2) If the product is powered through a detachable AC power cord and contains integrated power conversion and charging circuitry, then only the cord will remain connected to mains, and off mode power consumption will equal that of the AC power cord (*i.e.,* zero watts).

(3) If the product contains integrated power conversion and charging circuitry but is powered through a non-detachable AC power cord or plug blades, then no part of the system will remain connected to mains, and off mode measurement is not applicable.

3.3.13. Standby Mode Power

The standby mode power (P_{sb}) is the summation power of battery maintenance mode power (P_m) and no-battery mode power (P_{nb}).

4. Testing Requirements for Uninterruptible Power Supplies

4.1. Standard Test Conditions

4.1.1. Measuring Equipment

(a) The power or energy meter must provide true root mean square (r.m.s) measurements of the active input and output measurements, with an uncertainty at full rated load of less than or equal to 0.5% at the 95% confidence level notwithstanding that voltage and current waveforms can include harmonic components. The meter must measure input and output values simultaneously.

(b) All measurement equipment used to conduct the tests must be calibrated within the measurement equipment manufacturer specified calibration period by a standard traceable to International System of Units such that measurements meet the uncertainty requirements specified in section 4.1.1(a) of this appendix.

4.1.2. Test Room Requirements

All portions of the test must be carried out in a room with an air speed immediately surrounding the UUT of ≤0.5 m/s in all directions. Maintain the ambient temperature in the range of 20.0 °C to 30.0 °C, including all inaccuracies and uncertainties introduced by the temperature measurement equipment, throughout the test. No intentional cooling of the UUT, such as by use of separately powered fans, air conditioners, or heat sinks, is permitted. Test the UUT on a thermally non-conductive surface.

4.1.3. Input Voltage and Input Frequency

The AC input voltage and frequency to the UPS during testing must be within 3 percent of the highest rated voltage and within 1 percent of the highest rated frequency of the device.

4.2. Unit Under Test Setup Requirements

4.2.1. General Setup

Configure the UPS according to Annex J.2 of IEC 62040–3 Ed. 2.0 with the following additional requirements:

(a) UPS Operating Mode Conditions. If the UPS can operate in two or more distinct

normal modes as more than one UPS architecture, conduct the test in its lowest input dependency as well as in its highest input dependency mode where VFD represents the lowest possible input dependency, followed by VI and then VFI.

(b) Energy Storage System. The UPS must not be modified or adjusted to disable energy storage charging features. Minimize the transfer of energy to and from the energy storage system by ensuring the energy storage system is fully charged (at the start of testing) as follows:

(1) If the UUT has a battery charge indicator, charge the battery for 5 hours after the UUT has indicated that it is fully charged.

(2) If the UUT does not have a battery charge indicator but the user manual shipped with the UUT specifies a time to reach full charge, charge the battery for 5 hours longer than the time specified.

(3) If the UUT does not have a battery charge indicator or user manual instructions, charge the battery for 24 hours.

(c) DC output port(s). All DC output port(s) of the UUT must remain unloaded during testing.

4.2.2. Additional Features

(a) Any feature unrelated to maintaining the energy storage system at full charge or delivery of load power (*e.g.,* LCD display) shall be switched off. If it is not possible to switch such features off, they shall be set to their lowest power-consuming mode during the test.

(b) If the UPS takes any physically separate connectors or cables not required for maintaining the energy storage system at full charge or delivery of load power but associated with other features (such as serial or USB connections, Ethernet, etc.), these connectors or cables shall be left disconnected during the test.

(c) Any manual on-off switches specifically associated with maintaining the energy storage system at full charge or delivery of load power shall be switched on for the duration of the test.

4.3. Test Measurement and Calculation

Efficiency can be calculated from either average power or accumulated energy.

4.3.1. Average Power Calculations

If efficiency calculation are to be made using average power, calculate the average power consumption (Pavg) by sampling the power at a rate of at least 1 sample per second and computing the arithmetic mean of all samples over the time period specified for each test as follows:

$$P_{avg} = \frac{1}{n}\sum_{i=1}^{n} P_i$$

Where:

P_{avg} = average power
P_i = power measured during individual measurement (i)
n = total number of measurements

4.3.2. Steady State

Operate the UUT and the load for a sufficient length of time to reach steady state conditions. To determine if steady state conditions have been attained, perform the following steady state check, in which the difference between the two efficiency calculations must be less than 1 percent:

(a)(1) Simultaneously measure the UUT's input and output power for at least 5 minutes, as specified in section 4.3.1 of this appendix, and record the average of each over the duration as P_{avg_in} and P_{avg_out}, respectively; or,

(2) Simultaneously measure the UUT's input and output energy for at least 5 minutes and record the accumulation of each over the duration as E_{in} and E_{out}, respectively.

(b) Calculate the UUT's efficiency, Eff_1, using one of the following two equations:

(1)

$$Eff = \frac{P_{avg\_out}}{P_{avg\_in}}$$

Where:

Eff is the UUT efficiency
P_{avg_out} is the average output power in watts
P_{avg_in} is the average input power in watts

(2)

$$Eff = \frac{E_{out}}{E_{in}}$$

Where:

Eff is the UUT efficiency
E_{out} is the accumulated output energy in watt-hours
E_{in} in the accumulated input energy in watt-hours

(c) Wait a minimum of 10 minutes.

(d) Repeat the steps listed in paragraphs (a) and (b) of section 4.3.2 of this appendix to calculate another efficiency value, Eff_2.

(e) Determine if the product is at steady state using the following equation:

$$Percentage\ difference = \frac{|Eff_1 - Eff_2|}{Average(Eff_1, Eff_2)}$$

If the percentage difference of Eff_1 and Eff_2 as described in the equation, is less than 1 percent, the product is at steady state.

(f) If the percentage difference is greater than or equal to 1 percent, the product is not at steady state. Repeat the steps listed in paragraphs (c) to (e) of section 4.3.2 of this appendix until the product is at steady state.

4.3.3. Power Measurements and Efficiency Calculations

Measure input and output power of the UUT according to Section J.3 of Annex J of IEC 62040–3 Ed. 2.0, or measure the input and output energy of the UUT for efficiency calculations with the following exceptions:

(a) Test the UUT at the following reference test load conditions, in the following order: 100 percent, 75 percent, 50 percent, and 25 percent of the rated output power.

(b) Perform the test at each of the reference test loads by simultaneously measuring the UUT's input and output power in Watts (W), or input and output energy in Watt-Hours (Wh) over a 15 minute test period at a rate of at least 1 Hz. Calculate the efficiency for that reference load using one of the following two equations:

(1)

$$Eff_{n\%} = \frac{P_{avg\_out\ n\%}}{P_{avg\_in\ n\%}}$$

Where:

$Eff_{n\neq}$ = the efficiency at reference test load n%
$P_{avg\_out\ n\neq}$ = the average output power at reference load n%
$P_{avg\_in\ n\neq}$ = the average input power at reference load n%

(2)

$$Eff_{n\%} = \frac{E_{out\ n\%}}{E_{in\ n\%}}$$

Where:

$Eff_{n\neq}$ = the efficiency at reference test load n%
$E_{out\ n\neq}$ = the accumulated output energy at reference load n%
$E_{in\ n\neq}$ = the accumulated input energy at reference load n%

4.3.4. UUT Classification

Optional Test for determination of UPS architecture. Determine the UPS architecture by performing the tests specified in the definitions of VI, VFD, and VFI (sections 2.28.1 through 2.28.3 of this appendix).

4.3.5. Output Efficiency Calculation

(a) Use the load weightings from Table 4.3.1 to determine the average load adjusted efficiency as follows:

$Eff_{avg} = (t_{25\%}) \times Eff|_{25\%}) + (t_{50\%} \times Eff|_{50\%}) + t_{75\%} \times Eff|_{75\%}) + (t_{100\%} \times Eff|_{100\%})$

Where:

Eff_{avg} = the average load adjusted efficiency
$t_{n\neq}$ = the portion of time spent at reference test load n% as specified in Table 4.3.1
$Eff|_{n\%}$ = the measured efficiency at reference test load n%

TABLE 4.3.1—LOAD WEIGHTINGS

Rated output power (W)	UPS Architecture	Portion of time spent at reference load			
		25%	50%	75%	100%
P ≤1500 W	VFD VI or VFI	0.2	0.2	0.3	0.3
		*0	0.3	0.4	0.3
P >1500 W	VFD, VI, or VFI	*0	0.3	0.4	0.3

* Measuring efficiency at loading points with 0 time weighting is not required.

(b) Round the calculated efficiency value to one tenth of a percentage point.

5. Testing Requirements for Open-Placement Wireless Chargers

5.1. Standard Test Conditions and UUT Setup Requirements

The technician will set up the testing environment according to the test conditions as specified in sections 3.1.2, 3.1.3, and 3.1.4 of this appendix. The unit under test will be configurated according to section 3.2.1 and all other non-battery charger related functions will be turned off according to section 3.2.4.

5.2. Active Mode Test

[Reserved]

5.3. No-battery Mode Test

(a) Connect the UUT to mains power and place it in no-battery mode by ensuring there are no foreign objects on the charging surface (*i.e.,* without any load).

(b) Monitor the AC input power for a period of 5 minutes to assess the stability of the UUT. If the power level does not drift by more than 1% from the maximum value observed, the UUT is considered stable.

(c) If the AC input power is not stable, follow the specifications in section 5.3.3. of IEC 62301 for measuring average power or accumulated energy over time for the input. If the UUT is stable, record the measurements of the AC input power over a 5-minute period.

(d) Power consumption calculation. The power consumption of the no-battery mode is equal to the active AC input power (W).

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