FEDERAL REGISTER

Vol. 87 Friday

No. 10 January 14, 2022

Pages 2309–2522

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

How To Cite This Publication: Use the volume number and the page number. Example: 87 FR 12345.

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:	
Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

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

Contents

Federal Register

Vol. 87, No. 10

Friday, January 14, 2022

Separate Parts In This Issue

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 87, No. 10
Friday, January 14, 2022

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

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[NRC–2021–0219]

Revision of the NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Revision to policy statement.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is publishing a revision to its Enforcement Policy. This revision addresses the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which requires Federal agencies to adjust their maximum civil monetary penalty amounts annually for inflation.

DATES: This action is effective on January 14, 2022.

ADDRESSES: Please refer to Docket ID NRC–2021–0219 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–2021–0219. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@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.*
- *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: Susanne Woods, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–287–9446, email: *Susanne.Woods@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

In 1990, Congress passed the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA) to provide for regular adjustments for inflation of civil monetary penalties (CMPs). As amended by the Debt Collection Improvement Act of 1996, the FCPIAA required that the head of each Federal agency review and, if necessary, adjust by regulation the CMPs assessed under statutes enforced by the agency at least once every 4 years.

On November 2, 2015, the President of the United States signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Improvements Act), which further amended the FCPIAA and requires Federal agencies to adjust their CMPs annually for inflation no later than January 15 of each year. The requirements of the 2015 Improvements Act apply to the NRC's maximum CMP amounts for 1) a violation of violation of the Atomic Energy Act (AEA) of 1954, as amended, or any regulation or order issued under the AEA, codified in § 2.205(j) of title 10 of the *Code of Federal Regulations* (10 CFR), ''Civil penalties''; and 2) a false claim or statement made under the Program Fraud Civil Remedies Act, codified in § 13.3, ''Basis for civil penalties and assessments.''

Pursuant to the 2015 Improvements Act, the NRC published in the Rules section of this issue of the **Federal Register** the revised maximum daily base CMP, based on the percentage change in the consumer price index between October 2020 and October 2021, and codified in § 2.205. In connection with this final rule, the NRC is publishing a corresponding update to the NRC's Enforcement Policy table of civil penalties, specifically, of the monetary amounts found in Section 8.0, ''Table of Base Civil Penalties,'' items a through e and g. This monetary adjustment does not include item f since its monetary value is based on the estimated or actual cost of authorized disposal and not on the monetary value codified in § 2.205(j).

Accordingly, the NRC has revised its Enforcement Policy to read as follows:

8.0—TABLE OF BASE CIVIL PENALTIES

[Table A]

a. Power reactors, gaseous diffusion uranium enrichment plants, and high-level waste repository	$320,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM and uranium conversion facilities	160,000
c. All other fuel fabricators, including facilities under construction, authorized to possess Category III quantities of SNM, industrial processors, independent spent fuel and monitored retrievable storage installations, mills, gas centrifuge and laser uranium enrichment facilities	80,000
d. Test reactors, contractors, waste disposal licensees, industrial radiographers, and other large material users	32,000
e. Research reactors, academic, medical, or other small material users	16,000
f. Loss, abandonment, or improper transfer or disposal of regulated material, regardless of the use or type of licensee:	
1. Sources or devices with a total activity greater than 3.7 × 104 MBq (1 Curie), excluding hydrogen-3 (tritium)	54,000
2. Other sources or devices containing the materials and quantities listed in 10 CFR 31.5(c)(13)(i)	17,000
3. Sources and devices not otherwise described above	7,000

8.0—TABLE OF BASE CIVIL PENALTIES—Continued

[Table A]

g. Individuals who release safeguards information	8,000

II. Paperwork Reduction Act Statement

This policy statement does not contain any new or amended collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). Existing collections of information were approved by the Office of Management and Budget (OMB), approval numbers 3150–0010 and 3150–0136.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

III. Congressional Review Act

This action is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has determined that it is not a ''major rule'' as defined by the Congressional Review Act.

Dated: December 22, 2021.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,

Executive Director for Operations.

[FR Doc. 2022–00011 Filed 1–13–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 13

[NRC–2020–0032]

RIN 3150–AK45

Adjustment of Civil Penalties for Inflation for Fiscal Year 2022

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to adjust the maximum civil monetary penalties it can assess under statutes enforced by the agency. These changes are mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The NRC is amending its regulations to adjust the maximum civil monetary penalty for a violation of the Atomic Energy Act of 1954, as amended, or any regulation or order issued under the Atomic Energy Act from $307,058 to $326,163 per violation, per day. Additionally, the NRC is amending provisions concerning program fraud civil penalties by adjusting the maximum civil monetary penalty under the Program Fraud Civil Remedies Act from $11,803 to $12,537 for each false claim or statement.

DATES: This final rule is effective on January 14, 2022.

ADDRESSES: Please refer to Docket ID NRC–2020–0032 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–2020–0032. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** 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: Eric Michel, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–0932; email: *Eric.Michel2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

Congress passed the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA) to allow for regular adjustment for inflation of civil monetary penalties (CMPs), maintain the deterrent effect of such penalties and promote compliance with the law, and improve the collection of CMPs by the Federal government (Pub. L. 101–410, 104 Stat. 890; 28 U.S.C. 2461 note). Pursuant to this authority, and as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–34, 110 Stat. 1321–373), the NRC increased via rulemaking the CMP amounts for violations of the Atomic Energy Act of 1954, as amended (AEA) (codified at § 2.205 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Civil penalties'') and Program Fraud Civil Remedies Act (codified at § 13.3, ''Civil penalties and assessments'') on four occasions between 1996 and 2008.[1]

On November 2, 2015, Congress amended the FCPIAA through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Improvements Act) (Sec. 701, Pub. L. 114–74, 129 Stat. 599). The 2015 Improvements Act required that the head of each agency perform an initial ''catch-up'' adjustment via

[1] Adjustment of Civil Penalties for Inflation (73 FR 54671; Sept. 23, 2008); Adjustment of Civil Penalties for Inflation (69 FR 62393; Oct. 26, 2004); Adjustment of Civil Penalties for Inflation; Miscellaneous Administrative Changes (65 FR 59270; Oct. 4, 2000); Adjustment of Civil Monetary Penalties for Inflation (61 FR 53554; Oct. 11, 1996). An adjustment was not performed in 2012 because the FCPIAA at the time required agencies to round their CMP amounts to the nearest multiple of $1,000 or $10,000, depending on the size of the CMP amount, and the 2012 percentages based on the statutory formula were small enough that no adjustment resulted.

rulemaking, adjusting the CMPs enforced by that agency according to the percentage change in the Consumer Price Index (CPI) between the month of October 2015 and the month of October of the calendar year when the CMP amount was last established by Congress. The NRC published this catch-up rulemaking on July 1, 2016 (81 FR 43019).

The 2015 Improvements Act also requires that the head of each agency continue to adjust CMP amounts, rounded to the nearest dollar, on an annual basis. Specifically, each CMP is to be adjusted based on the percentage change between the CPI for the month of October, and the CPI for the month of October for the previous year. The NRC most recently adjusted its civil penalties for inflation according to this statutory formula on January 15, 2021 (86 FR 3745). This year's adjustment is based on the increase in the CPI from October 2020 to October 2021.

II. Discussion

Section 234 of the AEA limits civil penalties for violations of the AEA to $100,000 per day, per violation (42 U.S.C. 2282). However, as discussed in Section I, ''Background,'' of this document, the NRC has increased this amount several times since 1996 per the FCPIAA, as amended. Using the formula in the 2015 Improvements Act, the $307,058 amount last established in January 2021 will increase by 6.222 percent, resulting in a new CMP amount of $326,163. This is based on the increase in the CPI from October 2020 (260.388) to October 2021 (276.589). Therefore, the NRC is amending § 2.205 to reflect a new maximum CMP under the AEA in the amount of $326,163 per day, per violation. This represents an increase of $19,105.

Monetary penalties under the Program Fraud Civil Remedies Act were established in 1986 at $5,000 per claim (Pub. L. 99–509, 100 Stat. 1938; 31 U.S.C. 3802). The NRC also has adjusted this amount (currently set at $11,803) multiple times pursuant to the FCPIAA, as amended, since 1996. Using the formula in the 2015 Improvements Act, the $11,803 amount last established in January 2021 will also increase by 6.222 percent, resulting in a new CMP amount of $12,537. Therefore, the NRC is amending § 13.3 to reflect a new maximum CMP amount of $12,537 per claim or statement. This represents an increase of $734.

As permitted by the 2015 Improvements Act, the NRC may apply these increased CMP amounts to any penalties assessed by the agency after the effective date of this final rule (January 14, 2022), regardless of whether the associated violation occurred before or after this date (Pub. L. 114–74, 129 Stat. 600; 28 U.S.C. 2461 note). The NRC assesses civil penalty amounts for violations of the AEA based on the class of licensee and severity of the violation, in accordance with the NRC Enforcement Policy, which is available under ADAMS Accession No. ML21323A042. A corresponding update to the NRC Enforcement Policy is being published today in the Rules section of the **Federal Register** to reflect the updated CMP amount in § 2.205.

III. Rulemaking Procedure

The 2015 Improvements Act expressly exempts this final rule from the notice and comment requirements of the Administrative Procedure Act by directing agencies to adjust CMPs for inflation ''notwithstanding section 553 of title 5, United States Code'' (Pub. L. 114–74, 129 Stat. 599; 28 U.S.C. 2461 note). As such, this final rule is being issued without prior public notice or opportunity for public comment, with an effective date of January 14, 2022.

IV. Section-by-Section Analysis

§ 2.205 Civil penalties.

This final rule revises paragraph (j) by replacing ''$307,058'' with ''$326,163.''

§ 13.3 Basis for civil penalties and assessments.

This final rule revises paragraphs (a)(1)(iv) and (b)(1)(ii) by replacing ''$11,803'' with ''$12,537.''

V. Regulatory Analysis

This final rule adjusts for inflation the maximum CMPs the NRC may assess under the AEA and under the Program Fraud Civil Remedies Act of 1986. The formula for determining the amount of the adjustment is mandated by Congress in the FCPIAA, as amended by the 2015 Improvements Act (codified at 28 U.S.C. 2461 note). Congress passed this legislation on the basis of its findings that the power to impose monetary civil penalties is important to deterring violations of Federal law and furthering the policy goals of Federal laws and regulations. Congress has also found that inflation diminishes the impact of these penalties and their effect. The principal purposes of this legislation are to provide for adjustment of civil monetary penalties for inflation, maintain the deterrent effect of civil monetary penalties, and promote compliance with the law. Therefore, these are the anticipated impacts of this rulemaking. Direct monetary impacts fall only upon licensees or other persons subjected to NRC enforcement for violations of the AEA and regulations and orders issued under the AEA (§ 2.205), or those licensees or persons subjected to liability pursuant to the provisions of the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812) and the NRC's implementing regulations (10 CFR part 13).

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to regulations for which a Federal agency is not required by law, including the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C 553(b), to publish a general notice of proposed rulemaking (5 U.S.C. 604). As discussed under Section III, ''Rulemaking Procedure,'' of this document, this final rule is exempt from the requirements of 5 U.S.C. 553(b) and notice and comment need not be provided. Accordingly, the NRC also determines that the requirements of the Regulatory Flexibility Act do not apply to this final rule.

VII. Backfit and Issue Finality

The NRC has not prepared a backfit analysis for this final rule. This final rule does not involve any provision that would impose a backfit, nor is it inconsistent with any issue finality provision, as those terms are defined in 10 CFR chapter I. As mandated by Congress, this final rule increases CMP amounts for violations of already-existing NRC regulations and requirements. This final rule does not modify any licensee systems, structures, components, designs, approvals, or procedures required for the construction or operation of any facility.

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

IX. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described as a categorical exclusion in § 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

X. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore,

is not subject to the requirements of the Paperwork Reduction Act of 1995.

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 13

Administrative practice and procedure, Claims, Fraud, Organization and function (Government agencies), Penalties.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; 28 U.S.C. 2461 note; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 2 and 13:

PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

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

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note.

Section 2.205(j) also issued under 28 U.S.C. 2461 note.

§ 2.205 [Amended]

■ 2. In § 2.205, amend paragraph (j) by removing the amount ''$307,058'' and adding in its place the amount ''$326,163''.

PART 13—PROGRAM FRAUD CIVIL REMEDIES

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

Authority: 31 U.S.C. 3801 through 3812; 44 U.S.C. 3504 note.

Section 13.3 also issued under 28 U.S.C. 2461 note.

Section 13.13 also issued under 31 U.S.C. 3730.

§ 13.3 [Amended]

■ 4. In § 13.3, amend paragraphs (a)(1)(iv) and (b)(1)(ii) by removing the amount ''$11,803'' and adding in its place the amount ''$12,537''.

Dated: December 22, 2021.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,

Executive Director for Operations.

[FR Doc. 2022–00010 Filed 1–13–22; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 263

[Docket No. R–1759]

RIN 7100–AG22

Rules of Practice for Hearings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (the ''Board'') is issuing a final rule amending its rules of practice and procedure to adjust the amount of each civil money penalty (''CMP'') provided by law within its jurisdiction to account for inflation as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: This final rule is effective on January 14, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas O. Kelly, Senior Counsel (202–974–7059), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave. NW, Washington, DC 20551. You may also contact us at *https://www.federalreserve.gov/apps/ContactUs/feedback.aspx,* choose Staff Group: Regulations.

SUPPLEMENTARY INFORMATION:

Federal Civil Penalties Inflation Adjustment Act

The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note (''FCPIA Act''), requires federal agencies to adjust, by regulation, the CMPs within their jurisdiction to account for inflation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the ''2015 Act'') [1] amended the FCPIA Act to require federal agencies to make annual adjustments not later than January 15 of every year.[2] The Board is now issuing a new final rule to set the CMP levels pursuant to the required annual adjustment for 2022. The Board will apply these adjusted maximum penalty levels to any penalties assessed on or after January 14, 2022, whose associated violations occurred on or after November 2, 2015. Penalties assessed for violations occurring prior to November 2, 2015 will be subject to the amounts set in the Board's 2012 adjustment pursuant to the FCPIA Act.[3]

Under the 2015 Act, the annual adjustment to be made for 2022 is the percentage by which the Consumer Price Index for the month of October 2021 exceeds the Consumer Price Index for the month of October 2020. On December 15, 2021, as directed by the 2015 Act, the Office of Management and Budget (OMB) issued guidance to affected agencies on implementing the required annual adjustment which included the relevant inflation multiplier.[4] Using OMB's multiplier, the Board calculated the adjusted penalties for its CMPs, rounding the penalties to the nearest dollar.[5]

Administrative Procedure Act

The 2015 Act states that agencies shall make the annual adjustment ''notwithstanding section 553 of title 5, United States Code.'' Therefore, this rule is not subject to the provisions of the Administrative Procedure Act (the ''APA''), 5 U.S.C. 553, requiring notice, public participation, and deferred effective date.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* requires a regulatory flexibility analysis only for rules for which an agency is required to publish

[1] Public Law 114–74, 129 Stat. 599 (2015) (codified at 28 U.S.C. 2461 note).

[2] 28 U.S.C. 2461 note, section 4(b)(1).

[3] 77 FR 68680 (Nov. 16, 2012).

[4] OMB Memorandum M–22–07, *Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2021).

[5] Under the 2015 Act and implementing OMB guidance, agencies are not required to make an adjustment to a CMP if, during the 12 months preceding the required adjustment, such penalty increased due to a law other than the 2015 Act by an amount greater than the amount of the required adjustment. No other laws have adjusted the CMPs within the Board's jurisdiction during the preceding 12 months.

a general notice of proposed rulemaking. Because the 2015 Act states that agencies' annual adjustments are to be made notwithstanding section 553 of title 5 of United States Code—the APA section requiring notice of proposed rulemaking—the Board is not publishing a notice of proposed rulemaking. Therefore, the Regulatory Flexibility Act does not apply.

Paperwork Reduction Act

There is no collection of information required by this final rule that would be subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects in 12 CFR Part 263

Administrative practice and procedure, Claims, Crime, Equal access to justice, Lawyers, Penalties.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 263 as follows:

PART 263—RULES OF PRACTICE FOR HEARINGS

■ 1. The authority citation for part 263 continues to read as follows:

Authority: 5 U.S.C. 504, 554–557; 12 U.S.C. 248, 324, 334, 347a, 504, 505, 1464, 1467, 1467a, 1817(j), 1818, 1820(k), 1829, 1831o, 1831p–1, 1832(c), 1847(b), 1847(d), 1884, 1972(2)(F), 3105, 3108, 3110, 3349, 3907, 3909(d), 4717; 15 U.S.C. 21, 78l(i), 78o–4, 78o–5, 78u–2; 1639e(k); 28 U.S.C. 2461 note; 31 U.S.C. 5321; and 42 U.S.C. 4012a.

■ 2. Section 263.65 is revised to read as follows:

§ 263.65 Civil money penalty inflation adjustments.

(a) *Inflation adjustments.* In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990, the Board has set forth in paragraph (b) of this section the adjusted maximum amounts for each civil money penalty provided by law within the Board's jurisdiction. The authorizing statutes contain the complete provisions under which the Board may seek a civil money penalty. The adjusted civil money penalties apply only to penalties assessed on or after January 14, 2022, whose associated violations occurred on or after November 2, 2015.

(b) *Maximum civil money penalties.* The maximum (or, in the cases of 12 U.S.C. 334 and 1832(c), fixed) civil money penalties as set forth in the referenced statutory sections are set forth in the table in this paragraph (b).

TABLE 1 TO PARAGRAPH (b)

Statute	Adjusted civil money penalty
12 U.S.C. 324:	
Inadvertently late or misleading reports, inter alia	$4,404
Other late or misleading reports, inter alia	44,043
Knowingly or reckless false or misleading reports, inter alia	2,202,123
12 U.S.C. 334	320
12 U.S.C. 374a	320
12 U.S.C. 504:	
First Tier	11,011
Second Tier	55,052
Third Tier	2,202,123
12 U.S.C. 505:	
First Tier	11,011
Second Tier	55,052
Third Tier	2,202,123
12 U.S.C. 1464(v)(4)	4,404
12 U.S.C. 1464(v)(5)	44,043
12 U.S.C. 1464(v)(6)	2,202,123
12 U.S.C. 1467a(i)(2)	55,052
12 U.S.C. 1467a(i)(3)	55,052
12 U.S.C. 1467a(r):	
First Tier	4,404
Second Tier	44,043
Third Tier	2,202,123
12 U.S.C. 1817(j)(16):	
First Tier	11,011
Second Tier	55,052
Third Tier	2,202,123
12 U.S.C. 1818(i)(2):	
First Tier	11,011
Second Tier	55,052
Third Tier	2,202,123
12 U.S.C. 1820(k)(6)(A)(ii)	362,217
12 U.S.C. 1832(c)	3,198
12 U.S.C. 1847(b)	55,052
12 U.S.C. 1847(d):	
First Tier	4,404
Second Tier	44,043
Third Tier	2,202,123
12 U.S.C. 1884	320
12 U.S.C. 1972(2)(F):	
First Tier	11,011
Second Tier	55,052

TABLE 1 TO PARAGRAPH (b)—Continued

Statute	Adjusted civil money penalty
Third Tier	2,202,123
12 U.S.C. 3110(a)	50,326
12 U.S.C. 3110(c):	
First Tier	4,027
Second Tier	40,259
Third Tier	2,013,008
12 U.S.C. 3909(d)	2,739
15 U.S.C. 78u–2(b)(1):	
For a natural person	10,360
For any other person	103,591
15 U.S.C. 78u–2(b)(2):	
For a natural person	103,591
For any other person	517,955
15 U.S.C. 78u–2(b)(3):	
For a natural person	207,183
For any other person	1,035,909
15 U.S.C. 1639e(k)(1)	12,647
15 U.S.C. 1639e(k)(2)	25,293
42 U.S.C. 4012a(f)(5)	2,392

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority.

Ann Misback,

Secretary of the Board.

[FR Doc. 2022–00592 Filed 1–13–22; 8:45 am]

BILLING CODE 6210–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1083

Civil Penalty Inflation Adjustments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is adjusting for inflation the maximum amount of each civil penalty within the Bureau's jurisdiction. These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). The inflation adjustments mandated by the Inflation Adjustment Act serve to maintain the deterrent effect of civil penalties and to promote compliance with the law.

DATES: This final rule is effective January 15, 2022.

FOR FURTHER INFORMATION CONTACT: Willie Williams, Paralegal Specialist; Lanique Eubanks, Senior Counsel, Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990,[1] as amended by the Debt Collection Improvement Act of 1996 [2] and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act),[3] directs Federal agencies to adjust for inflation the civil penalty amounts within their jurisdiction not later than July 1, 2016, and then not later than January 15 every year thereafter.[4] Each agency was required to make the 2016 one-time catch-up adjustments through an interim final rule published in the **Federal Register**. On June 14, 2016, the Bureau published its interim final rule (IFR) to make the initial catch-up adjustments to civil penalties within the Bureau's jurisdiction.[5] The June 2016 IFR created a new part 1083 and in 1083.1 established the inflation-adjusted maximum amounts for each civil penalty within the Bureau's jurisdiction.[6] The Bureau finalized the IFR on January 31, 2019.[7]

The Inflation Adjustment Act also requires subsequent adjustments to be made annually, not later than January 15, and notwithstanding section 553 of the Administrative Procedure Act (APA).[8] The Bureau annually adjusted its civil penalty amounts, as required by the Act, through rules issued in January 2017, January 2018, January 2019, January 2020, and January 2021.[9]

Specifically, the Act directs Federal agencies to adjust annually each civil penalty provided by law within the jurisdiction of the agency by the ''cost-of-living adjustment.'' [10] The ''cost-of-living adjustment'' is defined as the percentage (if any) by which the Consumer Price Index for all-urban consumers (CPI–U) for the month of October preceding the date of the adjustment, exceeds the CPI–U for

[1] Public Law 101–410, 104 Stat. 890.

[2] Public Law 104–134, sec. 31001(s)(1), 110 Stat. 1321, 1321–373.

[3] Public Law 114–74, sec. 701, 129 Stat. 584, 599.

[4] Section 1301(a) of the Federal Reports Elimination Act of 1998, Public Law 105–362, 112 Stat. 3293, also amended the Inflation Adjustment Act by striking section 6, which contained annual reporting requirements, and redesignating section 7 as section 6, but did not alter the civil penalty adjustment requirements; 28 U.S.C. 2461 note.

[5] 81 FR 38569 (June 14, 2016). Although the Bureau was not obligated to solicit comments for the interim final rule, the Bureau invited public comment and received none.

[6] *See* 12 CFR 1083.1.

[7] 84 FR 517 (Jan. 31, 2019).

[8] Inflation Adjustment Act section 4, codified at 28 U.S.C. 2461 note. As discussed in guidance issued by the Director of the Office of Management and Budget (OMB), the APA generally requires notice, an opportunity for comment, and a delay in effective date for certain rulemakings, but the Inflation Adjustment Act provides that these procedures are not required for agencies to issue regulations implementing the annual adjustment. *See* Memorandum for the Heads of Exec. Dep'ts & Agencies from Shalanda D. Young, Acting Director, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Off. of Mgmt. & Budget (Dec. 15, 2021), *available at https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf.*

[9] 82 FR 3601 (Jan. 12, 2017); 83 FR 1525 (Jan. 12, 2018); 84 FR 517 (Jan. 31, 2019); 85 FR 2012 (Jan. 14, 2020); 86 FR 3767 (Jan. 15, 2021).

[10] Inflation Adjustment Act sections 4 and 5, codified at 28 U.S.C. 2461 note.

October of the prior year.[11] The Director of the Office of Management and Budget (OMB) is required to issue guidance (OMB Guidance) every year by December 15 to agencies on implementing the annual civil penalty inflation adjustments. Pursuant to the Inflation Adjustment Act and OMB Guidance, agencies must apply the multiplier reflecting the ''cost-of-living adjustment'' to the current penalty amount and then round that amount to the nearest dollar to determine the annual adjustments.[12] The adjustments are designed to keep pace with inflation so that civil penalties retain their deterrent effect and promote compliance with the law.[13]

For the 2022 annual adjustment, the multiplier reflecting the ''cost-of-living adjustment'' is 1.06222.

II. Adjustment

Pursuant to the Inflation Adjustment Act and OMB Guidance, the Bureau multiplied each of its civil penalty amounts by the ''cost-of-living adjustment'' multiplier and rounded to the nearest dollar.[14] The new penalty amounts that apply to civil penalties assessed after January 15, 2022, are as follows:

Law	Penalty description	Penalty amounts established under 2021 final rule	OMB ''Cost-of-Living Adjustment'' multiplier	New penalty amount
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(A).	Tier 1 penalty	$5,953	1.06222	$6,323
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(B).	Tier 2 penalty	29,764	1.06222	31,616
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(C).	Tier 3 penalty	1,190,546	1.06222	1,264,622
Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2).	Per violation	2,074	1.06222	2,203
Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2).	Annual cap	2,073,133	1.06222	2,202,123
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1).	Per failure	97	1.06222	103
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1).	Annual cap	195,047	1.06222	207,183
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(2)(A).	Per failure, where intentional	195	1.06222	207
SAFE Act, 12 U.S.C. 5113(d)(2)	Per violation	30,058	1.06222	31,928
Truth in Lending Act, 15 U.S.C. 1639e(k)(1)	First violation	11,906	1.06222	12,647
Truth in Lending Act, 15 U.S.C. 1639e(k)(2)	Subsequent violations	23,811	1.06222	25,293

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.[15] The adjustments to the civil penalty amounts are technical and non-discretionary, and they merely apply the statutory method for adjusting civil penalty amounts. These adjustments are required by the Inflation Adjustment Act. Moreover, the Inflation Adjustment Act directs agencies to adjust civil penalties annually notwithstanding section 553 of the APA,[16] and OMB Guidance reaffirms that agencies need not complete a notice-and-comment process before making the annual adjustments for inflation.[17] For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. The amendments therefore are adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.[18] At minimum, the Bureau believes the annual adjustments to the civil penalty amounts in § 1083.1(a) fall under the third exception to section 553(d). The Bureau finds that there is good cause to make the amendments effective on January 15, 2022. The amendments to § 1083.1(a) in this final rule are technical and non-discretionary, and they merely apply the statutory method for adjusting civil penalty amounts and follow the statutory directive to make annual adjustments each year. Moreover, the Inflation Adjustment Act directs agencies to adjust the civil penalties annually notwithstanding section 553 of the APA,[19] and OMB Guidance reaffirms that agencies need not provide a delay in effective date for the annual adjustments for inflation.[20]

B. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[21]

[11] Inflation Adjustment Act sections 3 and 5, codified at 28 U.S.C. 2461 note.

[12] Inflation Adjustment Act section 5, codified at 28 U.S.C. 2461 note; *see also* Memorandum for the Heads of Exec. Dep'ts & Agencies from Shalanda D. Young, Acting Director, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Off. of Mgmt. & Budget (Dec. 15, 2021), *available at https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf.*

[13] *See* Inflation Adjustment Act section 2, codified at 28 U.S.C. 2461 note.

[14] Inflation Adjustment Act section 4, codified at 28 U.S.C. 2461 note.

[15] 5 U.S.C. 553(b)(B).

[16] Inflation Adjustment Act section 4, codified at 28 U.S.C. 2461 note.

[17] Memorandum for the Heads of Exec. Dep'ts & Agencies from Shalanda D. Young, Acting Director, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Off. of Mgmt. & Budget (Dec. 15, 2021), *available at https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf.*

[18] 5 U.S.C. 553(d).

[19] Inflation Adjustment Act section 4, codified at 28 U.S.C. 2461 note.

[20] Memorandum for the Heads of Exec. Dep'ts & Agencies from Shalanda D. Young, Acting Director, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Off. of Mgmt. & Budget (Dec. 15, 2021), *available at https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf.*

[21] 5 U.S.C. 603(a), 604(a).

C. Paperwork Reduction Act

The Bureau has determined that this final rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.[22]

D. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. Signing Authority

The Associate Director for Research, Markets and Regulations, Janis K. Pappalardo, having reviewed and approved this document, is delegating the authority to electronically sign this document to Laura Galban, a Bureau Federal Register Liaison, for purposes of publication in the **Federal Register**.

List of Subjects in 12 CFR Part 1083

Administrative practice and procedure, Consumer protection, Penalties.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends 12 CFR part 1083, as set forth below:

PART 1083—CIVIL PENALTY ADJUSTMENTS

■ 1. The authority citation for part 1083 continues to read as follows:

Authority: 12 U.S.C. 2609(d); 12 U.S.C. 5113(d)(2); 12 U.S.C. 5565(c); 15 U.S.C. 1639e(k); 15 U.S.C. 1717a(a); 28 U.S.C. 2461 note.

■ 2. Section 1083.1 is revised to read as follows:

§ 1083.1 Adjustment of civil penalty amounts.

(a) The maximum amount of each civil penalty within the jurisdiction of the Consumer Financial Protection Bureau to impose is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. 2461 note), as follows:

TABLE 1 TO PARAGRAPH (a)

Law	Penalty description	Adjusted maximum civil penalty amount
12 U.S.C. 5565(c)(2)(A)	Tier 1 penalty	$6,323
12 U.S.C. 5565(c)(2)(B)	Tier 2 penalty	31,616
12 U.S.C. 5565(c)(2)(C)	Tier 3 penalty	1,264,622
15 U.S.C. 1717a(a)(2)	Per violation	2,203
15 U.S.C. 1717a(a)(2)	Annual cap	2,202,123
12 U.S.C. 2609(d)(1)	Per failure	103
12 U.S.C. 2609(d)(1)	Annual cap	207,183
12 U.S.C. 2609(d)(2)(A)	Per failure, where intentional	207
12 U.S.C. 5113(d)(2)	Per violation	31,928
15 U.S.C. 1639e(k)(1)	First violation	12,647
15 U.S.C. 1639e(k)(2)	Subsequent violations	25,293

(b) The adjustments in paragraph (a) of this section shall apply to civil penalties assessed after January 15, 2022, whose associated violations occurred on or after November 2, 2015.

Laura Galban,

Federal Register Liaison, Bureau of Consumer Financial Protection.

[FR Doc. 2022–00672 Filed 1–13–22; 8:45 am]

BILLING CODE 4810–AM–P

[22] 44 U.S.C. 3501–3521.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0689; Project Identifier AD–2020–01589–R; Amendment 39–21898; AD 2022–02–01]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Sikorsky Aircraft Corporation Model S–92A helicopters. This AD was prompted by a cracked main rotor stationary swashplate assembly (swashplate assembly). This AD requires visually inspecting the swashplate assembly at specified intervals and depending on the results, removing the swashplate assembly from service. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 18, 2022.

ADDRESSES: For service information identified in this final rule, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, Mailstop K100, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–946–4337 (1–800–Winged–S); email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators

may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0689.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0689; 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 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: Jared Hyman, Aerospace Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7799; email: *9-AVS-AIR-BACO-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Sikorsky Aircraft Corporation Model S–92A helicopters. The NPRM published in the **Federal Register** on August 23, 2021 (86 FR 47041). The NPRM was prompted by a notification of an in-service crack in a swashplate assembly inner ring. The crack, discovered during a routine inspection, extended between the uniball bore and near the right-hand trunnion to servo attach bolt hole. This condition, if not detected and corrected, could result in fretting wear on the shoulder that supports the clamp-up of the uniball outer race, failure of the swashplate assembly, and subsequent loss of control of the helicopter. In the NPRM, the FAA proposed to require, within 50 hours time-in-service (TIS), and thereafter at intervals not to exceed 50 hours TIS, visually inspecting the upper and lower surfaces of the swashplate assembly for a crack, nick, dent, and scratch. If there is a crack, nick, dent, or scratch that exceeds allowable limits, the NPRM proposed to require removing the swashplate assembly from service before further flight. 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 one commenter; Sikorsky Aircraft. Sikorsky Aircraft requested the FAA change the required inspections to address the unsafe condition. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Changes to the Required Inspections

Sikorsky Aircraft requested the FAA change the repetitive inspections proposed in the NPRM to more detailed repetitive inspections. Sikorsky Aircraft stated that the 50-hour repetitive inspections proposed in the NPRM are insufficient based on recent fatigue evaluations, which have introduced a new failure mode. Sikorsky Aircraft further stated that this new failure mode requires improved detection capability, which will be introduced in a forthcoming revision to ASB 92–62–009. Sikorsky Aircraft explained that the revised ASB will specify directed special inspections at 50-hour, 375-hour, and 1,500-hour intervals to visually detect a potential fatigue crack at specific regions of the swashplate and will include criteria for when to accomplish a fluorescent penetrant inspection (FPI) or eddy-current inspection.

The FAA appreciates that additional evaluations have been accomplished and revised service information is forthcoming; however, the FAA disagrees with changing the repetitive inspections proposed in this NPRM at this time. The FAA reviewed the drafted ''Chapter 5 AMM Revision—Inspection of the Main Rotor Swashplate Assembly'' submitted as an attachment to Sikorsky Aircraft's comment and determined that the preliminary data provided is not sufficient to substantiate Sikorsky Aircraft's request to change the repetitive inspections proposed in the NPRM. Therefore, it would be inappropriate for the FAA to delay issuance of this rule in order to allow Sikorsky Aircraft Corporation to release revised service information. Since an unsafe condition exists, the FAA must issue an AD; however, in light of the new information, the FAA has changed this AD action to be an interim action and might consider further rulemaking if final action is later identified.

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, 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 Sikorsky S–92 Helicopter Alert Service Bulletin ASB 92–62–009, Basic Issue, dated February 6, 2019 (ASB). The ASB specifies a one-time visual inspection of the swashplate assembly to determine if there are any cracks. If cracks are found, the ASB specifies replacing the swashplate assembly. If there is any other damage such as nicks, dents, or scratches, the ASB specifies providing that damage information to Sikorsky Customer Service Engineering. The ASB also specifies returning the swashplate assembly, uniball bearing, trunnions, and all attachment hardware to Sikorsky for investigation if cracks are found.

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.

Differences Between This AD and the Service Information

The ASB specifies a one-time visual inspection of the swashplate assembly; this AD requires repetitive visual inspections of the swashplate assembly to determine if any crack, nick, dent, or scratch develops over time. This AD does not require returning parts to or contacting Sikorsky, while the ASB specifies performing those actions.

Interim Action

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

Costs of Compliance

The FAA estimates that this AD affects 89 helicopters of U.S. Registry and that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Visually inspecting a swashplate assembly takes about 0.5 work-hour, for an estimated cost of $43 per helicopter

and $3,827 for the U.S. fleet, per inspection cycle.

Replacing the swashplate assembly, if required, takes about 16 work-hours and parts cost about $389,720, for an estimated cost of $391,080 per helicopter.

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:

2022–02–01 Sikorsky Aircraft Corporation: Amendment 39–21898; Docket No. FAA–2021–0689; Project Identifier AD–2020–01589–R.

(a) Effective Date

This airworthiness directive (AD) is effective February 18, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Sikorsky Aircraft Corporation Model S–92A helicopters, certificated in any category, with a main rotor stationary swashplate assembly (swashplate assembly) part number (P/N) 92104–15011–042 or P/N 92104–15011–043 that has accumulated 1,600 or more total hours time-in-service, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 6230: Main Rotor Mast/Swashplate.

(e) Unsafe Condition

This AD was prompted by the discovery of a crack on the swashplate assembly inner ring. This condition, if not detected and corrected, could result in fretting wear on the shoulder that supports the clamp-up of the uniball outer race, failure of the swashplate assembly, and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) Within 50 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 50 hours TIS, visually inspect the swashplate assembly for a crack, nick, dent, and scratch, by following the Accomplishment Instructions, Section 3, paragraph B. (except paragraphs B.(2)(a) through (c)) of Sikorsky S–92 Helicopter Alert Service Bulletin ASB 92–62–009, Basic Issue, dated February 6, 2019.

(2) If there is a crack, nick, dent, or scratch that exceeds the allowable limits, before further flight, remove the swashplate assembly from service.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston ACO, Compliance & Airworthiness Division, 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 (i) of this AD.

(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.

(i) Related Information

For more information about this AD, contact Jared Hyman, Aerospace Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7799; email: *9-AVS-AIR-BACO-COS@faa.gov.*

(j) 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) Sikorsky S–92 Helicopter Alert Service Bulletin ASB 92–62–009, Basic Issue, dated February 6, 2019.

(ii) [Reserved]

(3) For Sikorsky Aircraft Corporation service information identified in this AD, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, Mailstop K100, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–946–4337 (1–800–Winged–S); email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.*

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

(5) You may view this 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 January 4, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–00748 Filed 1–12–22; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0805; Airspace Docket No. 20–AWP–57]

RIN 2120–AA66

Modification of Class E Airspace; Inyokern Airport, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace at Inyokern Airport, Inyokern, CA. This action also proposes two administrative updates to the Class E5 text header. This action ensures the safety and management of instrument flight rule (IFR) operations at the airport.

DATES: Effective 0901 UTC, March 24, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov//air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. 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: Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 56845; October 13, 2021) for Docket No. FAA–2021–0805 to modify the Class E airspace at Inyokern Airport, Inyokern, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. The FAA received one comment in favor of the airspace changes.

Class E5 airspace designations are published in paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, 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 amendment to 14 CFR part 71 modifies the Class E airspace, extending upward from 700 feet above the surface at Inyokern Airport, Inyokern, CA. This airspace is designed to contain departing IFR aircraft until reaching 1,200 feet above the surface and arriving IFR aircraft descending below 1,500 feet above the surface. To properly contain arriving IFR aircraft performing a circling maneuver, the circular radius of the airport is increased from ''2 miles'' to ''4 miles''. To properly contain departing IFR aircraft flying toward or over rising terrain, the airspace southwest of the airport is widened and lengthened.

This action also implements two administrative updates to the Class E5 text header. The airport name in the second line of the text header is amended from ''Inyokern Municipal Airport'' to ''Inyokern Airport'', to match the FAA database. The geographic coordinates in the third line of the text header are amended to ''lat. 35°39′31″ N, long. 117°49′46″ W'', to match the FAA database.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AWP CA E5 Inyokern, CA [Amended]

Inyokern Airport, CA
(Lat. 35°39′31″ N, long. 117°49′46″ W)

That airspace extending upward from 700 feet above the surface within a 4-mile radius of the airport, and within 2.7 miles each side of the 215° bearing from the airport extending from the 4-mile radius to 11.6 miles southwest of Inyokern Airport, excluding that airspace within Restricted Areas R–2505 and R–2506.

Issued in Des Moines, Washington, on January 4, 2022.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–00280 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0276; Airspace Docket No. 21–ACE–1]

RIN 2120–AA66

Amendment, Establishment, and Revocation of Multiple Air Traffic Service (ATS) Routes in the Vicinity of Neosho, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Jet Route J–181 and VHF Omnidirectional Range (VOR) Federal airways V–13, V–14, V–15, and V–307; establishes Area Navigation (RNAV) routes T–411 and T–413; and removes VOR Federal airway V–506. The FAA is taking this action due to the planned decommissioning of the VOR portion of the Neosho, MO, VOR/Distance Measuring Equipment (VOR/DME) navigational aid (NAVAID). The Neosho VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) 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 Order 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. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Policy Directorate, 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 National Airspace System.

History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2021–0276 in the **Federal Register** (86 FR 21243; April 22, 2021), amending Jet Route J–181 and VHF Omnidirectional Range (VOR) Federal airways V–13, V–14, V–15, and V–307; establishing Area Navigation (RNAV) routes T–411 and T–413; and removing VOR Federal airway V–506. The proposed amendment, establishment, and revocation actions were due to the planned decommissioning of the VOR portion of the Neosho, MO, VOR/DME NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Prior to the NPRM, the FAA published a rule for Docket No. FAA–2020–1146 in the **Federal Register** (86 FR 19129; April 13, 2021), amending V–14 by removing the airway segment between the Buffalo, NY, VOR/DME and the Norwich, CT, VOR/DME. That airway amendment was effective June 17, 2021, and is included in this rule.

Jet Routes are published in paragraph 2004, VOR Federal airways are published in paragraph 6010(a), and RNAV 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 ATS routes listed in this document would be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

Differences From the Proposal

In the NPRM, the FAA proposed to establish RNAV route T–413 with the ISTIQ, NE, waypoint (WP) included as a route point listed between the Grand Island, NE, VOR/DME and LLUKY, NE, WP route points. After further review of the proposed T–413 route, the FAA determined that the ISTIQ WP falls on a straight segment of the route between the Grand Island VOR/DME and LLUKY WP, and it is not necessary in the route description. Removing the ISTIQ, NE, WP from the proposed T–413 route does not affect the alignment of the route; therefore, the ISTIQ, NE, WP is removed from the T–413 route description in this rule.

The ISTIQ, NE, WP will still be established, but not as a route point included in the T–413 route description.

The Rule

The FAA is amending 14 CFR part 71 to modify Jet Route J–181 and VOR Federal airways V–13, V–14, V–15, and V–307; establish RNAV routes T–411

and T–413; and remove VOR Federal airway V–506 due to the planned decommissioning of the Neosho, MO, VOR. The ATS route actions are described below.

J–181: J–181 extends between the Ranger, TX, VOR/Tactical Air Navigation (VORTAC) and the Bradford, IL, VORTAC. The route segment between the Okmulgee, OK, VOR/DME and the Hallsville, IL, VORTAC is removed. The unaffected portions of the existing route remain as charted.

V–13: V–13 extends between the McAllen, TX, VOR/DME and the Farmington, MN, VORTAC; and between the Duluth, MN, VORTAC and the Thunder Bay, ON, Canada VOR/DME. The airspace within Canada is excluded. The airway segment between the Razorback, AR, VORTAC and the Butler, MO, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V–14: V–14 extends between the Chisum, NM, VORTAC and the Flag City, OH, VORTAC. The airway segment between the Tulsa, OK, VORTAC and the Springfield, MO, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V–15: V–15 extends between the Navasota, TX, VOR/DME and the Bonham, TX, VORTAC; between the Okmulgee, OK, VOR/DME and the Neosho, MO, VOR/DME; and between the Aberdeen, SD, VOR/DME and the Minot, ND, VOR/DME. The airway segment between the Okmulgee, OK, VOR/DME and the Neosho, MO, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V–307: V–307 extends between the Harrison, AR, VOR/DME and the Omaha, IA, VORTAC. The airway segment between the Harrison, AR, VOR/DME and the Oswego, KS, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

V–506: V–506 extends between the Tulsa, OK, VORTAC and the Springfield, MO, VORTAC. The airway is removed in its entirety.

T–411: T–411 is a new route that extends between the Razorback, AR, VORTAC and the Lincoln, NE, VORTAC. This T-route mitigates the loss of the V–13 airway segment removed and provides RNAV routing from the Fayetteville, AR, area northward to the Lincoln, NE, area.

T–413: T–413 is a new route that extends between the Razorback, AR, VORTAC and the Pierre, SD, VORTAC. This T-route mitigates the absence of Federal airways between the Neosho, MO, VOR/DME and the Salina, KS, VORTAC, and provides RNAV routing from the Fayetteville, AR, area, northwestward to the Pierre, SD, area.

All NAVAID radials listed in the ATS route descriptions below are unchanged and stated in True degrees.

FAA Order 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 modifying jet route J–181 and VOR Federal airways V–13, V–14, V–15 and V–307; establishing RNAV routes T–411 and T–413; and removing VOR Federal airway V–506, due to the planned decommissioning of the VOR portion of the Neosho, MO, VOR/DME NAVAID, 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 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 2004 Jet Routes.

* * * * *

J–181 [Amended]

From Ranger, TX; to Okmulgee, OK. From Hallsville, MO; INT Hallsville 053° and Bradford, IL, 219° radials; to Bradford.

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–13 [Amended]

From McAllen, TX; INT McAllen 060° radial and Corpus Christi, TX, 178° radials; Corpus Christi; INT Corpus Christi 039° and Palacios, TX, 241° radials; Palacios; Humble, TX; Lufkin, TX; Belcher, LA; Texarkana, AR; Rich Mountain, OK; Fort Smith, AR; INT Fort Smith 006° and Razorback, AR, 190° radials; to Razorback. From Butler, MO; Napoleon, MO; Lamoni, IA; Des Moines, IA; Mason City, IA; to Farmington, MN. From Duluth, MN; to Thunder Bay, ON, Canada. The airspace outside the United States is excluded.

* * * * *

V–14 [Amended]

From Chisum, NM; Lubbock, TX; Childress, TX; Hobart, OK; Will Rogers, OK; INT Will Rogers 052° and Tulsa, OK, 246° radials; to Tulsa. From Springfield, MO; Vichy, MO; INT Vichy 067° and St. Louis, MO, 225° radials; St. Louis;

Vandalia, IL; Terre Haute, IN; Brickyard, IN; Muncie, IN; to Flag City, OH.

* * * * *

V–15 [Amended]

From Navasota, TX; College Station, TX; Waco, TX; Cedar Creek, TX; to Bonham, TX. From Aberdeen, SD; Bismarck, ND; to Minot, ND.

* * * * *

V–307 [Amended]

From Oswego, KS; Chanute, KS; Emporia, KS; INT Emporia 336° and Pawnee City, NE, 194° radials; Pawnee City; to Omaha, IA.

* * * * *

V–506 [Removed]

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–411 RAZORBACK, AR (RZC) TO LINCOLN, NE (LNK) [NEW]

Razorback, AR (RZC)	VORTAC	(Lat. 36°14′47.14″ N, long. 094°07′17.01″ W)
DROOP, MO	FIX	(Lat. 37°06′09.12″ N, long. 094°26′42.39″ W)
Butler, MO (BUM)	VORTAC	(Lat. 38°16′19.49″ N, long. 094°29′17.74″ W)
Topeka, KS (TOP)	VORTAC	(Lat. 39°08′13.48″ N, long. 095°32′57.01″ W)
Lincoln, NE (LNK)	VORTAC	(Lat. 40°55′25.66″ N, long. 096°44′31.23″ W)

T–413 RAZORBACK, AR (RZC) TO PIERRE, SD (PIR) [NEW]

Razorback, AR (RZC)	VORTAC	(Lat. 36°14′47.14″ N, long. 094°07′17.01″ W)
DROOP, MO	FIX	(Lat. 37°06′09.12″ N, long. 094°26′42.39″ W)
Emporia, KS (EMP)	VORTAC	(Lat. 38°17′28.11″ N, long. 096°08′17.22″ W)
Salina, KS (SLN)	VORTAC	(Lat. 38°55′30.50″ N, long. 097°37′16.80″ W)
Grand Island, NE (GRI)	VOR/DME	(Lat. 40°59′02.50″ N, long. 098°18′53.20″ W)
LLUKY, NE	WP	(Lat. 42°29′20.26″ N, long. 098°38′11.44″ W)
MMINI, NE	WP	(Lat. 42°53′07.44″ N, long. 099°37′35.54″ W)
JMBAG, SD	WP	(Lat. 43°30′45.88″ N, long. 100°08′45.77″ W)
Pierre, SD (PIR)	VORTAC	(Lat. 44°23′40.40″ N, long. 100°09′46.11″ W)

Issued in Washington, DC, on January 6, 2022.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2022–00458 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0479; Airspace Docket No. 21–AGL–5]

RIN 2120–AA66

Amendment of VOR Federal Airways V–170, V–175 and V–250; Establishment of Area Navigation (RNAV) Route T–400; in the vicinity of Worthington, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–170, V–175, and V–250; and establishes RNAV T-route T–400, in the vicinity of Worthington, Minnesota. This action is necessary due to the planned decommissioning of the VOR portion of the Worthington, MN, VOR/Distance Measuring Equipment (VOR/DME), which provides navigational guidance for these Air Traffic Service (ATS) routes. The Worthington VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (VOR MON) program.

DATES: Effective date 0901 UTC, March 24, 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 to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

History

The FAA published a noticed of proposed rulemaking (NPRM) for Docket No. FAA–2021–0479, in the **Federal Register** (86 FR 35233; July 2, 2021) amending VOR Federal Airways V–170, V–175, and V–250; and establishing RNAV T-route T–400, in the vicinity of Worthington, Minnesota, due to the planned decommissioning of the VOR portion of the Worthington, MN, VOR/DME. The FAA invited interested parties to participate in this rulemaking effort by submitting written comments on the proposal. There were no comments received. Subsequent to the NPRM for Docket No. FAA–2021–0479, in the **Federal Register**, (86 FR 35233), the FAA published a final rule for Docket No. FAA–2020–1071, in the **Federal Register**, (86 FR 40145, July 27, 2021) amending V–175 by removing the Macon, MO, VOR/DME from the airway segment extending between the Hallsville, MO, VORTAC and the Kirksville, MO, VORTAC. This action results in one airway segment stopping at Hallsville VORTAC and another airway segment beginning at Kirksville VORTAC. That airway amendment was

effective October 7, 2021 and is included in this rule.

VOR Federal airways and RNAV T-routes are published in paragraphs 6010(a) and 6011, respectively, of FAA Order JO 7400.11F, dated August 20, 2021, and effective September 15, 2021, which are incorporated by reference in 14 CFR 71.1. The ATS routes listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

This action to 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 VOR Federal airways V–170, V–175, and V–250, and establishing RNAV T-route T–400, in the vicinity of Worthington, MN. This action is required due to the planned decommissioning of the VOR portion of the Worthington, MN, VOR/DME.

The ATS route amendment actions are described below.

V–170: V–170 extends between the Devils Lake, ND, VOR/DME and the Worthington, MN, VOR/DME; between the Rochester, MN, VOR/DME and the Salem, MI, VORTAC; and between the Slate Run, PA, VORTAC and the intersection of the Andrews, MD, VORTAC 060° radial and the Baltimore, MD, VORTAC 165° radial. The airspace within R–5802 is excluded when active. This action removes the airway segment between the Sioux Falls, SD, VORTAC and the Worthington, MN, VOR/DME. As a result, the first segment of the route extends between the Devils Lake, ND, VOR/DME and the Sioux Falls, SD, VORTAC. The second and third segments of the airway, as well as the exclusionary language, remain unchanged.

V–175: V–175 extends between the Malden, MO VORTAC and the Hallsville, MO, VORTAC; between Kirksville, MO, VORTAC and the Des Moines, IA, VORTAC; and between the Worthington, MN, VOR/DME and the Alexandria, MN, VOR/DME. This action removes the Worthington, MN, VOR/DME from the airway segment extending between the Worthington, MN, VOR/DME and the Redwood Falls, MN, VOR/DME. As a result, V–175 extends between the Malden, MO VORTAC and the Hallsville, MO VORTAC; between the Kirksville, MO, VORTAC and the Des Moines, IA, VORTAC; and between the Redwood Falls, MN, VOR/DME and the Alexandria, MN, VOR/DME.

V–250: V–250 extends between the O'Neill, NE, VORTAC and the Mankato, MN, VOR/DME. This action removes the airway segment from the Yankton, SD, VOR/DME and the Mankato, MN, VOR/DME. The resulting airway extends between the O'Neill, NE, VORTAC and the Yankton, SD, VOR/DME.

T–400: T–400 is a new RNAV route that extends between the LLUKY, NE, waypoint (WP), located near the O'Neill, NE, VORTAC and the ZOSAG, MN, WP, which is a new WP created for this action, near the Flying Cloud, MN, VOR/DME.

All of the navigational aid radials in the airway descriptions below are 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action amending VOR Federal airways V–170, V–175, and V–250, and establishing RNAV T-route T–400, in the vicinity of Worthington, MN, due to the planned decommissioning of the VOR portion of the Worthington, MN, VOR/DME navigational aid, 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 6010(a) Domestic VOR Federal airways.

* * * * *

V–170 [Amended]

From Devils Lake, ND; INT Devils Lake 187° and Jamestown, ND, 337° radials; Jamestown; Aberdeen, SD; to Sioux Falls, SD. From Rochester, MN; Nodine, MN; Dells, WI; INT Dells 097° and Badger, WI, 304° radials; Badger; INT Badger 121° and Pullman, MI, 282° radials; Pullman; to Salem, MI. From Slate Run, PA; Selinsgrove, PA; Ravine, PA; INT Ravine 125° and Modena, PA, 318° radials; Modena; Dupont, DE; INT Dupont 223° and Andrews, MD, 060° radials; to INT Andrews 060° and Baltimore, MD, 165°

radials. The airspace within R–5802 is excluded when active.

* * * * *

V–175 [Amended]

From Malden, MO; Vichy, MO; Hallsville, MO. From Kirksville, MO; to Des Moines, IA. From Redwood Falls, MN; to Alexandria, MN.

* * * * *

V–250 [Amended]

From O'Neill, NE; to Yankton, SD.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–400 LLUKY, NE to ZOSAG, MN [New]

LLUKY, NE WP
(Lat. 42°29′20.26″ N, long. 098°38′11.44″ W)
IMUPP, SD WP
(Lat. 42°55′06.44″ N, long. 097°23′05.22″ W)
DURWN, MN WP
(Lat. 43°38′48.91″ N, long. 095°34′55.87″ W)
MEMCO, MN WP
(Lat. 44°13′11.42″ N, long. 093°54′45.23″ W)
ZOSAG, MN WP
(Lat. 44°49′30.74″ N, long. 093°26′34.08″ W)

Issued in Washington, DC, on January 6, 2022.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2022–00457 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0324; Airspace Docket No. 21–AGL–9]

RIN 2120–AA66

Amendment of V–37 and V–270; Removal of V–43 in the Vicinity of Erie, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–37 and V–270, and removes VOR Federal airway V–43, in the vicinity of Erie, Pennsylvania. The airway amendments are necessary due to the planned decommissioning of the VOR portion of the Erie, PA, VOR/Tactical Air Navigation (VORTAC), which provides navigational guidance for these airways. The Erie VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, March 24, 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 airway structure to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–0324, in the **Federal Register** (86 FR 24794, May 10, 2021) amending V–37 and V–270, and removing V–43. The amendment and removal actions are necessary due to the planned decommissioning of the Erie, PA, VOR, as part of the VOR MON program. The FAA invited interested parties to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) 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 airways listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends 14 CFR part 71 by amending VOR Federal airways V–37 and V–270, and removing VOR Federal airway V–43, in the vicinity of Erie, PA. This action is required due to the planned decommissioning of the VOR portion of the Erie, PA, VORTAC.

The VOR Federal airway changes are described below.

V–37: V–37 extends between the Craig, FL, VORTAC and the Erie, PA VORTAC. This action removes the airway segment between the Ellwood City, PA, VOR/DME and the Erie VORTAC. The unaffected portions of the existing airway remain as charted. The resulting airway extends between the Craig VORTAC and the Ellwood City VOR/DME.

V–270: V–270 extends between the Erie, PA, VORTAC and the Jamestown, NY, VOR/DME; and between the Elmira, NY, VOR/DME and the Boston, MA, VOR/DME. This action removes the airway segment between the Erie VORTAC and the Jamestown VOR/DME. The unaffected portions of the existing airway remain as charted. The resulting airway extends between the Elmira VOR/DME and the Boston VOR/DME.

V–43: V–43 extends between the Youngstown, OH, VORTAC and the Erie, PA, VORTAC. This action removes the airway in its entirety.

All navigational aid radials in the VOR Federal airway description listed 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending VOR Federal airways V–37 and V–270, and removing VOR Federal airway V–43, due to the planned decommissioning of the VOR portion of the Erie, PA, VORTAC navigational aid, 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 6010(a) Domestic VOR Federal Airways.

* * * * *

V–37 [Amended]

From Craig, FL; Brunswick, GA; INT Brunswick 014° and Savannah, GA, 177° radials; Savannah; Allendale, SC; Columbia, SC; Charlotte, NC; Pulaski, VA; Elkins, WV; Clarksburg, WV; INT Clarksburg 359° and Ellwood City, PA, 185° radials; to Ellwood City.

* * * * *

V–43 [Removed]

* * * * *

V–270 [Amended]

From Elmira, NY; Binghamton, NY; DeLancey, NY; Chester, MA; INT Chester 091° and Boston, MA, 262° radials; to Boston.

* * * * *

Issued in Washington, DC, on January 6, 2022.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2022–00288 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0473; Airspace Docket No. 21–AGL–3]

RIN 2120–AA66

Amendment to Area Navigation (RNAV) T–302; Midwestern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends RNAV route T–302 by extending it further to the east from its current endpoint. This action supplements the National Airspace System (NAS) enroute structure, as well as provides additional RNAV options in the Midwest. Additionally, this action supports the FAA's Next Generation (NextGen) Air Transportation System efforts to transition the NAS from ground-based to space-based navigation.

DATES: Effective date 0901 UTC, March 24, 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. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: 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 National Airspace System.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–0473, in the **Federal Register** (86 FR 35235; July 2, 2021), amending T–302 by extending it further to the east from its current endpoint. This action expands the availability of RNAV routing in support of transitioning the NAS from ground-based to satellite-based navigation. The FAA invited interested parties to participate in this rulemaking effort by submitting written comments on the proposal. There were no comments 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 route listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, 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–302 extending it eastward. This action supports the FAA's NextGen efforts by transitioning the NAS from ground-based to satellite-based navigation.

The route change is described below.

T–302: T–302 extends between the CUKIS, OR, waypoint (WP) and the LLUKY, NE, WP. This action extends the route from the LLUKY, NE, WP to the GRIFT, IL, WP. The resulting RNAV route extends between the CUKIS, OR, WP to the GRIFT, IL, WP.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA determined that this action of extending T–302 to the east 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 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 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 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–302 CUKIS, OR to GRIFT, IL [Amended]

CUKIS, OR	WP	(Lat. 45°20′59.59″ N, long. 122°21′49.41″ W)
JJETT, OR	WP	(Lat. 44°56′35.43″ N, long. 121°40′56.36″ W)
CUPRI, OR	FIX	(Lat. 44°37′03.76″ N, long. 121°15′13.89″ W)
ZUDMI, OR	WP	(Lat. 44°19′59.29″ N, long. 120°28′10.92″ W)
Wildhorse, OR (ILR)	VOR/DME	(Lat. 43°35′35.27″ N, long. 118°57′18.18″ W)
JOSTN, OR	WP	(Lat. 43°34′16.92″ N, long. 117°53′51.34″ W)
UKAYI, ID	WP	(Lat. 43°46′57.60″ N, long. 117°05′24.14″ W)
PARMO, ID	FIX	(Lat. 43°45′32.78″ N, long. 116°49′10.43″ W)
ADEXE, ID	WP	(Lat. 43°30′16.79″ N, long. 116°26′53.72″ W)
FEVDO, ID	WP	(Lat. 42°53′48.88″ N, long. 115°02′00.30″ W)
TOXEE, ID	FIX	(Lat. 42°41′41.81″ N, long. 114°27′13.10″ W)
JADUP, ID	WP	(Lat. 42°44′32.00″ N, long. 113°42′15.22″ W)
MIKAE, WY	WP	(Lat. 42°06′36.88″ N, long. 110°35′59.28″ W)
BXTER, WY	WP	(Lat. 41°53′13.97″ N, long. 110°04′52.38″ W)
EEBEE, WY	WP	(Lat. 41°44′07.05″ N, long. 109°35′10.21″ W)

REGVE, WY	WP	(Lat. 41°38′35.07″ N, long. 109°20′30.96″ W)
Rock Springs, WY (OCS)	VOR/DME	(Lat. 41°35′24.76″ N, long. 109°00′55.18″ W)
FIKLA, WY	WP	(Lat. 41°56′20.50″ N, long. 106°57′11.03″ W)
Medicine Bow, WY (MBW)	VOR/DME	(Lat. 41°50′43.88″ N, long. 106°00′15.42″ W)
Scottsbluff, NE (BFF)	VORTAC	(Lat. 41°53′38.99″ N, long. 103°28′55.31″ W)
WAKPA, NE (BFF)	WP	(Lat. 42°03′21.64″ N, long. 103°04′57.99″ W)
Alliance, NE (AIA)	VOR/DME	(Lat. 42°03′20.27″ N, long. 102°48′16.00″ W)
MARSS, NE	FIX	(Lat. 42°27′48.92″ N, long. 100°36′15.32″ W)
PUKFA, NE	WP	(Lat. 42°22′59.52″ N, long. 099°59′36.42″ W)
GIYED, NE	FIX	(Lat. 42°30′22.02″ N, long. 099°08′05.55″ W)
LLUKY, NE	WP	(Lat. 42°29′20.26″ N, long. 098°38′11.44″ W)
KAATO, IA	WP	(Lat. 42°35′06.89″ N, long. 095°58′53.08″ W)
ROKKK, IA	WP	(Lat. 42°37′00.00″ N, long. 094°04′03.00″ W)
Waterloo, IA (ALO)	VOR/DME	(Lat. 42°33′23.39″ N, long. 092°23′56.13″ W)
Dubuque, IA (DBQ)	VORTAC	(Lat. 42°24′05.29″ N, long. 090°42′32.68″ W)
JOOLZ, IL	WP	(Lat. 42°20′41.49″ N, long. 090°12′12.00″ W)
GRIFT, IL	WP	(Lat. 42°17′28.14″ N, long. 088°53′41.42″ W)

* * * * *

Issued in Washington, DC, on January 6, 2022.

Michael R. Beckles,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2022–00289 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0804; Airspace Docket No. 20–AWP–56]

RIN 2120–AA66

Modification of Class D and Class E Airspace; China Lake NAWS (Armitage Field) Airport, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class D airspace at China Lake NAWS (Armitage Field) Airport, China Lake, CA. This action also modifies the Class E airspace extending upward from 700 feet above the surface. Additionally, this action removes the China Lake (Navy) TACAN from the Class E5 text header and airspace description. Lastly, this action implements numerous administrative updates to the Class D and Class E5 text headers and the Class D airspace description. This action ensures the safety and management of instrument flight rule (IFR) operations at the airport.

DATES: Effective 0901 UTC, March 24, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov//air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. 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: Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Class D and Class E airspace at China Lake NAWS (Armitage Field) Airport, China Lake, CA, to ensure the safety and management of IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 56843; October 13, 2021) for Docket No. FAA–2021–0804 to modify the Class D and Class E airspace at China Lake NAWS (Armitage Field) Airport, China Lake, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and Class E5 airspace designations are published in paragraphs 5000, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, 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 amendment to 14 CFR part 71 modifies the Class D airspace at China Lake NAWS (Armitage Field) Airport, China Lake, CA. To properly contain departing IFR aircraft flying toward or over rising terrain, the Class D is extended to the southwest of the airport.

This action also modifies the Class E airspace extending upward from 700 feet above the surface. This airspace is designed to contain departing IFR aircraft until reaching 1,200 feet above the surface and arriving IFR aircraft descending below 1,500 feet above the surface. New IFR approach procedures to Runway 03 were recently established at China Lake NAWS (Armitage Field) Airport, therefore, additional Class E

airspace is necessary to ensure proper containment of the procedures.

Additionally, this action removes the China Lake (NAVY) TACAN from the Class E5 text header and airspace description. The navigational aid (NAVAID) is not needed to describe the airspace area, and removal of the NAVAID simplifies the airspace description.

Lastly, this action implements numerous administrative updates to Class D and Class E5 text headers and the Class D airspace description. The city name in the first line of the text headers is amended from ''China Lake NWC'' to ''China Lake'', to match the FAA database. The airport name in the second line of the text headers is amended from ''China Lake NWC'' to ''China Lake NAWS (Armitage Field) Airport'', to match the FAA database. The geographic coordinates in the third line of the text headers are updated to ''lat. 35°41′09″ N, long. 117°41′32″ W'', to match the FAA database. The term ''Airport/Facility Directory'' in the last line of the Class D airspace description is updated to ''Chart Supplement.''

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 5000 Class D Airspace.

* * * * *

AWP CA D China Lake, CA [Amended]

China Lake NAWS (Armitage Field) Airport, CA
(Lat. 35°41′09″ N, long. 117°41′32″ W)

That airspace extending upward from the surface to and including 4,800 feet MSL within a 4.5-mile radius of the airport, and within 1.9 miles each side of the 226° bearing from the airport extending from the 4.5-mile radius to 5.3 miles southwest of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AWP CA E5 China Lake, CA [Amended]

China Lake NAWS (Armitage Field) Airport, CA
(Lat. 35°41′09″ N, long. 117°41′32″ W)

That airspace extending upward from 700 feet above the surface within a 4.5-mile radius of the airport, and within a 7-mile radius of the airport from the 115° bearing from the airport clockwise to the 271° bearing from the airport, and within 2.9 miles each side of the 184° bearing from the airport extending from the 7-mile radius to 9 miles south of the airport.

Issued in Des Moines, Washington, on January 4, 2022.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–00279 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Office of Workers' Compensation Programs

20 CFR Parts 702, 725, and 726

Office of the Secretary

29 CFR Part 5

41 CFR Part 50–201

Wage and Hour Division

29 CFR Parts 500, 501, 503, 530, 570, 578, 579, 801, 810, and 825

Occupational Safety and Health Administration

29 CFR Part 1903

Mine Safety and Health Administration

30 CFR Part 100

RIN 1290–AA46

Department of Labor Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for 2022

AGENCY: Employment and Training Administration, Office of Workers' Compensation Programs, Office of the Secretary, Wage and Hour Division, Occupational Safety and Health Administration, Employee Benefits Security Administration, and Mine Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor (Department) is publishing this final rule to adjust for inflation the civil monetary penalties assessed or enforced by the Department, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). The Inflation Adjustment Act requires the Department to annually adjust its civil

money penalty levels for inflation no later than January 15 of each year. The Inflation Adjustment Act provides that agencies shall adjust civil monetary penalties notwithstanding Section 553 of the Administrative Procedure Act (APA). Additionally, the Inflation Adjustment Act provides a cost-of-living formula for adjustment of the civil penalties. Accordingly, this final rule sets forth the Department's 2022 annual adjustments for inflation to its civil monetary penalties.

DATES: This final rule is effective on January 15, 2022. As provided by the Inflation Adjustment Act, the increased penalty levels apply to any penalties assessed after January 15, 2022.

FOR FURTHER INFORMATION CONTACT: Erin FitzGerald, Senior Policy Advisor, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–5076 (this is not a toll-free number). Copies of this final rule may be obtained in alternative formats (large print, Braille, audio tape or disc), upon request, by calling (202) 693–5959 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

Preamble Table of Contents

I. Background

On November 2, 2015, Congress enacted the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, sec. 701 (Inflation Adjustment Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 as previously amended by the 1996 Debt Collection Improvement Act (collectively, the ''Prior Inflation Adjustment Act''), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The Inflation Adjustment Act required agencies to (1) adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rule (IFR); and (2) make subsequent annual adjustments for inflation no later than January 15 of each year.

On July 1, 2016, the Department published an IFR that established the initial catch-up adjustment for most civil penalties that the Department administers and requested comments. *See* 81 FR 43430 (DOL IFR). On January 18, 2017, the Department published the final rule establishing the 2017 Annual Adjustment for those civil monetary penalties adjusted in the DOL IFR. *See* 82 FR 5373 (DOL 2017 Annual Adjustment). On July 1, 2016, the U.S. Department of Homeland Security (DHS) and the U.S. Department of Labor (DOL) (collectively, ''the Departments'') jointly published an IFR that established the initial catch-up adjustment for civil monetary penalties assessed or enforced in connection with the employment of temporary nonimmigrant workers under the H–2B program. *See* 81 FR 42983 (Joint IFR). On March 17, 2017, the Departments jointly published the final rule establishing the 2017 Annual Adjustment for the H–2B civil monetary penalties. *See* 82 FR 14147 (Joint 2017 Annual Adjustment). The Joint 2017 Annual Adjustment also explained that DOL would make future adjustments to the H–2B civil monetary penalties consistent with DOL's delegated authority under 8 U.S.C. 1184(c)(14), Immigration and Nationality Act section 214(c)(14), and the Inflation Adjustment Act. *See* 82 FR 14147–48. On January 2, 2018, the Department published the final rule establishing the 2018 Annual Adjustment for civil monetary penalties assessed or enforced by the Department, including H–2B civil monetary penalties. *See* 83 FR 7 (DOL 2018 Annual Adjustment). On January 23, 2019, the Department published the final rule establishing the 2019 Annual Adjustment for civil monetary penalties assessed or enforced by the Department, including H–2B civil monetary penalties. *See* 84 FR 213 (DOL 2019 Annual Adjustment). On January 15, 2020, the Department published the final rule establishing the 2020 Annual Adjustment for civil monetary penalties assessed or enforced by the Department, including H–2B civil monetary penalties. *See* 85 FR 2292 (DOL 2020 Annual Adjustment). On January 14, 2021, the Department published the final rule establishing the 2021 Annual Adjustment for civil monetary penalties assessed or enforced by the Department, including H–2B civil monetary penalties. *See* 86 FR 2964 (DOL 2021 Annual Adjustment).

This rule implements the 2022 annual inflation adjustments, as required by the Inflation Adjustment Act, for civil monetary penalties assessed or enforced by the Department, including H–2B civil monetary penalties. The Inflation Adjustment Act provides that the increased penalty levels apply to any penalties assessed after the effective date of the increase. Pursuant to the Inflation Adjustment Act, this final rule is published notwithstanding Section 553 of the APA.

This rule is not significant under Executive Order 12866.

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

II. Adjustment for 2022

The Department has undertaken a thorough review of civil penalties administered by its various components pursuant to the Inflation Adjustment Act and in accordance with guidance issued by the Office of Management and Budget.[1]

The Department first identified the most recent penalty amount, which (with two exceptions, discussed herein) is the amount established by the 2021 annual adjustment as set forth in the DOL 2021 Annual Adjustment published on January 14, 2021. The Department is also responsible for administering and enforcing a newly-enacted civil monetary penalty regarding retention of tips under the Fair Labor Standards Act (FLSA). *See* Public Law 115–141, section 1201 (2018) enacting $1,100 civil monetary penalty). In 2018, Congress amended the FLSA to expressly prohibit employers from keeping employee's tips for any purpose, and gave the Department discretion to impose civil monetary penalties of up to $1,100 on employers that unlawfully keep tips. *See* 29 U.S.C.

[1] M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021).

203(m)(2)(B); 216(e)(2). On December 30, 2020, the Department published a final rule that, among other provisions, would have codified this tips retention civil monetary penalty and adjusted the amount of the civil money penalty for inflation pursuant to the Inflation Adjustment Act of 1990 to the amount of $1,162. *See* Tip Regulations Under the Fair Labor Standards Act (FLSA), 85 FR 86,756 (Final Rule, Dec. 30, 2020) (2020 Tip final rule). The 2020 Tip final rule was initially scheduled to go into effect on March 1, 2021. However, the Department delayed the 2020 Tip final rule's effective date first to April 30, 2021, and then subsequently delayed the effective date of certain portions of the rule until December 31, 2021. On March 25, 2021, the Department proposed to withdraw and repropose two portions of the 2020 Tip final rule, including the portion incorporating the new provisions authorizing the assessment of civil monetary penalties for violations of section 3(m)(2)(B) of the FLSA. *See* Tip Regulations Under the Fair Labor Standards Act (FLSA); Partial Withdrawal, 86 FR 15,817 (proposed March 25, 2021). On September 24, 2021, the Department finalized those proposed regulations, which included an adjustment of the civil monetary amount to $1,162 pursuant to the Inflation Adjustment Act. *See* Tip Regulations Under the Fair Labor Standards Act (FLSA); Partial Withdrawal, 86 FR 52,973 (Final Rule, Sept. 24, 2021). Those regulations became effective on November 23, 2021. Accordingly, for purposes of this Inflation Adjustment Act final rule, the most recent penalty amount for the new tips retention civil monetary penalty is $1,162.

In addition, the Department is responsible for administering and enforcing the high-wage components of the labor value content requirements as set forth in section 202A of the United States-Mexico-Canada Agreement Implementation Act (USMCA), Public Law 116–113, 134 Stat. 11 (2020), codified at 19 U.S.C. 1508, as amended, and 19 U.S.C. 4501 *et seq.* The Department published an Interim Final Rule implementing regulations necessary to administer these requirements, which became effective on July 1, 2020. *See* High-Wage Components of the Labor Value Content Requirements Under the United States-Mexico-Canada Agreement Implementation Act, 85 FR 39,782 (Interim Final Rule, July 1, 2020) (codified at 29 CFR part 810) (2020 USMCA IFR). Among other provisions, pursuant to the Secretary's authority under 19 U.S.C. 4532(e)(5), the 2020 USMCA IFR established a civil monetary penalty at 29 CFR 810.800(c)(3)(i) of up to $50,000 per violation of the rule's whistleblower protections. The Department was not required to adjust this civil monetary penalty in its 2021 Inflation Adjustment Act rule because this penalty was established within the 12 months preceding the 2021 inflation adjustment. *See* Inflation Adjustment Act, § 4(d), 28 U.S.C. 2461 note, § 4(d). Accordingly, for purposes of this Inflation Adjustment Act final rule, the most recent maximum penalty amount for the new USMCA civil monetary penalty is $50,000.

The Department is required to calculate the annual adjustment based on the Consumer Price Index for all Urban Consumers (CPI–U). Annual inflation adjustments are based on the percent change between the October CPI–U preceding the date of the adjustment, and the prior year's October CPI–U; in this case, the percent change between the October 2021 CPI–U and the October 2020 CPI–U. The cost-of-living adjustment multiplier for 2022, based on the Consumer Price Index (CPI–U) for the month of October 2021, not seasonally adjusted, is 1.06222.[2] In order to compute the 2022 annual adjustment, the Department multiplied the most recent penalty amount for each applicable penalty by the multiplier, 1.06222, and rounded to the nearest dollar.

As provided by the Inflation Adjustment Act, the increased penalty levels apply to any penalties assessed after the effective date of this rule.[3] Accordingly, for penalties assessed after January 15, 2022, whose associated violations occurred after November 2, 2015, the higher penalty amounts outlined in this rule will apply. The tables below demonstrate the penalty amounts that apply:

CIVIL MONETARY PENALTIES FOR VIOLATIONS OF SECTION 3(m)(2)(B) OF THE FLSA (TIPS)

Violations occurring	Penalty assessed	Which penalty level applies
After March 23, 2018	After March 23, 2018 but on or before November 23, 2021	CAA amount ($1,100).
After March 23, 2018	After November 23, 2021 but on or before January 15, 2022	November 23, 2021 level ($1,162).
After March 23, 2018	After January 15, 2022	January 15, 2022 levels.

CIVIL MONETARY PENALTIES FOR USMCA VIOLATIONS

Violations occurring	Penalty assessed	Which penalty level applies
After July 1, 2020	After July 1, 2020 but on or before January 15, 2022	2020 USMCA IFR amount ($50,000).
After July 1, 2020	After January 15, 2022	January 15, 2022 levels ($53,111).

CIVIL MONETARY PENALTIES FOR THE H–2B TEMPORARY NON-AGRICULTURAL WORKER PROGRAM

Violations occurring	Penalty assessed	Which penalty level applies
On or before November 2, 2015	On or before August 1, 2016	Pre-August 1, 2016 levels.
On or before November 2, 2015	After August 1, 2016	Pre-August 1, 2016 levels.
After November 2, 2015	After August 1, 2016, but on or before March 17, 2017	August 1, 2016 levels.
After November 2, 2015	After March 17, 2017, but on or before January 2, 2018	March 17, 2017 levels.
After November 2, 2015	After January 2, 2018, but on or before January 23, 2019	January 2, 2018 levels.
After November 2, 2015	After January 23, 2019, but on or before January 15, 2020	January 23, 2019 levels.
After November 2, 2015	After January 15, 2020, but on or before January 15, 2021	January 15, 2020 levels.

[2] OMB provided the year-over-year multiplier, rounded to 5 decimal points. *Id.* at 1.

[3] Appendix 1 consists of a table that provides ready access to key information about each penalty.

CIVIL MONETARY PENALTIES FOR THE H–2B TEMPORARY NON-AGRICULTURAL WORKER PROGRAM—Continued

Violations occurring	Penalty assessed	Which penalty level applies
After November 2, 2015	After January 15, 2021, but on or before January 15, 2022	January 15, 2021 levels.
After November 2, 2015	After January 15, 2022	January 15, 2022 levels.

CIVIL MONETARY PENALTIES FOR OTHER DOL PROGRAMS

Violations occurring	Penalty assessed	Which penalty level applies
On or before November 2, 2015	On or before August 1, 2016	Pre-August 1, 2016 levels.
On or before November 2, 2015	After August 1, 2016	Pre-August 1, 2016 levels.
After November 2, 2015	After August 1, 2016, but on or before January 13, 2017	August 1, 2016 levels.
After November 2, 2015	After January 13, 2017, but on or before January 2, 2018	January 13, 2017 levels.
After November 2, 2015	After January 2, 2018, but on or before January 23, 2019	January 2, 2018 levels.
After November 2, 2015	After January 23, 2019, but on or before January 15, 2020	January 23, 2019 levels.
After November 2, 2015	After January 15, 2020, but on or before January 15, 2021	January 15, 2020 levels.
After November 2, 2015	After January 15, 2021, but on or before January 15, 2022	January 15, 2021 levels.
After November 2, 2015	After January 15, 2022	January 15, 2022 levels.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the Department consider the impact of paperwork and other information collection burdens imposed on the public. The Department has determined that this final rule does not require any collection of information.

IV. Administrative Procedure Act

The Inflation Adjustment Act provides that agencies shall annually adjust civil monetary penalties for inflation notwithstanding section 553 of the APA. Additionally, the Inflation Adjustment Act provides a nondiscretionary cost-of-living formula for annual adjustment of the civil monetary penalties. For these reasons, the requirements in sections 553(b), (c), and (d) of the APA, relating to notice and comment and requiring that a rule be effective 30 days after publication in the **Federal Register**, are inapplicable.

V. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of significant regulatory actions. Under the Executive Order, a ''significant regulatory action'' is one meeting any of a number of specified conditions, including the following: Having an annual effect on the economy of $100 million or more; creating a serious inconsistency or interfering with an action of another agency; materially altering the budgetary impact of entitlements or the rights of entitlement recipients; or raising novel legal or policy issues.

The Department has determined that this final rule is not a ''significant'' regulatory action and a cost-benefit and economic analysis is not required. This regulation merely adjusts civil monetary penalties in accordance with inflation as required by the Inflation Adjustment Act, and has no impact on disclosure or compliance costs. The benefit provided by the inflationary adjustment to the maximum civil monetary penalties is that of maintaining the incentive for the regulated community to comply with the laws enforced by the Department, and not allowing the incentive to be diminished by inflation.

Executive Order 13563 directs 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 to minimize burden.

The Inflation Adjustment Act directed the Department to issue the annual adjustments without regard to section 553 of the APA. In that context, Congress has already determined that any possible increase in costs is justified by the overall benefits of such adjustments. This final rule makes only the statutory changes outlined herein; thus there are no alternatives or further analysis required by Executive Order 13563.

VI. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of the APA, 5 U.S.C. 553(b). This final rule is exempt from the requirements of the APA because the Inflation Adjustment Act directed the Department to issue the annual adjustments without regard to section 553 of the APA. Therefore, the requirements of the RFA applicable to notices of proposed rulemaking, 5 U.S.C. 603, do not apply to this rule. Accordingly, the Department is not required to either certify that the final rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

VII. Other Regulatory Considerations

A. The Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a state, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. This Final Rule will not result in such an expenditure. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

B. Executive Order 13132: Federalism

Section 18 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 667) requires Occupational Safety and Health Administration (OSHA)-approved State Plans to have standards and an enforcement program that are at least as effective as Federal OSHA's standards and enforcement

program. OSHA-approved State Plans must have maximum and minimum penalty levels that are at least as effective as Federal OSHA's, per section 18(c)(2) of the OSH Act. *See also* 29 CFR 1902.4(c)(2)(xi); 1902.37(b)(12). State Plans are required to increase their penalties in alignment with OSHA's penalty increases to maintain at least as effective penalty levels.

State Plans are not required to impose monetary penalties on state and local government employers. *See* § 1956.11(c)(2)(x). Five (5) states and one territory have State Plans that cover only state and local government employees: Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands. Therefore, the requirements to increase the penalty levels do not apply to these State Plans. Twenty-one states and one U.S. territory have State Plans that cover both private sector employees and state and local government employees: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. They must increase their penalties for private-sector employers.

Other than as listed above, this final rule does not have federalism implications because it does 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. Accordingly, Executive Order 13132, Federalism, requires no further agency action or analysis.

C. Executive Order 13175: Indian Tribal Governments

This final rule does not have ''tribal implications'' because it does not 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. Accordingly, Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires no further agency action or analysis.

List of Subjects

20 CFR Part 655

Immigration, Labor, Penalties.

20 CFR Part 702

Administrative practice and procedure, Longshore and harbor workers, Penalties, Reporting and recordkeeping requirements, Workers' compensation.

20 CFR Part 725

Administrative practice and procedure, Black lung benefits, Coal miners, Penalties, Reporting and recordkeeping requirements.

20 CFR Part 726

Administrative practice and procedure, Black lung benefits, Coal miners, Mines, Penalties.

29 CFR Part 5

Administrative practice and procedure, Construction industry, Employee benefit plans, Government contracts, Law enforcement, Minimum wages, Penalties, Reporting and recordkeeping requirements.

29 CFR Part 500

Administrative practice and procedure, Aliens, Housing, Insurance, Intergovernmental relations, Investigations, Migrant labor, Motor vehicle safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements, Wages, Whistleblowing.

29 CFR Part 501

Administrative practice and procedure, Agriculture, Aliens, Employment, Housing, Housing standards, Immigration, Labor, Migrant labor, Penalties, Transportation, Wages.

29 CFR Part 503

Administrative practice and procedure, Aliens, Employment, Housing, Immigration, Labor, Penalties, Transportation, Wages.

29 CFR Part 530

Administrative practice and procedure, Clothing, Homeworkers, Indians-arts and crafts, Penalties, Reporting and recordkeeping requirements, Surety bonds, Watches and jewelry.

29 CFR Part 570

Child labor, Law enforcement, Penalties.

29 CFR Part 578

Penalties, Wages.

29 CFR Part 579

Child labor, Penalties.

29 CFR Part 801

Administrative practice and procedure, Employment, Lie detector tests, Penalties, Reporting and recordkeeping requirements.

29 CFR Part 810

Labor, Wages, Hours of work, Trade agreement, Motor vehicle, Tariffs, Imports, Whistleblowing.

29 CFR Part 825

Administrative practice and procedure, Airmen, Employee benefit plans, Health, Health insurance, Labor management relations, Maternal and child health, Penalties, Reporting and recordkeeping requirements, Teachers.

29 CFR Part 1903

Intergovernmental relations, Law enforcement, Occupational Safety and Health, Penalties.

30 CFR Part 100

Mine safety and health, Penalties.

41 CFR Part 50–201

Child labor, Government procurement, Minimum wages, Occupational safety and health, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 20 CFR chapters VI and VII, 29 CFR subtitle A and chapters V, XVII, and XXV, 30 CFR chapter I, and 41 CFR chapter 50 are amended as follows.

DEPARTMENT OF LABOR

Employment and Training Administration

Title 20—Employees' Benefits

PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES

■ 1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n), and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); and 8 CFR 214.2(h)(6)(iii); and sec. 6, Pub. L. 115–128, 132 Stat. 1547 (48 U.S.C. 1806).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subpart E issued under 48 U.S.C. 1806.

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n), and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

§§ 655.620, 655.801, and 655.810 [Amended]

■ 2. In the following table, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount indicated in the right column.

Paragraph	Remove	Add
§ 655.620(a)	$9,753	$10,360
§ 655.801(b)	7,939	8,433
§ 655.810(b)(1) introductory text	1,951	2,072
§ 655.810(b)(2) introductory text	7,939	8,433
§ 655.810(b)(3) introductory text	55,570	59,028

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

PART 702—ADMINISTRATION AND PROCEDURE

■ 3. The authority citation for part 702 continues to read as follows:

Authority: 5 U.S.C. 301, and 8171 *et seq.;* 33 U.S.C. 901 *et seq.;* 42 U.S.C. 1651 *et seq.;* 43 U.S.C. 1333; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary's Order 10–2009, 74 FR 58834.

§§ 702.204, 702.236, and 702.271 [Amended]

■ 4. In the following table, for each paragraph indicated in the left column, remove the dollar amount or date indicated in the middle column from wherever it appears in the section or paragraph and add in its place the dollar amount or date indicated in the right column.

Section/paragraph	Remove	Add
§ 702.204	$24,730	$26,269.
§ 702.204	January 15, 2021	January 15, 2022.
§ 702.236	$301	$320.
§ 702.236	January 15, 2021	January 15, 2022.
§ 702.271(a)(2)	January 15, 2021	January 15, 2022.
§ 702.271(a)(2)	$2,473	$2,627.
§ 702.271(a)(2)	$12,363	$13,132.

PART 725—CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE FEDERAL MINE SAFETY AND HEALTH ACT, AS AMENDED

■ 5. The authority citation for part 725 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701; Reorganization Plan No. 6 of 1950, 15 FR 3174; 30 U.S.C. 901 *et seq.,* 902(f), 921, 932, 936; 33 U.S.C. 901 *et seq.;* 42 U.S.C. 405; Secretary's Order 10–2009, 74 FR 58834.

§ 725.621 [Amended]

■ 6. In § 725.621, amend paragraph (d) by removing ''January 15, 2021'' and adding in its place ''January 15, 2022'' and by removing ''$1,506'' and adding in its place ''$1,600''.

PART 726—BLACK LUNG BENEFITS; REQUIREMENTS FOR COAL MINE OPERATOR'S INSURANCE

■ 7. The authority citation for part 726 continues to read as follows:

Authority: 5 U.S.C. 301; 30 U.S.C. 901 *et seq.,* 902(f), 925, 932, 933, 934, 936; 33 U.S.C. 901 *et seq.;* 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701; Reorganization Plan No. 6 of 1950, 15 FR 3174; Secretary's Order 10–2009, 74 FR 58834.

§ 726.302 [Amended]

■ 8. In the following table, for each paragraph indicated in the left column, remove the dollar amount or date indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount or date indicated in the right column.

Paragraph	Remove	Add
§ 726.302(c)(2)(i) table Introductory text	January 15, 2021	January 15, 2022.
§ 726.302(c)(2)(i) table	$148	$157.
§ 726.302(c)(2)(i) table	293	$311.
§ 726.302(c)(2)(i) table	441	$468.
§ 726.302(c)(2)(i) table	586	$622.
§ 726.302(c)(4)	January 15, 2021	January 15, 2022.
§ 726.302(c)(4)	$148	$157.
§ 726.302(c)(5)	January 15, 2021	January 15, 2022.
§ 726.302(c)(5)	$441	$468.
§ 726.302(c)(6)	January 15, 2021	January 15, 2022.
§ 726.302(c)(6)	$3,011	$3,198.

DEPARTMENT OF LABOR

Wage and Hour Division

Title 29—Labor

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

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

Authority: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 40 U.S.C. 3141 *et seq.;* 40 U.S.C. 3145; 40 U.S.C. 3148; 40 U.S.C. 3701 *et seq.;* and the laws listed in 5.1(a) of this part; Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat 584.

§ 5.5 [Amended]

■ 10. In § 5.5, amend paragraph (b)(2) by removing ''$27'' and adding in its place ''$29''.

§ 5.8 [Amended]

■ 11. In § 5.8, amend paragraph (a) by removing ''$27'' and adding in its place ''$29''.

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

■ 12. The authority citation for part 500 continues to read as follows:

Authority: Pub. L. 97–470, 96 Stat. 2583 (29 U.S.C. 1801–1872); Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–74, 129 Stat 584.

§ 500.1 [Amended]

■ 13. In § 500.1, amend paragraph (e) by removing ''$2,579'' and adding in its place ''$2,739''.

PART 501—ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 218 OF THE IMMIGRATION AND NATIONALITY ACT

■ 14. The authority citation for part 501 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–74 at § 701.

§ 501.19 [Amended]

■ 15. In the following table, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount indicated in the right column.

Paragraph	Remove	Add
§ 501.19(c) introductory text	$1,787	$1,898
§ 501.19(c)(1)	6,012	6,386
§ 501.19(c)(2)	59,528	63,232
§ 501.19(c)(4)	119,055	126,463
§ 501.19(d)	6,012	6,386
§ 501.19(e)	17,859	18,970
§ 501.19(f)	17,859	18,970

PART 503—ENFORCEMENT OF OBLIGATIONS FOR TEMPORARY NONIMMIGRANT NON-AGRICULTURAL WORKERS DESCRIBED IN THE IMMIGRATION AND NATIONALITY ACT

■ 16. The authority citation for part 503 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(b); 8 U.S.C. 1184; 8 CFR 214.2(h); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

§ 503.23 [Amended]

■ 17. In the following table, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph, and add in its place the dollar amount indicated in the right column:

Paragraph	Remove	Add
§ 503.23(b)	$13,072	$13,885
§ 503.23(c)	13,072	13,885
§ 503.23(d)	13,072	13,885

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

■ 18. The authority citation for part 530 continues to read as follows:

Authority: Sec. 11, 52 Stat. 1066 (29 U.S.C. 211) as amended by sec. 9, 63 Stat. 910 (29 U.S.C. 211(d)); Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat 584.

■ 19. In § 530.302:

■ a. Amend paragraph (a) by removing ''$1,084'' and adding in its place ''$1,151;'' and

■ b. Revising paragraph (b).

The revision reads as follows:

§ 530.302 Amounts of civil penalties.

* * * * *

(b) The amount of civil money penalties shall be determined per affected homeworker within the limits set forth in the following schedule, except that no penalty shall be assessed in the case of violations which are deemed to be *de minimis* in nature:

TABLE 1 TO PARAGRAPH (b)

Nature of violation	Penalty per affected homeworker		
	Minor	Substantial	Repeated, intentional or knowing
Recordkeeping	$22–231	$231–460	$460–1,151
Monetary violations	22–231	231–460	.....
Employment of homeworkers without a certificate	.....	231–460	460–1,151
Other violations of statutes, regulations or employer assurances	22–231	231–460	460–1,151

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart G—General Statements of Interpretation of the Child Labor Provisions of the Fair Labor Standards Act of 1938, as Amended

■ 20. The authority citation for subpart G of part 570 continues to read as follows:

Authority: 52 Stat. 1060–1069, as amended; 29 U.S.C. 201–219; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

§ 570.140 [Amended]

■ 21. In § 570.140, amend paragraph (b)(1) by removing ''$13,227'' and adding in its place ''$14,050'' and paragraph (b)(2) by removing ''$60,115'' and adding in its place ''$63,855''.

PART 578—TIP RETENTION, MINIMUM WAGE, AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES

■ 22. The authority citation for part 578 continues to read as follows:

Authority: 29 U.S.C. 216(e), as amended by sec. 9, Pub. L. 101–157, 103 Stat. 938, sec. 3103, Pub. L. 101–508, 104 Stat. 1388–29, sec. 302(a), Pub. L. 110–233, 122 Stat. 920, and sec. 1201, Div. S., Tit. XII, Pub. L. 115–141, 132 Stat. 348; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note), as amended by sec. 31001(s), Pub. L. 104–134, 110 Stat. 1321–358, 1321–373, and sec. 701, Pub. L. 114–74, 129 Stat 584.

§ 578.3 [Amended]

■ 23. In § 578.3, amend paragraph (a)(1) by removing ''$1,162'' and adding in its place ''$1,234''.

■ 24. In § 578.3, amend paragraph (a)(2) by removing ''$2,074'' and adding in its place ''$2,203''.

PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

■ 24. The authority citation for part 579 continues to read as follows:

Authority: 29 U.S.C. 203(m), (l), 211, 212, 213(c), 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 Note.

§ 579.1 [Amended]

■ 25. In the following table, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount indicated in the right column.

Paragraph	Remove	Add
§ 579.1(a)(1)(i)(A)	$13,227	$14,050
§ 579.1(a)(1)(i)(B)	60,115	63,855
§ 579.1(a)(2)(i)	2,074	2,203
§ 579.1(a)(2)(ii)	1,162	1,234

PART 801—APPLICATION OF THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

■ 26. The authority citation for part 801 continues to read as follows:

Authority: Pub. L. 100–347, 102 Stat. 646, 29 U.S.C. 2001–2009; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat 584.

§ 801.42 [Amended]

■ 27. In § 801.42, amend paragraph (a) introductory text by removing ''$21,663'' and adding in its place ''$23,011''.

PART 810—HIGH-WAGE COMPONENTS OF THE LABOR VALUE CONTENT REQUIREMENTS UNDER THE UNITED STATES-MEXICO-CANADA AGREEMENT IMPLEMENTATION ACT

■ 28. The authority citation for part 810 is revised to read as follows:

Authority: 19 U.S.C. 1508(b)(4) & 19 U.S.C. 4535(b); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–74 at § 701.

§ 810.800 [Amended]

■ 29. In § 810.800, amend paragraph (c)(3)(i) by removing ''$50,000'' and adding in its place ''$53,111''.

PART 825—THE FAMILY AND MEDICAL LEAVE ACT OF 1993

■ 30. The authority citation for part 825 continues to read as follows:

Authority: 29 U.S.C. 2654; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–74 at § 701.

§ 825.300 [Amended]

■ 31. In § 825.300, amend paragraph (a)(1) by removing ''$178'' and adding in its place ''$189''.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Title 29—Labor

PART 1903—INSPECTIONS, CITATIONS, AND PROPOSED PENALTIES

■ 32. The authority citation for part 1903 continues to read as follows:

Authority: Secs. 8 and 9 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 658); 5 U.S.C. 553; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Section 701, Pub. L. 114–74; Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

§ 1903.15 [Amended]

■ 33. In the following table, for each paragraph indicated in the left column, remove the dollar amount or date indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount or date indicated in the right column.

Paragraph	Remove	Add
§ 1903.15(d) introductory text	January 15, 2021	January 15, 2022.
§ 1903.15(d)(1)	$9,753	$10,360.
§ 1903.15(d)(1)	$136,532	$145,027.
§ 1903.15(d)(2)	$136,532	$145,027.
§ 1903.15(d)(3)	$13,653	$14,502.
§ 1903.15(d)(4)	$13,653	$14,502.
§ 1903.15(d)(5)	$13,653	$14,502.
§ 1903.15(d)(6)	$13,653	$14,502.

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Title 30—Mineral Resources

PART 100—CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

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

Authority: 5 U.S.C. 301; 30 U.S.C. 815, 820, 957; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

■ 35. In § 100.3, amend paragraph (a)(1) introductory text by removing ''$74,775'' and adding in its place ''$79,428'' and by removing the table in paragraph (g) and adding Table 14 to paragraph (g) to read as follows:

§ 100.3 Determination of penalty amount; regular assessment.

* * * * *

(g) * * *

TABLE 14 TO PARAGRAPH (g)—PENALTY CONVERSION TABLE

Points	Penalty ($)
60 or fewer	$148
61	161
62	173
63	188
64	204
65	221
66	239
67	260
68	280
69	304
70	329
71	357
72	388
73	420
74	453
75	492
76	535
77	576
78	626
79	678
80	735
81	796
82	860
83	934
84	1,011
85	1,097
86	1,188
87	1,285
88	1,393
89	1,509
90	1,635
91	1,771
92	1,917
93	2,077
94	2,251
95	2,438
96	2,641
97	2,859
98	3,100
99	3,358
100	3,638
101	3,940
102	4,268
103	4,624
104	5,008
105	5,427
106	5,878
107	6,368
108	6,898
109	7,473
110	8,095
111	8,767
112	9,499
113	10,291

TABLE 14 TO PARAGRAPH (g)—PENALTY CONVERSION TABLE—Continued

Points	Penalty ($)
114	11,149
115	12,076
116	13,081
117	14,172
118	15,352
119	16,631
120	18,015
121	19,517
122	21,140
123	22,903
124	24,811
125	26,874
126	29,114
127	31,540
128	34,166
129	37,012
130	40,096
131	43,435
132	47,051
133	50,970
134	55,036
135	59,100
136	63,168
137	67,230
138	71,297
139	75,361
140 or more	79,428

* * * * *

§§ 100.4 and 100.5 [Amended]

■ 36. In the following table, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph, and add in its place the dollar amount indicated in the right column.

Paragraph	Remove	Add
§ 100.4(a)	$2,493	$2,648
§ 100.4(b)	4,983	5,293
§ 100.4(c) introductory text	6,232	6,620
§ 100.4(c) introductory text	74,775	79,428
§ 100.5(c)	8,101	8,605
§ 100.5(d)	342	363
§ 100.5(e)	274,175	291,234

Title 41—Public Contracts and Property Management

PART 50–201—GENERAL REGULATIONS

■ 37. The authority citation for part 50–201 continues to read as follows:

Authority: Sec. 4, 49 Stat. 2038; 41 U.S.C. 38. Interpret or apply sec. 6, 49 Stat. 2038, as amended; 41 U.S.C. 40; 108 Stat. 7201; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat 584.

§ 50–201.3 [Amended]

■ 38. In § 50–201.3, amend paragraph (e) by removing ''$27'' and adding in its place ''$29''.

Signed in Washington, DC.

Martin J. Walsh,

Secretary, U.S. Department of Labor.

Note: The following Appendix will not appear in the Code of Federal Regulations.

Agency	Law	Name description	CFR citation	2021		2022	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
MSHA	Federal Mine Safety & Health Act of 1977.	Regular Assessment	30 CFR 100.3(a)		$74,775		$79,428.
MSHA	Federal Mine Safety & Health Act of 1977.	Penalty Conversion Table	30 CFR 100.3(g)	$139	$74,775	$148	$79,428.
MSHA	Federal Mine Safety & Health Act of 1977.	Minimum Penalty for any order issued under 104(d)(1) of the Mine Act.	30 CFR 100.4(a)	2,493		2,648	
MSHA	Federal Mine Safety & Health Act of 1977.	Minimum penalty for any order issued under 104(d)(2) of the Mine Act.	30 CFR 100.4(b)	4,983		5,293	
MSHA	Federal Mine Safety & Health Act of 1977.	Penalty for failure to provide timely notification under 103(j) of the Mine Act.	39 CFR 100.4(c)	6,232	$74,775	6,620	$79,428.
MSHA	Federal Mine Safety & Health Act of 1977.	Any operator who fails to correct a violation for which a citation or order was issued under 104(a) of the Mine Act.	30 CFR 100.5(c)		$8,101		$8,605.
MSHA	Federal Mine Safety & Health Act of 1977.	Violation of mandatory safety standards related to smoking standards.	30 CFR 100.5(d)		$342		$363.
MSHA	Federal Mine Safety & Health Act of 1977.	Flagrant violations under 110(b)(2) of the Mine Act.	30 CFR 100.5(e)		$274,175		$291,234.
EBSA	Employee Retirement Income Security Act.	Section 209(b): Per plan year for failure to furnish reports (e.g., pension benefit statements) to certain former employees or maintain employee records each employee a separate violation.	29 CFR 2575.1–3		$31		$33.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(2)—Per day for failure/refusal to properly file plan annual report.	29 CFR 2575.1–3		$2,259		$2,400.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(4)—Per day for failure to disclose certain documents upon request under ERISA 101(k) and (l); failure to furnish notices under 101(j) and 514(e)(3)—each statutory recipient a separate violation.	29 CFR 2575.1–3		$1,788		$1,899.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(5)—Per day for each failure to file annual report for Multiple Employer Welfare Arrangements (MEWAs) under 101(g).	29 CFR 2575.1–3		$1,644		$1,746.

Agency	Law	Name description	CFR citation	2021		2022	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
EBSA	Employee Retirement Income Security Act.	Section 502(c)(6)—Per day for each failure to provide Secretary of Labor requested documentation not to exceed a per-request maximum.	29 CFR 2575.1–3 ...	.....	$161 per day, not to exceed $1,613 per request.	.....	$171 per day, not to exceed $1,713 per request.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(7)—Per day for each failure to provide notices of blackout periods and of right to divest employer securities– each statutory recipient a separate violation.	29 CFR 2575.1–3 ...	.....	$143	.....	$152.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(8)—Per each failure by an endangered status multiemployer plan to adopt a funding improvement plan or meet benchmarks; or failure of a critical status multiemployer plan to adopt a rehabilitation plan.	29 CFR 2575.1–3 ...	.....	$1,419	.....	$1,507.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(9)(A)—Per day for each failure by an employer to inform employees of CHIP coverage opportunities under Section 701(f)(3)(B)(i)(I)—each employee a separate violation.	29 CFR 2575.1–3 ...	.....	$120	.....	$127.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(9)(B)—Per day for each failure by a plan to timely provide to any State information required to be disclosed under Section 701(f)(3)(B)(ii), as added by CHIP regarding coverage coordination—each participant/beneficiary a separate violation.	29 CFR 2575.1–3 ...	.....	$120	.....	$127.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(10)—Failure by any plan sponsor of group health plan, or any health insurance issuer offering health insurance coverage in connection with the plan, to meet the requirements of Sections 702(a)(1)(F), (b)(3), (c) or (d); or Section 701; or Section 702(b)(1) with respect to genetic information—daily per participant and beneficiary during non-compliance period.	29 CFR 2575.1–3 ...	.....	$120	.....	$127.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(10)—uncorrected de minimis violation.	29 CFR 2575.1–3 ...	3,005	.....	3,192	
EBSA	Employee Retirement Income Security Act.	Section 502(c)(10)—uncorrected violations that are not de minimis.	29 CFR 2575.1–3 ...	18,035	.....	19,157	
EBSA	Employee Retirement Income Security Act.	Section 502(c)(10)—unintentional failure maximum cap.	29 CFR 2575.1–3 ...	.....	$601,152	.....	$638,556.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(12)—Per day for each failure of a CSEC plan in restoration status to adopt a restoration plan.	29CFR 2575.1–3	.....	$110	.....	$117.
EBSA	Employee Retirement Income Security Act.	Section 502(m)—Failure of fiduciary to make a proper distribution from a defined benefit plan under section 206(e) of ERISA.	29 CFR 2575.1–3 ...	.....	$17,416	.....	$18,500.
EBSA	Employee Retirement Income Security Act.	Failure to provide Summary of Benefits Coverage under PHS Act section 2715(f), as incorporated in ERISA section 715 and 29 CFR 2590.715–2715(e).	29 CFR 2575.1–3 ...	.....	$1,190	.....	$1,264.
OSHA	Occupational Safety and Health Act.	Serious Violation	29 CFR 1903.15(d)(3).	.....	$13,653	.....	$14,502.
OSHA	Occupational Safety and Health Act.	Other-Than-Serious	29 CFR 1903.15(d)(4).	.....	$13,653	.....	$14,502.
OSHA	Occupational Safety and Health Act.	Willful	29 CFR 1903.15(d)(1).	9,753	$136,532	10,360	$145,027.
OSHA	Occupational Safety and Health Act.	Repeated	29 CFR 1903.15(d)(2).	.....	$136,532	.....	$145,027.
OSHA	Occupational Safety and Health Act.	Posting Requirement	29 CFR 1903.15(d)(6).	.....	$13,653	.....	$14,502.
OSHA	Occupational Safety and Health Act.	Failure to Abate	29 CFR 1903.15(d)(5).	.....	$13,653 per day.	.....	$14,502 per day.
WHD	Family and Medical Leave Act.	FMLA	29 CFR 825.300(a)(1).	.....	$178	.....	$189.

Agency	Law	Name description	CFR citation	2021		2022	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
WHD	Fair Labor Standards Act.	FLSA	29 CFR 578.3(a)(1)		$1,162		$1,234.
WHD	Fair Labor Standards Act.	FLSA	29 CFR 578.3(a)(2)		$2,074		$2,203.
WHD	Fair Labor Standards Act.	Child Labor	29 CFR 579.1(a)(2)(i).		$2,074		$2,203.
WHD	Fair Labor Standards Act.	Child Labor	29 CFR 579.1(a)(2)(ii).		$1,162		$1,234.
WHD	Fair Labor Standards Act.	Child Labor	29 CFR 570.140(b)(1).		$13,227		$14,050.
WHD	Fair Labor Standards Act.	Child Labor	29 CFR 579.1(a)(1)(i)(A).		$13,227		$14,050.
WHD	Fair Labor Standards Act.	Child Labor that causes serious injury or death.	29 CFR 570.140(b)(2).		$60,115		$63,855.
WHD	Fair Labor Standards Act.	Child Labor that causes serious injury or death.	29 CFR 579.1(a)(1)(i)(B).		$60,115		$63,855.
WHD	Fair Labor Standards Act.	Child Labor willful or repeated that causes serious injury or death (penalty amount doubled).	29 CFR 570.140(b)(2); 29 CFR 579.1(a)(1)(i)(B) Doubled.		$120,230		$127,710.
WHD	Migrant and Seasonal Agricultural Worker Protection Act.	MSPA	29 CFR 500.1(e)		$2,579		$2,739.
WHD	Immigration & Nationality Act.	H1B	20 CFR 655.810(b)(1).		$1,951		$2,072.
WHD	Immigration & Nationality Act.	H1B retaliation	20 CFR 655.801(b)		$7,939		$8,433.
WHD	Immigration & Nationality Act.	H1B willful or discrimination	20 CFR 655.810(b)(2).		$7,939		$8,433.
WHD	Immigration & Nationality Act.	H1B willful that resulted in displacement of a US worker.	20 CFR 655.810(b)(3).		$55,570		$59,028.
WHD	Immigration & Nationality Act.	D–1	20 CFR 655.620(a)		$9,753		$10,360.
WHD	Contract Work Hours and Safety Standards Act.	CWHSSA	29 CFR 5.5(b)(2)		$27		$29.
WHD	Contract Work Hours and Safety Standards Act.	CWHSSA	29 CFR 5.8(a)		$27		$29.
WHD	Walsh-Healey Public Contracts Act.	Walsh-Healey	41 CFR 50–201.3(e)		$27		$29.
WHD	Employee Polygraph Protection Act.	EPPA	29 CFR 801.42(a)		$21,663		$23,011.
WHD	Immigration & Nationality Act.	H2A	29 CFR 501.19(c)		$1,787		$1,898.
WHD	Immigration & Nationality Act.	H2A willful or discrimination	29 CFR 501.19(c)(1)		$6,012		$6,386.
WHD	Immigration & Nationality Act.	H2A Safety or health resulting in serious injury or death.	29 CFR 501.19(c)(2)		$59,528		$63,232.
WHD	Immigration & Nationality Act.	H2A willful or repeated safety or health resulting in serious injury or death.	29 CFR 501.19(c)(4)		$119,055		$126,463.
WHD	Immigration & Nationality Act.	H2A failing to cooperate in an investigation.	29 CFR 501.19(d)		$6,012		$6,386.
WHD	Immigration & Nationality Act.	H2A displacing a US worker	29 CFR 501.19(e)		$17,859		$18,970.
WHD	Immigration & Nationality Act.	H2A improperly rejecting a US worker	29 CFR 501.19(f)		$17,859		$18,970.
WHD	Immigration & Nationality Act.	H–2B	29 CFR 503.23(b)		$13,072		$13,885.
WHD	Immigration & Nationality Act.	H–2B	29 CFR 503.23(c)		$13,072		$13,885.
WHD	Immigration & Nationality Act.	H–2B	29 CFR 503.23(d)		$13,072		$13,885.
WHD	Fair Labor Standards Act.	Home Worker	29 CFR 530.302(a)		$1,084		$1,151.
WHD	Fair Labor Standards Act.	Home Worker	29 CFR 530.302(b)	21	$1,084	22	$1,151.
WHD	United States-Mexico-Canada Agreement Implementation Act.	Whistleblower	29 CFR 810.800(c)(3)(i).		$50,000		$53,111.

Agency	Law	Name description	CFR citation	2021		2022	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
OWCP ...	Longshore and Harbor Workers' Compensation Act.	Failure to file first report of injury or filing a false statement or misrepresentation in first report.	20 CFR 702.204	.....	$24,730	.....	$26,269.
OWCP ...	Longshore and Harbor Workers' Compensation Act.	Failure to report termination of payments	20 CFR 702.236	.....	$301	.....	$320.
OWCP ...	Longshore and Harbor Workers' Compensation Act.	Discrimination against employees who claim compensation or testify in a LHWCA proceeding.	20 CFR 702.271(a)(2).	2,473	$12,363	2,627	$13,132.
OWCP ...	Black Lung Benefits Act.	Failure to report termination of payments	20 CFR 725.621(d)	.....	$1,506	.....	$1,600.
OWCP ...	Black Lung Benefits Act.	Failure to secure payment of benefits for mines with fewer than 25 employees.	20 CFR 726.302(c)(2)(i).	148	.....	157	
OWCP ...	Black Lung Benefits Act.	Failure to secure payment of benefits for mines with 25–50 employees.	20 CFR 726.302(c)(2)(i).	293	.....	311	
OWCP ...	Black Lung Benefits Act.	Failure to secure payment of benefits for mines with 51–100 employees.	20 CFR 726.302(c)(2)(i).	441	.....	468	
OWCP ...	Black Lung Benefits Act.	Failure to secure payment of benefits for mines with more than 100 employees.	20 CFR 726.302(c)(2)(i).	586	.....	622	
OWCP ...	Black Lung Benefits Act.	Failure to secure payment of benefits after 10th day of notice.	20 CFR 726.302(c)(4).	148	.....	157	
OWCP ...	Black Lung Benefits Act.	Failure to secure payment of benefits for repeat offenders.	20 CFR 726.302(c)(5).	441	.....	468	
OWCP ...	Black Lung Benefits Act.	Failure to secure payment of benefits	20 CFR 726.302(c)(5).	.....	$3,011	.....	$3,198.

[FR Doc. 2022–00144 Filed 1–13–22; 8:45 am]

BILLING CODE 4510–HL–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4071 and 4302

RIN 1212–AB45

Adjustment of Civil Penalties for Inflation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is required to amend its regulations annually to adjust for inflation the maximum civil penalty for failure to provide certain notices or other material information and for failure to provide certain multiemployer plan notices.

DATES:

Effective date: This rule is effective on January 14, 2022.

Applicability date: The increases in the civil monetary penalties under sections 4071 and 4302 of the Employee Retirement Income Security Act provided for in this rule apply to such penalties assessed after January 14, 2022.

FOR FURTHER INFORMATION CONTACT: Gregory Katz (*katz.gregory@pbgc.gov*), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–229–3829. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–229–3829.)

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance M–22–07. The rule adjusts, as required for 2022, the maximum civil penalties under 29 CFR 4071 and 29 CFR 4302 that the Pension Benefit Guaranty Corporation (PBGC) may assess for failure to provide certain notices or other material information and certain multiemployer plan notices.

PBGC's legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the Employee Retirement Income Security Act of 1974 (ERISA).

Major Provisions of the Regulatory Action

This rule adjusts as required by law the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are $2,400 for section 4071 penalties and $320 for section 4302 penalties.

Background

PBGC administers title IV of ERISA. Title IV has two provisions that authorize PBGC to assess civil monetary penalties.[1] Section 4302, added to ERISA by the Multiemployer Pension Plan Amendments Act of 1980, authorizes PBGC to assess a civil penalty of up to $100 a day for failure to provide a notice under subtitle E of title IV of ERISA (dealing with multiemployer plans). Section 4071, added to ERISA by the Omnibus Budget Reconciliation Act of 1987, authorizes PBGC to assess a civil penalty of up to $1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

Adjustment of Civil Penalties

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,[2] which

[1] Under the Federal Civil Penalties Inflation Adjustment Act of 1990, a penalty is a civil monetary penalty if (among other things) it is for a specific monetary amount or has a maximum amount specified by Federal law. Title IV also provides (in section 4007) for penalties for late payment of premiums, but those penalties are neither in a specified amount nor subject to a specified maximum amount.

[2] Sec. 701, Public Law 114–74, 129 Stat. 599–601 (Bipartisan Budget Act of 2015).

requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be published by January 15 each year after 2016.

On December 15, 2021, the Office of Management and Budget issued memorandum M–22–07 on implementation of the 2022 annual inflation adjustment pursuant to the 2015 act.[3] The memorandum provides agencies with the cost-of-living adjustment multiplier for 2022, which is based on the Consumer Price Index (CPI–U) for the month of October 2021, not seasonally adjusted. The multiplier for 2022 is 1.06222. The adjusted maximum amounts are $2,400 for section 4071 penalties and $320 for section 4302 penalties.

Compliance With Regulatory Requirements

The Office of Management and Budget has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866 and therefore not subject to its review.

The Office of Management and Budget also has determined that notice and public comment on this final rule are unnecessary because the adjustment of civil penalties implemented in the rule is required by law. See 5 U.S.C. 553(b).

Because no general notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4071

Penalties.

29 CFR Part 4302

Penalties.

In consideration of the foregoing, PBGC amends 29 CFR parts 4071 and 4302 as follows:

PART 4071—PENALTIES FOR FAILURE TO PROVIDE CERTAIN NOTICES OR OTHER MATERIAL INFORMATION

■ 1. The authority citation for part 4071 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1371.

[3] See M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, *https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf.*

§ 4071.3 [Amended]

■ 2. In § 4071.3, remove the number ''$2,259'' and add in its place the number ''$2,400''.

PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEMPLOYER PLAN NOTICES

■ 3. The authority citation for part 4302 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1452.

§ 4302.3 [Amended]

■ 4. In § 4302.3, remove the number ''$301'' and add its place the number ''$320''.

Issued in Washington, DC, by

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–00778 Filed 1–13–22; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 870 and 872

[Docket ID: OSM 2021–0008; S1D1S SS08011000 SX064A000 221S180110; S2D2S SS08011000 SX064A000 22XS501520]

RIN 1029–AC83

Abandoned Mine Land Reclamation Fee

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Interim final rule, request for comments.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are revising our regulations for the Abandoned Mine Reclamation Fund (AML Fund). This rule revises our regulations to be consistent with the Infrastructure Investment and Jobs Act (IIJA), which was signed into law on November 15, 2021, and which included the Abandoned Mine Land Reclamation Amendments of 2021 (the 2021 amendments). The rule reflects the extension of our statutory authority to collect reclamation fees for an additional thirteen years and to reduce the fee rates. In addition, we are revising our rule provisions to reflect the statutory extension of the dates when moneys derived from these fees will be available to eligible States and Tribes for grant distributions.

DATES: Effective January 14, 2022. Comments will be accepted until February 14, 2022.

ADDRESSES: You may submit comments by one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments to Docket No. OSM–2021–0008. Please note that if you are using the Federal eRulemaking Portal, the deadline for submitting electronic comments is 11:59 p.m. Eastern Standard Time on the comment due date.

Mail: Address comment to Public Comments Processing, Attn: Docket No. OSM–2021–0008; Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Mail Stop 4558, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Harry Payne, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Mail Stop 4558, Washington, DC 20240; Telephone (202) 208–5683. Email: *hpayne@osmre.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. How did the reclamation fee work before the 2021 amendments?

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA)

created the AML Fund, which is funded primarily by a reclamation fee (also known as the AML fee) assessed on each ton of coal produced in the United States and which, among other things, provides funding to eligible States and Tribes for the reclamation of coal mining sites abandoned or left in an inadequate reclamation status as of August 3, 1977. As originally enacted, section 402(a) of SMCRA fixed the reclamation fee at 35 cents per ton (or 10 percent of the value of the coal, whichever was less) for coal other than lignite produced by surface mining methods, 15 cents per ton (or 10 percent of the value of the coal, whichever was less) for coal other than lignite produced from underground mines, and 10 cents per ton (or 2 percent of the value of the coal, whichever was less) for lignite. Section 402(b) of SMCRA first authorized collection of reclamation fees for 15 years following the date of SMCRA's enactment (August 3, 1977). Congress extended our fee collection authority through September 30, 1995, in the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, 104 Stat. 1388, § 6003(a)). The Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776, 3056, § 19143(b)(1) of Title XIX), extended our fee collection authority through September 30, 2004. A series of short interim extensions in appropriations and other acts extended our fee collection authority through September 30, 2007.

The Surface Mining Control and Reclamation Act Amendments of 2006 (the 2006 amendments) were signed into law on December 20, 2006, as part of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432, 120 Stat. 2922). The 2006 amendments extended our fee collection authority under section 402(b) through September 30, 2021, and reduced the reclamation fee rates in section 402(a) by 10 percent for the period from October 1, 2007, through September 30, 2012, and an additional 10 percent from the original levels for the period from October 1, 2012, through September 30, 2021. Therefore, the fee rates from October 1, 2012, through September 30, 2021, required coal mine operators to pay 28 cents per ton (or 10 percent of the value of the coal, whichever was less) for coal other than lignite produced by surface mining methods, 12 cents per ton (or 10 percent of the value of the coal, whichever was less) for coal other than lignite produced from underground mines, and 8 cents per ton (or 2 percent of the value of the coal, whichever was less) for lignite. OSMRE notified operators of the change in fee rates resulting from the 2006 amendments in January and September 2007. On November 14, 2008, OSMRE promulgated final regulations at 30 CFR part 870 and 872 to codify these changes and other revisions made by the 2006 amendments (73 FR 67576).

B. How did the 2021 amendments change the reclamation fee and the annual AML grant distributions?

The 2021 amendments, signed into law on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (Pub. L. 117–58, 135 Stat. 429), extended our fee collection authority under section 402(b) through September 30, 2034, and reduced reclamation fee rates in section 402(a) by 20 percent from the prior rates. Therefore, for the calendar quarter beginning October 1, 2021, the current rates require operators to pay 22.4 cents per ton (or 10 percent of the value of the coal, whichever is less) for coal other than lignite produced by surface mining methods, 9.6 cents per ton (or 10 percent of the value of the coal, whichever is less) for coal other than lignite produced from underground mines, and 6.4 cents per ton (or 2 percent of the value of the coal, whichever is less) for lignite.

In addition, the 2021 amendments extended the current annual AML grant distributions to both uncertified and certified States and Tribes. (A State or Tribe ''certifies'' under section 411(a) of SMCRA (30 U.S.C. 1240a) when it has completed all known coal AML priorities.) Specifically, the 2021 amendments revised section 401(f)(2) of SMCRA to extend our annual grant distributions from the AML Fund to eligible uncertified States and Tribes by 13 years. The extension of our fee collection authority in section 402(b) also had the effect of extending the AML grant distributions from general Treasury funds (*i.e.,* certified in lieu funds) to certified States and Tribes by 13 years as provided in sections 402(i)(2) and 411(h)(2) of SMCRA (30 U.S.C. 1232(i)(2) and 1240a(h)(2)).

While we consider the 2021 amendments to be self-executing, some of our current regulations are inconsistent with these provisions. To provide consistency between our regulations and the 2021 amendments and to clarify that fee collections continue without interruption at the reduced rates and annual AML grant distributions to eligible States and Tribes based on fee collections continue using the formula described in section 401(f) of SMCRA and 402(i)(2), we are publishing an interim final rule, which will be effective immediately upon publication. The interim final rule we are promulgating today will revise 30 CFR parts 870 and 872 to reflect the reduction in reclamation fee rates and the extension of our fee collection authority and annual AML grant distributions.

The purpose of this interim final rule is to codify these revisions to make the regulations consistent with SMCRA, as amended by the Infrastructure Investment and Jobs Act, and allow the public to comment on the rule. As we are amending our regulations under an interim final rule, we will forgo issuing a proposed rule. The interim final rule will take effect on the date specified above in **DATES**, with public comment to conclude as set forth in **DATES**. If necessary, the interim final rule may be revised based on public comments received. Any final rule will contain responses to comments received on the interim final rule, state the final regulatory provisions, and provide the justification for those provisions.

II. Administrative Procedure Act

A. Why is the rule being published on an interim final basis?

OSMRE is promulgating this interim final rule solely to accurately reflect the requirements of sections 40702 and 40703 of the Infrastructure Investment and Jobs Act. These provisions amended subsections (a) and (b) of section 402 of SMCRA (30 U.S.C. 1232) to reduce reclamation fee rates by 20 percent and extend our fee collection authority through September 30, 2034, which extends AML grants to eligible States and Tribes from Treasury funds as provided in sections 402(i)(2) and 411(h)(2). The 2021 amendments further changed subparagraphs (A) and (B) of section 401(f)(2) of SMCRA (30 U.S.C. 1231(f)(2)) to extend the annual AML distribution dates for grants to eligible States and Tribes from the AML Fund. To avoid confusion, OSMRE is also making a clarifying change to the introductory section of 30 CFR 872.27(a)(2). OSMRE is not making any other changes to the regulations at 30 CFR subchapter R.

As previously noted, OSMRE is promulgating this rule on an interim final basis as authorized by the Administrative Procedure Act (APA) at 5 U.S.C. 553(b)(3)(B). This provision of the APA provides a ''good cause'' exemption that allows an agency to issue a rule without prior notice or opportunity for public comment ''when the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public

interest.'' An additional exemption at 5 U.S.C. 553(d)(3) allows an agency to publish a rule less than 30 days before its effective date ''for good cause found and published with the rule.''

OSMRE finds that promulgation of this interim final rule, effective upon publication and without prior notice or opportunity to comment, meets the good cause threshold because those procedures are ''impracticable, unnecessary, or contrary to the public interest'' with respect to this rule and also meets the good cause threshold for exempting the rule from the 30-day waiting period before a rule goes into effect. 5 U.S.C. 553(b)(3)(B); 553(d)(3). The revisions to our regulations made by this interim final rule are made only to conform our existing regulations to the changes to the AML fee rate and our fee collection authority, as well as the extension of the annual AML grants, made by the Infrastructure Investment and Jobs Act. With this interim final rule, OSMRE is not exercising any discretion and is simply conforming its rules to the requirements contained within the new statute; therefore, public notice and comment is impracticable and unnecessary.

Furthermore, it is in the public interest because this rule revises out-of-date regulations to conform to the changes made by the 2021 amendments. These changes provide clarity and avoid the confusion that might otherwise result from stale regulatory provisions that are inconsistent with current law. The concurrent extension of our fee collection authority and reduction in reclamation fee rates, if not clearly understood by coal mine operators, could result in delayed payment of reclamation fees, which could subject operators to late payment penalties and potentially affect annual AML grant distributions to States and Tribes (30 U.S.C. 1231(f) and 1232(i)(2)) or estimated interest payments to the UMWA Health and Retirement Funds' health care plans (30 U.S.C. 1232(h)). Conversely, confusion over reclamation fee rates could also result in overpayments based on the previous, higher reclamation fee rate, which may require OSMRE to process refunds and reduce administrative efficiency. For these reasons, we are availing ourselves of the good cause exemptions at 5 U.S.C. 553(b)(3)(B) and 553(d)(3) and providing notice and an opportunity for public comment after the effective date of this interim final rule, which will be considered in the development of any subsequent final rule.

B. How does the rule operate?

This interim final rule revises our regulations to be consistent with the 2021 amendments, which extend our statutory authority to collect reclamation fees for an additional 13 years, reduce reclamation fee rates, and extend the dates when annual grant funding will be available to eligible States and Tribes. Similar to the explanation in the proposed rule for the 2006 SMCRA amendments, this rule retains certain expired fee rates at 30 CFR 870.13 for historical purposes and for use in future audits of production from the years in which those rates applied. *See* 73 FR 35214, 35219 (June 20, 2008). This rule also makes a clarifying change to 30 CFR 872.27(a)(2).

III. Procedural Matters

A. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.,* the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) has determined that this rulemaking is not a major rulemaking, as defined by 5 U.S.C. 804(2), because this rulemaking has not resulted in, and is unlikely to result in: (1) An annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government, or geographic regions; or (3) 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.

As noted above, this rulemaking merely reflects the IIJA's updates to the reclamation fee rates, continuation of the collection of AML fees, and extension of the annual AML grant distributions. Although OSMRE typically collects over $100 million annually in reclamation fees and distributes over $100 million in annual AML grants to eligible States and Tribes, the change resulting from the IIJA's lower fee rates is anticipated to be less than $100 million a year compared to fees we collected and grants we distributed in the fiscal years since fiscal year 2013, when the fee rate last changed. And because the 2021 amendments are self-executing, any effects come not from requirements imposed by this rule, but rather from the extension of our fee collection authority and concurrent reduction in reclamation fee rates by Congress. As a result, this rule is not considered a major rulemaking.

B. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the OIRA will review all significant rules. Because this final rule merely reflects the IIJA's updates to the reclamation fee rates, continuation of the collection of AML fees, and extension of the annual AML grant distributions, OIRA has concluded that this rulemaking is not a significant regulatory action under Executive Order 12866. Pursuant to Executive Order 12866, an action is a ''significant regulatory action'' if it ''is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.''

Although the reclamation fees collected and AML grants distributed typically total over $100 million annually, this rule merely acknowledges a continuation of an existing program mandated by Congress and is therefore not a change with a significant monetary impact. In addition, because the administrative and procedural provisions of this rule would reflect an annual impact of less than $100 million, it is not significant under Executive Order 12866. For the same reasons, to the extent that this rulemaking reflects the IIJA's extension of grants to eligible States and Tribes, it merely corresponds with the IIJA's continuation of an existing program for an additional 13 years. Furthermore, as OSMRE has collected reclamation fees and distributed annual AML grants for four decades, the agency is not aware of any inconsistencies with other agency actions or novel legal or policy issues that could arise as a result of the reauthorization of the reclamation fee and the extension of AML grants.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for

achieving regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements, to the extent permitted by statute.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), which requires an agency to prepare a regulatory flexibility analysis for all rules, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities applies only where an agency is required to publish a general notice of proposed rulemaking for any proposed rule. *See* 5 U.S.C. 601(2), 603(a), and 604(a). As OSMRE is not required to publish a notice of proposed rulemaking for this interim final rule, the RFA does not apply.

D. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. As explained in section III.A. above, this rule:

(a) Will not have an annual effect on the economy of $100 million or more;

(b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) requires that, before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any rule that may result in the expenditure by a State, Tribal, or local government, in the aggregate, or by the private sector of $100 million, adjusted annually for inflation, in any 1 year, an agency must prepare a written statement that assesses the effects on State, Tribal, and local governments and the private sector. *See* 2 U.S.C. 1532(a). As OSMRE is not required to promulgate a notice of proposed rulemaking for this interim final rule, the UMRA does not apply.

F. Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

G. Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

H. Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (Executive Order 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy, under Departmental Manual Part 512, Chapters 4 and 5, and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on Federally-recognized Tribes or Alaska Native Claims Settlement Act (ANCSA) Corporations, and that consultation under the Department's Tribal consultation policy is not required. OSMRE will conduct informal listening sessions with Tribes with eligible AML programs to provide an overview of the IIJA as it relates to the AML program.

J. Paperwork Reduction Act

The collection of information contained in this rule has been previously approved by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The existing control number for 30 CFR part 870 is 1029–0063 and the expiration date is February 29, 2024. The existing control number for 30 CFR part 872 is 1029–0054 and the expiration date is February 29, 2024. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative and financial nature. *See* 43 CFR 46.210(i). In addition, any environmental effects of this rulemaking as a whole are too broad, speculative, and conjectural because the nature of AML problems vary, they occur in numerous locations throughout the country, and will be reclaimed at different times, and NEPA review is completed on each project completed with these funds closer to the time that the project is undertaken. *Id.* We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Effects on Energy Supply, Distribution, and Use (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

M. Clarity of this Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) use the active voice to address readers directly;

(c) use common, everyday words and clear language rather than jargon;

(d) be divided into short sections and sentences; and

(e) use lists and tables wherever possible.

If you believe that we have not met these requirements in issuing this final rule, please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section. Your comments should be as specific as possible in

order to help us determine whether any future revisions to the rule are necessary. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

N. Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

O. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 note *et seq.*) directs Federal agencies to use voluntary consensus standards when implementing regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. This final rule is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA, and the requirements would not be applicable to this final rulemaking.

P. Protection of Children From Environmental Health Risks and Safety Risks (Executive Order 13045)

Executive Order 13045 requires that environmental and related rules separately evaluate the potential impact to children. However, Executive Order 13045 is inapplicable to this rulemaking because this is not a substantive rulemaking and a notice of proposed rulemaking was neither required nor prepared. *See* section 2–202 and 5–501 of Executive order 13045.

List of Subjects

30 CFR Part 870

Abandoned Mine Reclamation Fund, Fee collection and coal production reporting, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 872

Indians—land, Moneys available to eligible States and Indian tribes.

Laura Daniel-Davis,

Principal Deputy Assistant Secretary, Land and Minerals Management.

The action taken herein is pursuant to an existing delegation of authority.

For the reasons given in the preamble, the Department of the Interior amends 30 CFR parts 870 and 872 as set forth below:

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

■ 1. The authority citation at part 870 is revised to read as follows:

Authority: 28 U.S.C. 1746, 30 U.S.C. 1201 *et seq.,* Pub. L. 105–277 and Pub. L. 117–58.

■ 2. Amend § 870.13 by:

■ a. Removing paragraph (a);

■ b. Revising paragraph (b); and

■ c. Redesignating paragraph (c) as paragraph (a).

The revision reads as follows:

§ 870.13 Fee rates.

* * * * *

(b) *Fees for coal produced for sale, transfer, or use from October 1, 2021, through September 30, 2034.* Fees for coal produced for sale, transfer, or use from October 1, 2021, through September 30, 2034, are shown in the following table:

Type of fee	Type of coal	Amount of fee
(1) Surface mining fee	Anthracite, bituminous, and subbituminous, including reclaimed.	(i) If value of coal is $2.24 per ton or more, fee is 22.4 cents per ton. (ii) If value of coal is less than $2.24 per ton, fee is 10 percent of the value.
(2) Underground mining fee	Anthracite, bituminous, and subbituminous.	(i) If value of coal is $0.96 per ton or more, fee is 9.6 cents per ton. (ii) If value of coal is less than $0.96 per ton, fee is 10 percent of the value.
(3) Surface and underground mining fee.	Lignite	(i) If value of coal is $3.20 per ton or more, fee is 6.4 cents per ton. (ii) If value of coal is less than $3.20 per ton, fee is 2 percent of the value.
(4) In situ coal mining fee	All types other than lignite ..	9.6 cents per ton based on Btu's per ton in place equated to the gas produced at the site as certified through analysis by an independent laboratory.
(5) In situ coal mining fee	Lignite	6.4 cents per ton based on the Btu's per ton of coal in place equated to the gas produced at the site as certified through analysis by an independent laboratory.

* * * * *

PART 872—MONEYS AVAILABLE TO ELIGIBLE STATES AND INDIAN TRIBES

■ 3. The authority citation at part 872 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.,* Pub. L. 117–58.

■ 4. Amend § 872.15 by revising paragraph (b)(1) to read as follows:

§ 872.15 How does OSM distribute and award State share funds?

* * * * *

(b) * * *

(1) We annually distribute State share funds to you as shown in the following table:

For the Federal fiscal year(s) beginning . . .	The amount of State share funds we annually distribute to you will be . . .
(i) October 1, 2007 and October 1, 2008	50 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(ii) October 1, 2009 and October 1, 2010	75 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iii) October 1, 2011 and continuing through September 30, 2035.	100 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iv) October 1, 2035 (fiscal year 2036)	The amount remaining in your State share of the Fund.

* * * * *

■ 5. Amend § 872.18 by revising paragraph (b)(1) to read as follows:

§ 872.18 How will OSM distribute and award Tribal share funds?

* * * * *

(b) * * *

(1) We annually distribute Tribal share funds to you as shown in the following table:

For the Federal fiscal year(s) beginning . . .	The amount of Tribal share funds we annually distribute to you will be . . .
(i) October 1, 2007 and October 1, 2008	50 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(ii) October 1, 2009 and October 1, 2010	75 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iii) October 1, 2011 and continuing through September 30, 2035.	100 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iv) October 1, 2035 (fiscal year 2036)	The amount remaining in your Tribal share of the Fund.

* * * * *

■ 6. Amend § 872.21 by revising paragraphs (b)(1) and (2) to read as follows:

§ 872.21 What are historic coal funds?

* * * * *

(b) * * *

(1) The moneys we reallocate based on prior balance replacement funds distributed under § 872.29, which will be available to supplement grants beginning with Federal fiscal year 2036; and

(2) The moneys we reallocate based on certified in lieu funds distributed under § 872.32, which will be available to supplement grants in Federal fiscal years 2009 through 2035.

■ 7. Amend § 872.22 by revising paragraph (c) to read as follows:

§ 872.22 How does OSM distribute and award historic coal funds?

* * * * *

(c) We annually distribute historic coal funds to you as shown in the following table:

For the Federal fiscal years beginning . . .	The amount of historic coal funds we annually distribute to you will be . . .
(1) October 1, 2007 and October 1, 2008	50 percent of the amount we calculate using the formula described in paragraph (b) of this section.
(2) October 1, 2009 and October 1, 2010	75 percent of the amount we calculated using the formula described in paragraph (b) of this section.
(3) October 1, 2011 and continuing through September 30, 2035.	100 percent of the amount we calculate using the formula described in paragraph (b) of this section.
(4) October 1, 2035 (fiscal year 2036), and thereafter.	100 percent of the amount we calculate using the formula described in paragraph (b) of this section until funds are no longer available or you have reclaimed your remaining Priority 1 and 2 coal problems.

* * * * *

■ 8. Amend § 872.27 by revising paragraph (a)(2) to read as follows:

§ 872.27 How does OSM distribute and award minimum program make up funds?

* * * * *

(a) * * *

(2) For each Federal fiscal year, we add minimum program make up funds to your combined distribution of prior balance replacement, State or Tribal share, and historic coal funds as shown in the following table:

For each of the Federal fiscal years beginning . . .	The amount of minimum program make up funds we add to your distribution will be . . .
(i) October 1, 2007 and October 1, 2008	50 percent of the amount that we calculated should be added under paragraph (a)(1) of this section.
(ii) October 1, 2009 and October 1, 2010	75 percent of the amount that we calculated should be added under paragraph (a)(1) of this section.
(iii) October 1, 2011 and continuing through September 30, 2035.	100 percent of the amount that we calculated should be added under paragraph (a)(1) of this section as long as you have at least $3 million of Priority 1 and 2 coal problems remaining.
(iv) October 1, 2035 and thereafter	to the extent funds are available, 100 percent of the amount that we calculated should be added under paragraph (a)(1) until you have less than $3 million of Priority 1 and 2 coal problems remaining.

* * * * *

■ 9. Amend § 872.30 by revising paragraph (c) to read as follows:

§ 872.30 How does OSM distribute and award prior balance replacement funds?

* * * * *

(c) At the same time we distribute prior balance replacement funds to you under this section, we transfer the same amount to historic coal funds from moneys in your State or Tribal share of the Fund that were allocated to you before October 1, 2007. The transferred funds will be available for annual grants under § 872.21 for the Federal fiscal year beginning October 1, 2035, and annually thereafter. We will allocate, distribute, and award the transferred

funds according to the provisions of §§ 872.21, 872.22, and 872.23.

[FR Doc. 2022–00513 Filed 1–13–22; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0021]

RIN 1625–AA00

Safety Zone; Potomac River, Between Charles County, MD and King George County, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Potomac River. This action is necessary to provide for the safety of persons, and the marine environment from the potential safety hazards associated with construction operations at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge, which will occur from 8 p.m. on January 15, 2022 through 8 p.m. on January 22, 2022. This rule will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 8 p.m. on January 15, 2022 until 8 p.m. on January 22, 2022 .

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0021 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ron Houck, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
§ Section
TFR Temporary Final Rule
U.S.C. United States Code

II. Background Information and Regulatory History

On January 5, 2022, Skanska-Corman-McLean, Joint Venture, notified the Coast Guard that the company will be setting structural steel sections across the federal navigation channel at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge. The bridge contractor stated the work required to set structural steel across the channel, originally scheduled to occur in November 2021, and rescheduled to December 2021, was scheduled to occur from January 3, 2022, through January 15, 2022. However, the unexpected and unprecedented impacts to the southern Maryland and northern Virginia region from the major snow storm on January 3, 2022 halted operations and caused additional delays. The work is now scheduled to occur from January 11, 2022, through January 22, 2022. The work described by the contractor requires the movement in and anchoring at multiple points of a large crane barge within the federal navigation channel. This crane can accommodate all of the steel to be hoisted and placed, which will streamline the operation by avoiding multiple reloads of steel and reducing the time in the channel by multiple days. This operation will impede vessels requiring the use of the channel. Note, the Coast Guard has previously issued other temporary safety zones at this location for placement of fender ring elements in association with construction of the new bridge (USCG–2021–0127; USCG–2021–0650; USCG–2021–0745; and USCG–2021–0906).

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. Construction operations involving large crane heavy lifts at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge must occur within the federal navigation channel. Immediate action is needed to respond to the potential safety hazards associated with bridge construction. Hazards from the construction operations include low-hanging or falling ropes, cables, large piles and cement cast portions, dangerous projectiles, and or other debris. We must establish this safety zone by January 15, 2022 to guard against these hazards.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with construction operations at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge to be conducted within the federal navigation channel.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with bridge construction starting January 15, 2022, will be a safety concern for anyone within the federal navigation channel at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge construction site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being constructed.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 8 p.m. on January 15, 2022, through 8 p.m. on January 22, 2022. The safety zone will cover all navigable waters of the Potomac River encompassed by a line connecting the following points beginning at 38°21′50.96″ N, 076°59′22.04″ W, thence south to 38°21′43.08″ N, 076°59′20.55″ W, thence west to 38°21′41.00″ N, 076°59′34.90″ W, thence north to 38°21′48.90″ N, 076°59′36.80″ W, and east back to the beginning point, located between Charles County, MD and King George County, VA.

The duration of the zone is intended to protect personnel and the marine environment in these navigable waters while structural steel is being set across the federal navigation channel at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge.

Except for marine equipment and vessels operated by Skanska-Corman-McLean, Joint Venture, or its

subcontractors, no vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP Maryland-National Capital Region or a designated representative.

The COTP Maryland-National Capital Region will notify the public that the safety zone will be enforced by all appropriate means to the affected segments of the public, as practicable, in accordance with 33 CFR 165.7(a).

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on size and duration of the safety zone. The temporary safety zone is approximately 450 yards in width and 270 yards in length. We anticipate that there will be no vessels that are unable to conduct business. Excursion vessels and commercial fishing vessels are not impacted by this rulemaking. Excursion vessels do not operate in this area, and commercial fishing vessels are not impacted because of their draft. Some towing vessels may be impacted, but bridge project personnel have been conducting outreach throughout the project in order to coordinate with those vessels. Vessel traffic not required to use the navigation channel will be able to safely transit around the safety zone. Such vessels may be able to transit to the east or the west of the federal navigation channel, as similar vertical clearance and water depth exist under the next bridge span to the east and west. This safety zone will impact a small designated area of the Potomac River for 8 days, but coincides with the non-peak season for recreational boating.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone lasting 7 total days that will prohibit entry within a portion of the Potomac River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0021 to read as follows:

§ 165.T05–0021 Safety Zone; Potomac River, Between Charles County, MD and King George County, VA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°21′50.96″ N, 076°59′22.04″ W, thence south to 38°21′43.08″ N, 076°59′20.55″ W, thence west to 38°21′41.00″ N, 076°59′34.90″ W, thence north to 38°21′48.90″ N, 076°59′36.80″ W, and east back to the beginning point, located between Charles County, MD and King George County, VA. These coordinates are based on datum NAD 83.

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

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Maryland-National Capital Region (COTP) in the enforcement of the safety zone.

Marine equipment means any vessel, barge or other equipment operated by Skanska-Corman-McLean, Joint Venture, or its subcontractors.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* The section will be enforced from 8 p.m. on January 15, 2022, through 8 p.m. on January 22, 2022.

Dated: January 10, 2022.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port Sector Maryland-National Capital Region.

[FR Doc. 2022–00705 Filed 1–13–22; 8:45 am]

BILLING CODE 9110–04–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–70

[FPMR Case 2022–01; Docket No. GSA–FPMR–2022–0004; Sequence No. 1]

RIN 3090–AK53

Program Fraud Civil Remedies Act of 1986, Civil Monetary Penalties Inflation Adjustment

AGENCY: Office of the General Counsel, General Services Administration.

ACTION: Final rule.

SUMMARY: In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvement Act of 2015, this final rule incorporates the penalty inflation adjustments for the civil monetary penalties set forth in the United States Code, as codified in our regulations.

DATES: Effective February 14, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Pound, Assistant General Counsel, General Law Division (LG), General Services Administration, 1800 F Street NW, Washington, DC 20405. Telephone Number 202–501–1460.

SUPPLEMENTARY INFORMATION:

I. The Debt Collection Improvement Act of 1996

To maintain the remedial impact of civil monetary penalties (CMPs) and to promote compliance with the law, the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410) was amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) to require Federal agencies to regularly adjust certain CMPs for inflation and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvement Act of 2015 (Sec. 701 of Pub. L. 114–74). As amended, the law requires each agency to make an initial inflationary adjustment for all applicable CMPs, and to make further adjustments at least once every year thereafter for these penalty amounts. The Debt Collection Improvement Act of 1996 further stipulates that any resulting increases in a CMP due to the calculated inflation adjustments shall apply only to violations which occur after the date the increase takes effect, *i.e.,* thirty (30) days after date of publication in the **Federal Register**. Pursuant to the 2015 Act, agencies are required to adjust the level of the CMP with an initial ''catch up'', and make subsequent annual adjustments for inflation. Catch up adjustments are based on the percent change between the Consumer Price Index for Urban Consumers (CPI–U) for the month of October for the year of the previous adjustment, and the October 2015 CPI–U. Annual inflation adjustments will be based on the percent change between the October CPI–U preceding the date of adjustment and the prior year's October CPI–U.

II. The Program Fraud Civil Remedies Act of 1986

In 1986, sections 6103 and 6104 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–501) set forth the Program Fraud Civil Remedies Act of 1986 (PFCRA). Specifically, this statute imposes a CMP and an assessment against any person who, with knowledge or reason to know, makes, submits, or presents a false, fictitious, or fraudulent claim or statement to the Government. The General Services Administration's regulations, published in the **Federal Register** (61 FR 246, December 20, 1996) and codified at 41 CFR part 105–70, set forth a CMP of up to $10,781 for each false claim or statement made to the agency. Based on the penalty amount inflation factor calculation, derived from originally dividing the June 2015 CPI by the June 1996 CPI and making the CPI-based annual adjustment thereafter, after rounding we are adjusting the maximum penalty amount for this CMP to $11,001 per violation.

III. Waiver of Proposed Rulemaking

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment

procedures set forth in the Administrative Procedure Act, 5 U.S.C. 553 (APA). The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking comports and is consistent with the statutory authority set forth in the Debt Collection Improvement Act of 1996, with no issues of policy discretion. Accordingly, we believe that opportunity for prior comment is unnecessary and contrary to the public interest, and we are issuing these revised regulations as a final rule that will apply to all future cases under this authority.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a not significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

The Office of Management and Budget (OMB) has reviewed this final rule in accordance with the provisions of E.O. 12866 and has determined that it does not meet the criteria for a significant regulatory action. As indicated above, the provisions contained in this final rulemaking set forth the inflation adjustments in compliance with the Debt Collection Improvement Act of 1996 for specific applicable CMPs. The great majority of individuals, organizations and entities addressed through these regulations do not engage in such prohibited conduct, and as a result, we believe that any aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who may engage in prohibited conduct in violation of the statute. As such, this final rule and the inflation adjustment contained therein should have no effect on Federal or state expenditures.

V. Congressional Review Act

This rule is not a major rule under 5 U.S.C. 804(2). Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, 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. GSA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the CRA cannot take effect until 60 days after it is published in the **Federal Register**. OIRA has determined that this is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VI. Regulatory Flexibility Act

The Administrator of General Services certifies that this final rule will not have a significant economic impact on a substantial number of small business entities. While some penalties may have an impact on small business entities, it is the nature of the violation and not the size of the entity that will result in an action by the agency, and the aggregate economic impact of this rulemaking on small business entities should be minimal, affecting only those few who have engaged in prohibited conduct in violation of statutory intent.

VII. Paperwork Reduction Act

This final rule imposes no new reporting or recordkeeping requirements necessitating clearance by OMB.

List of Subject in 41 CFR Part 105–70

Administrative hearing, Claims, Program fraud.

Robin Carnahan,

Administrator.

Accordingly, 41 CFR part 105–70 is amended as set forth below:

PART 105–70—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

■ 1. The authority citation for part 105–70 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 31 U.S.C. 3809.

* * * * *

§ 105–70.003 [Amended]

■ 2. Amend § 105–70.003 by—

■ a. Removing from paragraph (a)(1)(iv) the amount ''11,400'' and adding ''12,100'' in its place; and

■ b. Removing from paragraph (b)(1)(ii) the amount ''11,400'' and adding ''12,100'' in its place.

[FR Doc. 2022–00732 Filed 1–13–22; 8:45 am]

BILLING CODE 6820–81–P

FEDERAL MARITIME COMMISSION

46 CFR Part 506

[Docket No. 22–02]

RIN 3072–AC89

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (Commission) is publishing this final rule to adjust for inflation the civil monetary penalties assessed or enforced by the Commission, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act). The 2015 Act requires that agencies adjust and publish their new civil penalties by January 15 each year.

DATES: This rule is effective January 15, 2022.

FOR FURTHER INFORMATION CONTACT: William Cody, Secretary; Phone: (202) 523–5725; Email: *secretary@fmc.gov*.

SUPPLEMENTARY INFORMATION: This rule adjusts the civil monetary penalties assessable by the Commission in accordance with the 2015 Act, which became effective on November 2, 2015. Public Law 114–74, section 701. The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law 101–410, 104 Stat. 890 (codified as amended at 28 U.S.C. 2461 note), in order to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect.

The 2015 Act requires agencies to adjust civil monetary penalties under their jurisdiction by January 15 each year, based on changes in the consumer price index (CPI–U) for the month of October in the previous calendar year. On December 15, 2021, the Office of Management and Budget published guidance stating that the CPI–U multiplier for October 2021 is 1.06222.[1]

[1] Office of Management and Budget, M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 1 (Dec. 15, 2021) (M–22–07).

In order to complete the annual adjustment, the Commission must multiply the most recent civil penalty amounts in 46 CFR part 506 by the multiplier, 1.06222.

Rulemaking Analyses and Notices

Notice and Effective Date

Adjustments under the FCPIAA, as amended by the 2015 Act, are not subject to the procedural rulemaking requirements of the Administrative Procedure Act (APA) (5 U.S.C. 553), including the requirements for prior notice, an opportunity for comment, and a delay between the issuance of a final rule and its effective date.[2] As noted above, the 2015 Act requires that the Commission adjust its civil monetary penalties no later than January 15 of each year.

Congressional Review Act

The rule is not a ''major rule'' as defined by the Congressional Review Act, codified at 5 U.S.C. 801 *et seq.* The rule will not result in: (1) An annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies. 5 U.S.C. 804(2).

Regulatory Flexibility Act

The Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612) provides that whenever an agency promulgates a final rule after being required to publish a notice of proposed rulemaking under the APA (5 U.S.C. 553), the agency must prepare and make available a final regulatory flexibility analysis describing the impact of the rule on small entities or the head of the agency must certify that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 604–605. As indicated above, this final rule is not subject to the APA's notice and comment requirements, and the Commission is not required to either conduct a regulatory flexibility analysis or certify that the final rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11. This final rule does not contain any collection of information, as defined by 44 U.S.C. 3502(3) and 5 CFR 1320.3(c).

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The public may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

List of Subjects in 46 CFR Part 506

Administrative practice and procedure, Claims, Penalties.

For the reasons stated in the preamble, 46 CFR part 506 is amended as follows:

PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

■ 1. The authority citation for part 506 continues to read as follows:

Authority: 28 U.S.C. 2461.

■ 2. Amend § 506.4 by revising paragraph (d) to read as follows:

§ 506.4 Cost of living adjustments of civil monetary penalties.

* * * * *

(d) *Inflation adjustment.* Maximum civil monetary penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

TABLE 1 TO PARAGRAPH (d)

United States code citation	Civil monetary penalty description	Maximum penalty as of January 15, 2021	Maximum penalty as of January 15, 2022
46 U.S.C. 42304	Adverse impact on U.S. carriers by foreign shipping practices	$2,166,279	$2,301,065
46 U.S.C. 41107(a)	Knowing and Willful violation/Shipping Act of 1984, or Commission regulation or order.	61,820	65,666
46 U.S.C. 41107(a)	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful.	12,363	13,132
46 U.S.C. 41108(b)	Operating in foreign commerce after tariff suspension	123,641	131,334
46 U.S.C. 42104	Failure to provide required reports, etc./Merchant Marine Act of 1920.	9,753	10,360
46 U.S.C. 42106	Adverse shipping conditions/Merchant Marine Act of 1920	1,950,461	2,071,819
46 U.S.C. 42108	Operating after tariff or service contract suspension/Merchant Marine Act of 1920.	97,523	103,591
46 U.S.C. 44102, 44104	Failure to establish financial responsibility for non-performance of transportation.	24,634 822	26,167 873
46 U.S.C. 44103, 44104	Failure to establish financial responsibility for death or injury	24,634 822	26,167 873
31 U.S.C. 3802(a)(1)	Program Fraud Civil Remedies Act/making false claim	11,803	12,537
31 U.S.C. 3802(a)(2)	Program Fraud Civil Remedies Act/giving false statement	11,803	12,537

[2] FCPIAA section 4(b)(2); M–22–07 at 3–4.

By the Commission.

William Cody,

Secretary.

[FR Doc. 2022–00712 Filed 1–13–22; 8:45 am]

BILLING CODE 6730–02–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 831

[Docket No.: NTSB–2022–0001]

RIN 3147–AA24

Civil Monetary Penalty Annual Inflation Adjustment

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, this final rule provides the 2022 adjustment to the civil penalties that the agency may assess against a person for violating certain NTSB statutes and regulations.

DATES: This final rule is effective on January 14, 2022.

ADDRESSES: A copy of this final rule, published in the **Federal Register** (FR), is available at *https://www.regulations.gov* (Docket ID Number NTSB–2022–0001).

FOR FURTHER INFORMATION CONTACT: Kathleen Silbaugh, General Counsel, (202) 314–6080 or *rulemaking@ntsb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) requires, in pertinent part, agencies to make an annual adjustment for inflation by January 15th every year. OMB, M–16–06, *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Feb. 24, 2016). The Office of Management and Budget (OMB) annually publishes guidance on the adjustment multiplier to assist agencies in calculating the mandatory annual adjustments for inflation.

The NTSB's most recent adjustment was for fiscal year (FY) 2021, allowing the agency to impose a civil penalty up to $1,742, effective January 15, 2021, on a person who violates 49 U.S.C. 1132 (Civil aircraft accident investigations), 1134(b) (Inspection, testing, preservation, and moving of aircraft and parts), 1134(f)(1) (Autopsies), or 1136(g) (Prohibited actions when providing assistance to families of passengers involved in aircraft accidents). Civil Monetary Penalty Annual Inflation Adjustment, 86 FR 1809 (Jan. 11, 2021).

OMB has since published updated guidance for FY 2022. OMB, M–22–07, *Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2021). Accordingly, this final rule reflects the NTSB's 2022 annual inflation adjustment and updates the maximum civil penalty from $1,742 to $1,850.

II. The 2022 Annual Adjustment

The 2022 annual adjustment is calculated by multiplying the applicable maximum civil penalty amount by the cost-of-living adjustment multiplier, which is based on the Consumer Price Index and rounding to the nearest dollar. OMB, M–22–07, *Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2021). For FY 2022, OMB's guidance states that the cost-of-living adjustment multiplier is 1.06222.

Accordingly, multiplying the current penalty of $1,742 by 1.06222 equals $1,850.38724, which rounded to the nearest dollar equals $1,850. This updated maximum penalty for the upcoming fiscal year applies only to civil penalties assessed after the effective date of this final rule. The next civil penalty adjustment for inflation will be calculated by January 15, 2023.

III. Regulatory Analysis

The Office of Information and Regulatory Affairs Administrator has determined agency regulations that exclusively implement the annual adjustment are consistent with OMB's annual guidance, and have an annual impact of less than $100 million are generally not significant regulatory actions under Executive Order (E.O.) 12866. OMB, M–22–07, *Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2021). An assessment of its potential costs and benefits under E.O. 12866, *Regulatory Planning and Review* and E.O. 13563, *Improving Regulation and Regulatory Review* is not required because this final rule is not a ''significant regulatory action.'' Likewise, this rule does not require analyses under the Unfunded Mandates Reform Act of 1995 because this final rule is not significant.

The Regulatory Flexibility Act (5 U.S.C. 801 *et seq.*) requires each agency to review its rulemaking to assess the potential impact on small entities, unless the agency determines a rule is not expected to have a significant economic impact on a substantial number of small entities. In accordance with 5 U.S.C. 605(b), the NTSB certifies that the final rule will not have a significant economic impact on a substantial number of small entities; only those entities that are determined to have violated Federal law and regulations would be affected by the increase in penalties made by this rule.

This final rule complies with all applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 ''Civil Justice Reform,'' to minimize litigation, eliminate ambiguity, and reduce burden. In addition, the NTSB has evaluated this rule under E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights''; and E.O. 13045, ''Protection of Children from Environmental Health Risks and Safety Risks.''

The NTSB does not anticipate this rule will have a substantial direct effect on state government or will preempt state law. Accordingly, this rule does not have implications for federalism under E.O. 13132, *Federalism.*

The NTSB also evaluated this rule under E.O. 13175, *Consultation and Coordination with Indian Tribal Governments.* The agency has concluded that this final rule will 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.

The Paperwork Reduction Act of 1995 is inapplicable because the final rule imposes no new information reporting or recordkeeping necessitating clearance by OMB.

The Regulatory Flexibility Act of 1980 does not apply because, as a final rule, this action is not subject to prior notice and comment. *See* 5 U.S.C. 604(a).

The NTSB has concluded that this final rule neither violates nor requires further consideration under the aforementioned Executive orders and acts.

List of Subjects in 49 CFR Part 831

Aircraft accidents, Aircraft incidents, Aviation safety, Hazardous materials transportation, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

Accordingly, for the reasons stated in the Preamble, the NTSB amends 49 CFR part 831 as follows:

PART 831—INVESTIGATION PROCEDURES

■ 1. The authority citation for part 831 continues to read as follows:

Authority: 49 U.S.C. 1113(f).

Section 831.15 also issued under Public Law 101–410, 104 Stat. 890, amended by Public Law 114–74, sec. 701, 129 Stat. 584 (28 U.S.C. 2461 note).

§ 831.15 [Amended]

■ 2. Amend § 831.15 by removing the dollar amount ''$1,742'' and add in its place ''$1,850''.

Jennifer Homendy,

Chair.

[FR Doc. 2022–00726 Filed 1–13–22; 8:45 am]

BILLING CODE 7533–01–P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1022

[Docket No. EP 716 (Sub-No. 7)]

Civil Monetary Penalties—2022 Adjustment

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is issuing a final rule to implement the annual inflationary adjustment to its civil monetary penalties, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: This final rule is effective January 14, 2022.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), enacted as part of the Bipartisan Budget Act of 2015, Public Law 114–74, sec. 701, 129 Stat. 584, 599–601, requires agencies to adjust their civil penalties for inflation annually, beginning on July 1, 2016, and no later than January 15 of every year thereafter. In accordance with the 2015 Act, annual inflation adjustments are to be based on the percent change between the Consumer Price Index for all Urban Consumers (CPI–U) for October of the previous year and the October CPI–U of the year before that. Penalty level adjustments should be rounded to the nearest dollar.

II. Discussion

The statutory definition of civil monetary penalty covers various civil penalty provisions under the Rail (Part A); Motor Carriers, Water Carriers, Brokers, and Freight Forwarders (Part B); and Pipeline Carriers (Part C) provisions of the Interstate Commerce Act, as amended. The Board's civil (and criminal) penalty authority related to rail transportation appears at 49 U.S.C. 11901–11908. The Board's penalty authority related to motor carriers, water carriers, brokers, and freight forwarders appears at 49 U.S.C. 14901–14916. The Board's penalty authority related to pipeline carriers appears at 49 U.S.C. 16101–16106.[1] The Board has regulations at 49 CFR pt. 1022 that codify the method set forth in the 2015 Act for annually adjusting for inflation the civil monetary penalties within the Board's jurisdiction.

As set forth in this final rule, the Board is amending 49 CFR part 1022 to make an annual inflation adjustment to the civil monetary penalties in conformance with the requirements of the 2015 Act. The adjusted penalties set forth in the rule will apply only to violations that occur after the effective date of this regulation.

In accordance with the 2015 Act, the annual adjustment adopted here is calculated by multiplying each current penalty by the cost-of-living adjustment factor of 1.06222, which reflects the percentage change between the October 2021 CPI–U (276.589) and the October 2020 CPI–U (260.388). The table at the end of this decision shows the statutory citation for each civil penalty, a description of the provision, the adjusted statutory civil penalty level for 2021, and the adjusted statutory civil penalty level for 2022.

III. Final Rule

The final rule set forth at the end of this decision is being issued without notice and comment pursuant to the rulemaking provision of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), which does not require that process ''when the agency for good cause finds'' that public notice and comment are ''unnecessary.'' Here, Congress has mandated that the agency make an annual inflation adjustment to its civil monetary penalties. The Board has no discretion to set alternative levels of adjusted civil monetary penalties, because the amount of the inflation adjustment must be calculated in accordance with the statutory formula. Given the absence of discretion, the Board has determined that there is good cause to promulgate this rule without soliciting public comment and to make this regulation effective immediately upon publication.

IV. Regulatory Flexibility Statement

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Board has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the RFA do not apply.

V. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has designated this rule as a non-major rule, as defined by 5 U.S.C. 804(2).

VI. Paperwork Reduction Act

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

List of Subjects in 49 CFR Part 1022

Administrative practice and procedures, Brokers, Civil penalties, Freight forwarders, Motor carriers, Pipeline carriers, Rail carriers, Water carriers.

It is ordered:

1. The Board amends its rules as set forth in this decision. Notice of the final rule will be published in the **Federal Register**.

2. This decision is effective on its date of publication in the **Federal Register**.

Decided: January 10, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Stefan Rice,

Clearance Clerk.

For the reasons set forth in the preamble, part 1022 of title 49, chapter X, of the Code of Federal Regulations is amended as follows:

PART 1022—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

■ 1. Revise the authority citation for part 1022 to read as follows:

[1] The Board also has various criminal penalty authority, enforceable in a federal criminal court. Congress has not, however, authorized federal agencies to adjust statutorily prescribed criminal penalty provisions for inflation, and this rule does not address those provisions.

Authority: 5 U.S.C. 551–557; 28 U.S.C. 2461 note; 49 U.S.C. 11901, 14901, 14903, 14904, 14905, 14906, 14907, 14908, 14910, 14915, 14916, 16101, 16103.

■ 2. Revise § 1022.4(b) to read as follows:

§ 1022.4 Cost-of-living adjustments of civil monetary penalties.

* * * * *

(b) The cost-of-living adjustment required by the statute results in the following adjustments to the civil monetary penalties within the jurisdiction of the Board:

TABLE 1 TO PARAGRAPH (b)

U.S. code citation	Civil monetary penalty description	2021—penalty amount	2022—adjusted penalty amount
		EP 716_6 (2021)	EP 716_7 (2022)
Rail Carrier			
49 U.S.C. 11901(a)	Unless otherwise specified, maximum penalty for each knowing violation under this part, and for each day.	$8,224	$8,736
49 U.S.C. 11901(b)	For each violation under § 11124(a)(2) or (b)	823	874
49 U.S.C. 11901(b)	For each day violation continues	42	45
49 U.S.C. 11901(c)	Maximum penalty for each knowing violation under §§ 10901–10906.	8,224	8,736
49 U.S.C. 11901(d)	For each violation under §§ 11123 or 11124(a)(1)	164–823	174–874
49 U.S.C. 11901(d)	For each day violation continues	82	87
49 U.S.C. 11901(e)(1), (4)	For each violation under §§ 11141–11145, for each day	823	874
49 U.S.C. 11901(e)(2), (4)	For each violation under § 11144(b)(1), for each day	164	174
49 U.S.C. 11901(e)(3)–(4)	For each violation of reporting requirements, for each day	164	174
Motor and Water Carrier			
49 U.S.C. 14901(a)	Minimum penalty for each violation and for each day	1,125	1,195
49 U.S.C. 14901(a)	For each violation under §§ 13901 or 13902(c)	11,257	11,957
49 U.S.C. 14901(a)	For each violation related to transportation of passengers	28,142	29,893
49 U.S.C. 14901(b)	For each violation of the hazardous waste rules under § 3001 of the Solid Waste Disposal Act.	22,514–45,027	23,915–47,829
49 U.S.C. 14901(d)(1)	Minimum penalty for each violation of household good regulations, and for each day.	1,644	1,746
49 U.S.C. 14901(d)(2)	Minimum penalty for each instance of transportation of household goods if broker provides estimate without carrier agreement.	16,450	17,473
49 U.S.C. 14901(d)(3)	Minimum penalty for each instance of transportation of household goods without being registered.	41,120	43,678
49 U.S.C. 14901(e)	Minimum penalty for each violation of a transportation rule	3,289	3,494
49 U.S.C. 14901(e)	Minimum penalty for each additional violation	8,224	8,736
49 U.S.C. 14903(a)	Maximum penalty for undercharge or overcharge of tariff rate, for each violation.	164,490	174,724
49 U.S.C. 14904(a)	For first violation, rebates at less than the rate in effect	329	349
49 U.S.C. 14904(a)	For all subsequent violations	412	438
49 U.S.C. 14904(b)(1)	Maximum penalty for first violation for undercharges by freight forwarders.	823	874
49 U.S.C. 14904(b)(1)	Maximum penalty for subsequent violations	3,289	3,494
49 U.S.C. 14904(b)(2)	Maximum penalty for other first violations under § 13702	823	874
49 U.S.C. 14904(b)(2)	Maximum penalty for subsequent violations	3,289	3,494
49 U.S.C. 14905(a)	Maximum penalty for each knowing violation of § 14103(a), and knowingly authorizing, consenting to, or permitting a violation of § 14103(a) or (b).	16,450	17,473
49 U.S.C. 14906	Minimum penalty for first attempt to evade regulation	2,252	2,392
49 U.S.C. 14906	Minimum amount for each subsequent attempt to evade regulation	5,628	5,978
49 U.S.C. 14907	Maximum penalty for recordkeeping/reporting violations	8,224	8,736
49 U.S.C. 14908(a)(2)	Maximum penalty for violation of § 14908(a)(1)	3,289	3,494
49 U.S.C. 14910	When another civil penalty is not specified under this part, for each violation, for each day.	823	874
49 U.S.C. 14915(a)(1)–(2)	Minimum penalty for holding a household goods shipment hostage, for each day.	13,072	13,885
49 U.S.C. 14916(c)(1)	Maximum penalty for each knowing violation under § 14916(a) for unlawful brokerage activities.	11,257	11,957
Pipeline Carrier			
49 U.S.C. 16101(a)	Maximum penalty for violation of this part, for each day	8,224	8,736
49 U.S.C. 16101(b)(1), (4)	For each recordkeeping violation under § 15722, each day	823	874
49 U.S.C. 16101(b)(2), (4)	For each inspection violation liable under § 15722, each day	164	174
49 U.S.C. 16101(b)(3)–(4)	For each reporting violation under § 15723, each day	164	174
49 U.S.C. 16103(a)	Maximum penalty for improper disclosure of information	1,644	1,746

[FR Doc. 2022–00639 Filed 1–13–22; 8:45 am]
BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 220111–0009]

RIN 0648–BK70

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Requirement for a Descending Device or Venting Tool

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

ACTION: Final rule.

SUMMARY: NMFS implements regulations to clarify terms used in the Direct Enhancement of Snapper Conservation and the Economy through Novel Devices Act of 2020 (Descend Act). Section 3 of the Descend Act requires commercial and recreational fishermen to have a descending device or a venting tool on the vessel and ready for use when fishing for federally managed reef fish species in Gulf of Mexico (Gulf) Federal waters. The purpose of this final rule is to clarify the definitions of descending device and venting tool in the Descend Act.

DATES: This final rule is effective February 14, 2022.

ADDRESSES: Electronic copies of the Descend Act and the Regulatory Flexibility Act (RFA) analysis for this proposed rule may be obtained from *www.regulations.gov* or the NMFS Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/descending-device-and-venting-tool-direct-enhancement-snapper-conservation-and-economy*.

FOR FURTHER INFORMATION CONTACT: Peter Hood, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *peter.hood@noaa.gov*.

SUPPLEMENTARY INFORMATION: On January 13, 2021, the majority of the Descend Act became effective with the exception of section 3, which became effective on January 13, 2022. Section 3 of the Descend Act amends the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by adding section 321, titled ''Required possession of descending devices.'' Section 321 of the Magnuson-Stevens Act requires fishermen on commercial vessels, charter vessels and headboats (for-hire vessels), and private recreational vessels to have a descending device or venting tool rigged and ready to use when fishing for Gulf reef fish in Federal waters.

On November 9, 2021, NMFS published a proposed rule in the **Federal Register** to clarify the terms used in the Descend Act and requested public comment through December 9, 2021 (86 FR 62137). The proposed rule provides additional background and rationale for the actions contained in this final rule.

This final rule clarifies the statutory definitions in the Descend Act of ''descending device'' and ''venting tool,'' which are devices designed to help reduce post-release mortality of fish from the effects of barotrauma.

Gulf reef fish are those fish included in the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP). A list of Gulf reef fish can be found in Table 3 of Appendix A to 50 CFR part 622—Species Tables; Gulf Reef Fish, *https://www.ecfr.gov/current/title-50/chapter-VI/part-622/appendix-Appendix%20A%20to%20Part%20622*. For purposes of management under the Reef Fish FMP, Federal waters in the Gulf begin seaward of 9 nautical miles (16.7 km) from the coast off all the Gulf States (Pub. L. 114–113, December 18, 2015, and Pub. L. 115–31, May 5, 2017).

Barotrauma is an injury that may occur to fish caused by the expansion of gas inside a fish from the rapid decrease of water pressure that occurs when a fish is retrieved from depth. Signs of barotrauma in fish include a distended abdomen, bulging eyes, an everted stomach, and bubbling under the scales. Fish experiencing barotrauma often have difficulty returning to deeper water or float on the surface, which makes them more vulnerable to predation from dolphins, sharks and other fish, and seabirds. Fishermen can help reduce mortality to fish they release by using a descending device or a venting tool when barotrauma is affecting a fish that has been caught. A descending device lowers the fish back to depth where internal gases recompress and the fish can be released. A venting tool can release gases in a fish's abdomen at the surface allowing the fish to swim unaided back to depth.

The Descend Act defines the term ''descending device'' as an instrument that will release a fish at a depth sufficient for the fish to be able to recover from the effects of barotrauma; is a weighted hook, lip clamp, or box that will hold the fish while it is lowered to depth, or another device determined to be appropriate by the Secretary of Commerce (Secretary); and is capable of releasing the fish automatically, releasing the fish by actions of the operator of the device, or by allowing the fish to escape on its own. This final rule clarifies that the depth sufficient for a fish to be able to recover from the effects of barotrauma is the depth at which the fish was caught and specifies the minimum weight and minimum length of line required to be consistent with the current regulatory definition of descending device at 50 CFR 622.188(a)(4). The regulations in paragraph 622.188(a)(4) were put in place by NMFS in 2020 to implement the South Atlantic Fishery Management Council's Regulatory Amendment 29 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (Snapper-Grouper FMP) (85 FR 36166, June 15, 2020). Those regulations require a descending device be on board a vessel and be ready for use while fishing for or possessing South Atlantic snapper-grouper.

The Descend Act states that the term ''venting tool'' has the meaning given to it by the Gulf Council. The Gulf Council defines the term ''venting tool'' in its Policy on the Use of Venting Tools and Descending Devices as a sharpened, hollow instrument capable of penetrating the abdomen of a fish to release the excess gases accumulated in the body cavity. The definition also indicates a device that is not hollow, such as a knife or ice pick, is not a venting tool and will cause additional damage to a fish. This final rule clarifies that this definition of venting tool applies to the Descend Act requirements.

Management Measures Contained in This Final Rule

Consistent with the requirement in the Descend Act, this final rule requires a descending device or a venting tool on the vessel that is rigged and ready for use while fishing for Gulf reef fish is occurring. This final rule also clarifies the statutory definitions of descending device and venting tool to assist Gulf reef fish fishermen in complying with the statutory requirement. NMFS is not approving or determining the sufficiency of any specific devices through this final rule.

Descending Device

This final rule defines a descending device as a device capable of releasing a fish at the depth from which the fish was caught, and specifies that the device must use a minimum of a 16-

ounce (454-gram) weight and a minimum of a 60-ft (15.2-m) length of line. A 16-ounce weight is available at many tackle shops, or may be homemade, and is heavy enough to descend a majority of Gulf reef fish subject to barotrauma. However, using more weight would help to descend a large fish or where currents are strong. NMFS specifies in this final rule that a 60-ft (18.3-m) minimum length for the line attached to a descending device is required to ensure fish are released at a minimum depth of 50 ft (15.2 m) while someone using the descending device is standing on the deck of a vessel, and to account for possible ocean currents or swells. Using a line long enough to release a fish at the depth from where it was caught, which may be more than 50 ft (15.2 m) in depth, will best ensure that the fish can recover from the effects of barotrauma.

These minimum specifications are also required for commercial and recreational fishermen in the South Atlantic snapper-grouper fishery. In this rule, NMFS implements the same specifications for a descending device in the Gulf reef fish fishery to increase the likelihood of compliance by fishermen who may fish in both the Gulf and South Atlantic, and to aid with enforcement.

As specified in the Descend Act, a descending device may attach to the fish's mouth, through the fish's mouth and gill plate, or it may be a box (without specific dimensions or shape) that will retain the fish while it is lowered to depth. Operating a descending device can vary between types but the device must be capable of releasing the fish at depth automatically, by actions of the device operator, or by allowing the fish to escape on its own when at depth.

If a Gulf reef fish fisherman chooses to carry a descending device to comply with the Descend Act and this final rule, there is no requirement to use a rod and reel, or any other specific method or material, to attach to the descending device and weight and then descend a fish. Although a rod and reel may be one useful way to descend a fish if the minimum line length and weight specifications are met, the Descend Act and this final rule provide flexibility for Gulf reef fish fishermen to choose the materials and methods that work best for them to descend a fish.

Venting Tool

This final rule defines a venting tool consistent with the Gulf Council's policy and removes the term ''venting device'' from the regulations at 50 CFR part 622. A venting tool must be capable of penetrating the abdomen of a fish to release the excess gases accumulated in body cavity when a fish is retrieved from depth. Further, a venting tool must be a sharpened, hollow instrument that allows air to escape, such as a hypodermic syringe with the plunger removed. A 16–gauge needle, which has a standard outside diameter of 0.065 inches (1.65 mm), is the minimum diameter hollow tube that must be used. Gulf reef fish fishermen may also choose to use a larger diameter hollow needle because it will allow more air to escape from a fish rapidly. Fishermen must not use a tool that is not hollow, such as a knife or an ice pick, to vent a fish. A knife or other non-hollow tube is not a venting tool and its use would cause further injury to a fish.

While the Descend Act and this final rule allow Gulf reef fish fishermen to choose whether to carry a descending device or venting tool on a vessel, there is nothing that prevents fishermen from carrying both types of devices. Fishermen may find that they favor a certain device for individual situations. More information on the Descend Act and links to information on descending devices and venting tools may be found at *https://www.fisheries.noaa.gov/action/descending-device-and-venting-tool-direct-enhancement-snapper-conservation-and-economy*.

Expiration of Requirements

The requirement in section 3 of the Descend Act expires 5 years after its enactment. Therefore, the provisions contained in this final rule will also end after January 13, 2026, unless the Gulf Council or NMFS take further action to retain any of the regulatory provisions.

Comments and Responses

NMFS received 29 public comments on the proposed rule from individuals, three recreational fishing advocacy groups, and a commercial fishing advocacy group. Most comments were directed to the requirement in the Descend Act to possess a descending device or venting tool, and some of those comments asked NMFS to make an exception for spearfishing trips. These comments were outside the scope of the proposed rule, and therefore, are not addressed further in this final rule. NMFS acknowledges the comments in favor of all or part of the proposed rule, and agrees with them. Comments seeking clarification or that are opposed to the proposed rule are grouped as appropriate and summarized below, each followed by NMFS' respective response.

Comment 1: NMFS should clarify what ''rigged and ready for use when fishing'' means with respect to the descending device and venting tool requirement.

Response: As previously explained, descending devices and venting tools are used to help reduce post-release mortality of fish caused by barotrauma. To be effective, fishermen must have this equipment ready to use with as little delay as possible. Therefore, NMFS expects fishermen who choose to carry a descending device to have the device attached to a line with the weight, and be ready to descend a fish as soon as fishing activities begin. Fishermen who choose to carry a venting tool on their vessel must have the venting tool readily available for immediate use as soon as fishing activities begin.

Comment 2: Explain why NMFS is requiring a 16-ounce minimum weight when less weight can also work to descend fish.

Response: As stated in the proposed rule, a 16-ounce weight is available at many tackle shops and is heavy enough to descend a majority of Gulf reef fish subject to barotrauma. In addition, requiring this minimum weight will make these regulations consistent with the regulations in 50 CFR 622.188(a)(4), which were put in place by NMFS in 2020 to implement the South Atlantic Fishery Management Council's (South Atlantic Council) Regulatory Amendment 29 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (85 FR 36166, June 15, 2020). NMFS expects consistent requirements to increase the likelihood of compliance by fishermen who may fish in both the Gulf and South Atlantic, and to aid with enforcement.

Comment 3: A knife is a preferred tool to vent fish and other venting tools are not needed. Venting tools tend to clog up after use.

Response: A knife is not a hollow tool, so using a knife may not allow gases to escape the fish's abdomen, thereby preventing the fish to vent. Additionally, a knife can be misused by inserting it in an extruded fish's stomach, anus, or eyes to release internal gases. Although someone using a knife as a venting tool may have good intentions, using a knife or other non-hollow instrument to attempt to vent a fish is more likely to cause greater injury to a fish than using a venting tool as defined in this rule. A venting tool can be cleaned of fish tissue or scales by blowing in the non-sharpened end or inserting a thin wire to remove debris.

Comment 4: The term ''box'' in the definition of a descending device should be changed to container because

box implies a specific shape and could limit innovations in design that for example could use tubes or irregular shapes as part of the design.

Response: Although the term ''box'' is in the Descend Act's definition of descending device, the shape or dimensions of the box are not prescribed, and the definition of a descending device in this rule states it ''must be a weighted hook, lip clamp, or container that will hold the fish while it is lowered to depth.'' Therefore, as long as the device can retain the fish until the fish can be released at depth by actions of the device operator or by the fish swimming away on its own, fishermen may choose the shape or dimensions of a container-type descending device that works best for effectively descending fish.

Comment 5: NMFS should refrain from being overly descriptive in the descending gear definitions and allow enforcement personnel to apply their experience and judgement to evaluate if devices can fulfill the requirements of this regulation.

Response: The Descend Act contains a detailed definition of a descending device. It is not NMFS' intent to make that definition more prescriptive and NMFS is not approving or determining the sufficiency of any devices through this final rule. This rule provides the minimum weight and length of line that must be used with a descending device to be consistent with the definition implemented for the South Atlantic snapper-grouper fishery, which will assist both fishermen and enforcement. As long as a descending device, whether purchased or homemade, is capable of releasing the fish at the depth at which it was caught and meets the minimum specifications in this rule as well as meets the definition in the Descend Act, the descending device complies with the requirements when fishing for Gulf reef fish.

Comment 6: Descending devices and venting tools do not work to reduce discard mortality, particularly if dolphins and sharks prey upon discarded fish. In addition, the science supporting the benefits of these devices is questionable for fish exhibiting signs of barotrauma.

Response: The South Atlantic Council's Regulatory Amendment 29 to the Snapper-Grouper FMP summarizes scientific studies that show the positive effects from the use of these devices on survival of fish species suffering from barotrauma. Those benefits have been shown for both descending devices and venting tools. With respect to predators, returning fish to depth quickly using a descending device or allowing a fish to swim on its own after venting decreases the likelihood of a released fish being eaten by a predator than if the same fish remained floating at the surface.

Comment 7: Descending devices are superior to venting tools because venting tools can get clogged and are misused by inexperienced fishermen.

Response: The Descend Act and this final rule do not require a specific device type, but allow fishermen targeting Gulf reef fish to choose between carrying a descending device or a venting tool on the vessel and ensuring that one of those devices is ready to use when fishing is occurring. Therefore, a fisherman can select the device they are most comfortable with using and fits their fishing needs. Both devices, when used properly, can increase the likelihood that a released fish survives.

Comment 8: NMFS should have a strong outreach effort to educate people on how to use descending devices and venting tools.

Response: NMFS will continue to work with the Gulf Council and other partners to develop and distribute information on descending devices and venting tools. NMFS already has links to information on using descending devices and venting tools posted on this website: *https://www.fisheries.noaa.gov/action/descending-device-and-venting-tool-direct-enhancement-snapper-conservation-and-economy.* The website links hosted by NMFS and other partners contain detailed explanations and videos on how to properly descend and vent fish.

Classification

NMFS is issuing this final rule pursuant to section 305(d) of the Magnuson-Stevens Act. Pursuant to section 305(d), this action is necessary to clarify the statutory definitions in section 3 of the Descend Act, which adds new section 321 to the Magnuson-Stevens Act that affects persons fishing for Gulf reef fish species. The NMFS Assistant Administrator has determined that this final rule is consistent with the Descend Act, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

The Magnuson-Stevens Act provides the legal basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995. A description of this final rule, why it is being considered, and the purposes of this final rule are contained earlier in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

Charter vessel, Commercial, Fisheries, Fishing, Gulf of Mexico, Headboat, Recreational, Reef fish.

Dated: January 11, 2022.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

§ 622.2 [Amended]

■ 2. In § 622.2, remove the definition of *venting device.*

■ 3. In § 622.30, revise the introductory text and add paragraph (c) to read as follows:

§ 622.30 Required fishing gear.

For a person on a vessel to fish for Gulf reef fish in the Gulf EEZ, the following fishing gear must be on the vessel and such person must use the gear as specified in paragraphs (a) and (b) of this section.

* * * * *

(c) *Gear required by the DESCEND Act of 2020.* For a person on a vessel to fish for Gulf reef fish in the Gulf EEZ, a descending device or a venting tool that is rigged and ready for use while fishing is occurring must be on the vessel. The requirements in this paragraph (c) are effective until January 14, 2026.

(1) *Descending device.* A descending device is an instrument capable of releasing a fish at the depth from which the fish was caught.

(i) The descending device must be a weighted hook, lip clamp, or container that will hold the fish while it is lowered to depth. The device must be capable of releasing the fish automatically, by actions of the operator of the device, or by allowing the fish to escape on its own when at depth.

(ii) The descending device must use a minimum of a 16-ounce (454-gram) weight and a minimum of a 60-ft (15.2-m) length of line.

(2) *Venting tool.* A venting tool is a device capable of penetrating the abdomen of a fish to release the excess gases accumulated in the body cavity when a fish is retrieved from depth. A venting tool must be a sharpened, hollow instrument that allows air to escape, such as a hypodermic syringe with the plunger removed. A 16–gauge needle, which has an outside diameter of 0.065 inches (1.65 mm), is the minimum diameter hollow tube that must be used. A larger diameter hollow needle is preferred to allow more air to escape from a fish rapidly. A device that is not hollow, such as a knife or an ice pick, is not a venting tool and will cause additional damage to a fish.

[FR Doc. 2022–00720 Filed 1–13–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210217–0022; RTID 0648–XB720]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear to catcher vessels less than 60 feet (18.3 meters) length overall using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the A season apportionment of the 2022 total allowable catch of Pacific cod to be harvested.

DATES: Effective January 10, 2022, through 2400 hours, Alaska local time (A.l.t.), December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Krista Milani, 907–581–2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season apportionment of the 2022 Pacific cod total allowable catch (TAC) specified for vessels using jig gear in the BSAI is 1,127 metric tons (mt) as established by the final 2021 and 2022 harvest specifications for groundfish in the BSAI (86 FR 11449, February 25, 2021) and inseason adjustment (86 FR 74389, December 30, 2021).

The 2022 Pacific cod TAC allocated to catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using hook-and-line or pot gear in the BSAI is 2,671 mt as established by final 2021 and 2022 harvest specifications for groundfish in the BSAI (86 FR 11449, February 25, 2021) and inseason adjustment (86 FR 74389, December 30, 2021).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 1,075 mt of the A season apportionment of the 2022 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*). Therefore, in accordance with § 679.20(a)(7)(iv)(C), NMFS apportions 1,027 mt of Pacific cod from the A season jig gear apportionment to the annual amount specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for 2022 Pacific cod included in final 2021 and 2022 harvest specifications for groundfish in the BSAI (86 FR 11449, February 25, 2021) and inseason adjustment (86 FR 74389, December 30, 2021) are revised as follows: 52 mt to the A season apportionment and 804 mt to the annual amount for vessels using jig gear, and 3,746 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from jig vessels to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 10, 2022.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: January 10, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–00640 Filed 1–10–22; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 87, No. 10

Friday, January 14, 2022

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

DEPARTMENT OF ENERGY

10 CFR Part 460

[EERE–2009–BT–BC–0021]

RIN 1904–AC11

Energy Conservation Program: Energy Conservation Standards for Manufactured Housing

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

ACTION: Notification and reopening of public comment.

SUMMARY: The U.S. Department of Energy (DOE) has issued the Draft Environmental Impact Statement for Proposed Energy Conservation Standards for Manufactured Housing (DOE/EIS–0550). DOE prepared this Draft EIS in support of a rulemaking announced in the supplemental notice of proposed rulemaking (SNOPR) proposing amended energy conservation standards for manufactured housing on August 26, 2021 (August 2021 MH SNOPR). DOE invites interested parties to comment on how analysis presented in the Draft EIS should inform the final energy conservation standards for manufactured housing.

DATES: DOE will accept comments, data, and information regarding how the Draft EIS should inform DOE's final energy conservation standards for manufactured housing received no later than February 28, 2022. See section III, ''Public Participation,'' for details.

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 by email to: *Manufactured_Housing@ee.doe.gov.* Any comments submitted must provide docket number EERE–2009–BT–BC–0021 and/or regulatory information number (RIN) number 1904–AC11. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

Comments submitted in response to this notice are separate from comments provided as part of the public review of the Draft EIS. See the EIS website (*https://ecs-mh.evs.anl.gov/*) for information on that public comment process.

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 Covid–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier for this rulemaking. 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.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section III of this document.

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, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at *www.regulations.gov/docket?D=EERE–2009–BT–BC–0021.* 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: Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program (EE–2J), 1000 Independence Avenue SW, Washington, DC 20585; 202–287–1692; *john.cymbalsky@ee.doe.gov.*

Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel (GC–33), 1000 Independence Avenue SW, Washington, DC 20585; 202–586–2555; *matthew.ring@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

DOE has proposed amended energy conservation standards for manufactured housing and is maintaining both a rulemaking proceeding and an associated NEPA proceeding. In the rulemaking proceeding, DOE published a supplemental notice of proposed rulemaking (SNOPR) proposing amended energy conservation standards for manufactured housing on August 26, 2021 (August 2021 MH SNOPR). 86 FR 47744. In the August 2021 MH SNOPR, DOE's primary proposal was the ''tiered'' approach, based on the 2021 IECC, wherein a subset of the energy conservation standards would be less stringent for certain manufactured homes in light of the cost-effectiveness considerations required by statute. Under the tiered proposal, two sets of standards would be established in proposed 10 CFR part 460, subpart B (*i.e.,* Tier 1 and Tier 2).

On October 26, 2021, DOE published a NODA regarding updated inputs and results of corresponding analyses and invited interested parties to comment on these analyses. 86 FR 59042 (October 2021 NODA). In addition, DOE reopened the public comment period on the SNOPR through November 26, 2021. DOE explained that it would consider the updated inputs and corresponding analyses, as well as comments on the inputs and analyses, as part of the rulemaking. In addition, DOE stated it may further revise the analysis presented in this rulemaking based on any new or updated information or data it obtains and encouraged stakeholders to provide any additional data or information that may inform the analysis.

In the NEPA proceeding, on July 7, 2021, DOE published a notice of intent (NOI) to prepare an environmental impact statement for energy conservation standards for manufactured housing, to invite public comments on the EIS scope, and to conduct public scoping meetings. 86 FR 35773 (July 7, 2021). DOE conducted online meetings July 21 and July 22, 2021, and invited oral comments on the scope of the EIS, with written comments invited through August 6, 2021. DOE has announced the availability of, and is seeking comment on, the Draft EIS. More information is available on the EIS website (*https://ecs-mh.evs.anl.gov/*).

II. Request for Comment on the Rulemaking Proceeding

DOE is re-opening comment on the rulemaking proceeding to consider how the Draft EIS should inform the final energy conservation standards for manufactured housing The Draft EIS analyzes price-based alternatives based around a $63,000 threshold for manufacturer retail list price and different wall insulation requirements. It also analyzes alternatives based on size of the manufactured housing (single sections and multiple sections with differences in wall insultation requirements), untiered alternatives with only differences in wall insultation requirements, and a no action alternative (*i.e.,* no DOE standard). Stakeholders are encouraged to provide comment on the alternatives, assumptions, and analyses presented in the Draft EIS through the EIS process as described on the EIS website (*https://ecs-mh.evs.anl.gov/*).

Through this document, DOE invites comments in the docket for this rulemaking specifically on how the analyses and results presented in the Draft EIS should inform DOE's final rule for energy conservation standards for manufactured housing.

III. Public Participation

DOE is interested in receiving comments on how aspects of the data and analysis presented in the Draft EIS and supporting documentation should inform DOE's final energy conservation standards for manufactured housing.

Submission of Comments

DOE will accept comments, data, and information regarding this document, but no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. 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. No telefacsimiles (''faxes'') will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice and re-opening of comment period.

Signing Authority

This document of the Department of Energy was signed on January 10, 2022, 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 January 11, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–00679 Filed 1–13–22; 8:45 am]

BILLING CODE 6450–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

[NRC–2021–0173]

Operational Leakage

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory issue summary; public meeting and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on a draft regulatory issue summary (RIS) Operational Leakage. The NRC staff seeks to clarify regulatory requirements for all licensees of boiling and pressurized water reactors that apply to operational leakage. This draft RIS is a clarification for the NRC requirements for evaluation, control, and treatment of operational leakage in systems required to be operable by plant technical specifications (TS).

DATES: Submit comments by March 15, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0173. 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: Brian Benney, telephone: 301–415–2767, email: *Brian.Benney@nrc.gov,* and Jay Collins, telephone: 301–415–4038, email: *Jay.Collins@nrc.gov.* Both are staff in the Office of Nuclear Reactor Regulation at 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–2021–0173 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–2021–0173.
- *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 RIS 2022–XX, Operational Leakage, is available in ADAMS under Accession No. ML21166A122.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the 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–2021–0173 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. Background

This RIS is intended for all holders of operating licenses and combined licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

Operational leakage is leakage through a flaw in the pressure retaining boundary of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (BPVC) Code Class 1, 2 or 3 systems, structures, and components (SSC) discovered during the operational life of the nuclear power plant outside any ASME BPVC-required pressure test. The term ''through-wall'' describes a condition that extends from one surface to another surface in a component. If through-wall operational leakage is observed from an ASME BPVC Class 1, 2 or 3 SSC, and the structural integrity of the SSC must be established to conclude that the system remains operable, then the methods described in the provisions of the applicable inservice inspection requirements, as specified in paragraph 50.55a(g) of title 10 of the *Code of Federal Regulations,* must be used. These methods require analysis in accordance with the original construction code, the implementation of an NRC-approved ASME BPVC Code Case, or Nonmandatory Appendix U of ASME BPVC, Section XI, to verify structural integrity or perform a repair/replacement activity.

This RIS emphasizes that operational leakage must be addressed in the same manner as leakage detected during an ASME BPVC, Section XI, pressure test. That is, when operational leakage is found in a system that is within the scope of ASME BPVC, Section XI, and is required to be operable by plant TS, the component must be evaluated by the licensee for operability. Structural integrity determinations must be conducted in accordance with the applicable provisions of the original construction code, the ASME BPVC, Section XI, or otherwise addressed through authorized methods. This entails evaluation in accordance with an NRC-approved Code Case; the use of Nonmandatory Appendix U of ASME BPVC, Section XI; or a repair/replacement activity.

The NRC issues RISs to communicate with stakeholders on a broad range of matters. This may include communication and clarification of NRC technical or policy positions on regulatory matters that have not been communicated to or are not broadly understood by the nuclear industry.

As noted in ''Relocation of Regulatory Issue Summary Notices in the **Federal Register**'' (May 8, 2018, 83 FR 20858), this document is being published in the Proposed Rules section of the **Federal Register** to comply with publication requirements under 1 CFR chapter I.

II. Proposed Action

The NRC is requesting public comments on the draft RIS. The NRC plans to hold a public meeting to discuss this RIS and the issues associated with it. Additional details regarding the meeting will be posted at least 10 days prior to the public meeting on the NRC's Public Meeting Schedule website at *https://www.nrc.gov/public-involve/public-meetings/index.cfm.* All comments that are to receive consideration in the final RIS must still be submitted electronically or in writing as indicated in the **ADDRESSES** section of this document.

The NRC staff will make a final determination regarding issuance of the RIS after it considers any public comments received in response to this request.

Dated: January 11, 2022.

For the Nuclear Regulatory Commission.

Lisa M. Regner,

Chief, Generic Communications and Operating Experience Branch, Division of Reactor Oversight, Office of Nuclear Regulatory Research.

[FR Doc. 2022–00686 Filed 1–13–22; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1178; Project Identifier MCAI–2021–00986–R]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited (Type Certificate Previously Held by Bell Helicopter Textron Canada Limited) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–20–06, which applies to certain Bell Helicopter Textron Canada Limited (now Bell Textron Canada Limited) Model 429 helicopters. AD 2020–20–06 requires repetitive inspections of certain cyclic and collective assembly bearings. Since the FAA issued AD 2020–20–06, the collective and cyclic bellcrank assemblies have been upgraded with corrosion resistant steel bearings. This proposed AD would retain some of the requirements of AD 2020–20–06 and depending on the inspection results, would require removing certain parts from service and installing the upgraded cyclic and collective bellcrank assemblies. This proposed AD would also require installing the upgraded collective and cyclic bellcrank assemblies on certain helicopters if not already installed, and would prohibit installing certain bellcrank assemblies. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 28, 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 Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1178; 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 Transport Canada AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@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–2021–1178; Project Identifier MCAI–2021–00986–R'' 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 Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@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 2020–20–06, Amendment 39–21262 (85 FR 60356, September 25, 2020) (AD 2020–20–06), for Bell Helicopter Textron Canada Limited Model 429 helicopters with a bellcrank assembly part number (P/N) 429–001–523–101, 429–001–523–103, 429–001–532–101, or 429–001–532–103 installed. AD 2020–20–06 requires within 12 months after the helicopter was manufactured or 30 days after the effective date of AD 2020–20–06, whichever occurs later, and thereafter at intervals not to exceed 6 months, disconnecting the forward ends of the collective control tube, longitudinal stability and control augmentation system (SCAS) actuator, and lateral SCAS actuator and stowing the collective control tube and each SCAS actuator to prevent binding. AD 2020–20–06 requires slowly moving the cyclic fore/aft and laterally, and the collective up/down from stop to stop to determine if there is any roughness. If there is any roughness in the flight control system, AD 2020–20–06 requires, before further flight, replacing the six pivot bearings in the collective lateral bellcrank assembly and the longitudinal bellcrank assembly. Finally, AD 2020–20–06 requires inspecting each arm end bearing at the end of the collective, lateral, and longitudinal arm assemblies by rotating each bearing and ensuring each bearing rotates freely. If there is any binding in any arm end bearing or on the longitudinal bellcrank assembly, AD 2020–20–06 requires replacing each arm end bearing before further flight.

AD 2020–20–06 was prompted by Transport Canada AD CF–2016–11R2, dated October 18, 2017 (Transport Canada AD CF–2016–11R2), issued by Transport Canada, which is the aviation authority for Canada, to correct an unsafe condition for Bell Helicopter Textron Canada Model 429 helicopters equipped with a bellcrank assembly P/N 429–001–523–101, 429–001–523–103, 429–001–532–101, or 429–001–532–103. Transport Canada advised that in-service reports show that bearings in the roof-mounted flight control bellcranks are adversely affected by precipitation. Pooling can occur at the forward portion of the roof, providing a source of contamination for bearings in the roof-mounted flight controls. Precipitation may reduce the effectiveness of the grease in the bearings, allowing corrosion to occur. This can result in intermittent restrictions, such as binding and roughness in the flight controls. Transport Canada also advised that an undetected corroded bearing could lead to restrictions in the collective, directional, or pitch control systems, resulting in difficulty controlling the helicopter.

Transport Canada AD CF–2016–11R2 required within 12 months after the helicopter was manufactured and thereafter at intervals not to exceed 6 months, inspecting the flight controls and replacing any discrepant bearings. If the helicopter's age exceeded 12 months, Transport Canada AD CF–2016–11R2 required the 12-month inspection within 30 days. Transport Canada AD CF–2016–11R2 also required, within 30 days, performing a functional check and replacement, if applicable, of the bearings if the most recent functional check of the helicopter was performed with the alternate procedure of using a hydraulic test stand or if the inspection method was unknown.

Actions Since AD 2020–20–06 Was Issued

Since the FAA issued AD 2020–20–06, Transport Canada issued AD CF–2016–11R3, dated August 30, 2021 (Transport Canada AD CF–2016–11R3), which supersedes Transport Canada AD CF–2016–11R2. Transport Canada advises of new collective and cyclic bellcrank assemblies which have been upgraded with corrosion resistant steel bearings.

Accordingly, Transport Canada AD CF–2016–11R3 requires, for certain serial-numbered helicopters, within 12 months from the helicopter manufacture date, or for helicopters that have exceeded the age threshold of 12 months from the helicopter manufacturer date, within 30 days, and thereafter at intervals not to exceed 6 months, performing a functional check of the flight controls to detect roughness in the pivot bearings and binding of the collective, lateral, or longitudinal arm end bearings of the bellcrank assemblies. If any roughness or binding is detected, Transport Canada AD CF–2016–11R3 requires replacement of each affected bellcrank assembly before further flight. Transport Canada AD CF–2016–11R3 also requires, within 24 months, installing the upgraded collective and cyclic bellcrank assemblies and considers this action a terminating action to the recurring inspections. Finally, Transport Canada AD CF–2016–11R3 prohibits an affected bellcrank assembly from being installed on any helicopter.

FAA's Determination

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with Canada, Transport Canada, its technical representative, has notified the FAA of 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 the same type design.

Related Service Information

The FAA reviewed Bell Technical Bulletin 429–18–58, Revision B, dated August 23, 2021 (TB 429–18–58 Rev B), which specifies procedures to upgrade certain part-numbered bellcrank assemblies to the bellcrank assemblies that utilize the corrosion resistant steel bearings.

The FAA also reviewed Bell Helicopter Alert Service Bulletin 429–15–21, Revision C, dated August 23, 2021 (ASB 429–15–21 Rev C), which specifies moving the cyclic stick fore, aft, and laterally, and the collective stick up and down from stop to stop to detect deteriorated pivot bearings. ASB 429–15–21 Rev C also specifies inspecting to determine whether the bearings in the collective, lateral, and longitudinal arm assemblies rotate freely. If discrepant arm bearings are found, ASB 429–15–21 Rev C specifies contacting Bell Product Support Engineering to report the findings and replacing the discrepant parts with serviceable parts.

Proposed AD Requirements in This NPRM

This proposed AD would retain some of the requirements of AD 2020–20–06. This proposed AD would require, for certain serial-numbered helicopters, within 12 months after the helicopter was manufactured or 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 6 months, disconnecting certain parts, stowing certain parts to prevent binding, and moving the cyclic stick and the collective stick to inspect for roughness in the flight control system and binding in the collective, lateral, and longitudinal arm assemblies. If any of these conditions exist, this proposed AD would require, before further flight, removing certain parts from service and installing upgraded bellcrank assemblies.

This proposed AD would also require, for certain serial-numbered helicopters that do not have the upgraded bellcrank assemblies installed, within 24 months after the effective date of this AD, installing the upgraded bellcrank assemblies, which would provide a terminating action for the recurring inspections. Finally, this proposed AD would prohibit installing any affected bellcrank assembly on any helicopter.

Differences Between This Proposed AD and Transport Canada AD CF–2016–11R3

Transport Canada AD CF–2016–11R3 provides requirements if the most recent functional check was performed using a hydraulic test stand as an alternate procedure. This proposed AD provides no such alternate procedure. Transport Canada AD CF–2016–11R3 provides requirements for helicopters that have exceeded the age threshold of 12 months from the helicopter manufacturer date to complete the initial functional check within 30 days from the effective date of its AD. This proposed AD would require the initial inspection within 12 months after the helicopter was manufactured or 30 days after the effective date of this proposed AD, whichever occurs later. Transport Canada AD CF–2016–11R3 allows credit for the corrective actions of Part I if the initial functional check was accomplished prior to the effective date of Transport Canada AD CF–2016–11R3, whereas this proposed AD does not.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 64 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Inspecting the cyclic and the collective bellcrank assemblies for roughness in the pivot bearings and binding in the collective, lateral, and longitudinal arm end bearings would take about 3 work-hours for an estimated cost of $255 per inspection cycle.

Installing the upgraded collective and cyclic bellcrank assemblies would take about 18 work-hours and parts would cost about $1,750 for an estimated cost of $3,280 per upgrade installation.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

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, 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 2020–20–06, Amendment 39–21262 (85 FR 60356, September 25, 2020); and

■ b. Adding the following new airworthiness directive:

Bell Textron Canada Limited (Type Certificate Previously Held by Bell Helicopter Textron Canada Limited): Docket No. FAA–2021–1178; Project Identifier MCAI–2021–00986–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by February 28, 2022.

(b) Affected ADs

This AD replaces AD 2020–20–06, Amendment 39–21262 (85 FR 60356, September 25, 2020) (AD 2020–20–06).

(c) Applicability

This AD applies to Bell Textron Canada Limited (type certificate previously held by Bell Helicopter Textron Canada Limited) Model 429 helicopters, certificated in any category, with a bellcrank assembly part number (P/N) 429–001–523–101, 429–001–523–103, 429–001–532–101, or 429–001–532–103 installed.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 2700, Flight Control System.

(e) Unsafe Condition

This AD was prompted by new bellcrank assemblies, which have been upgraded with corrosion resistant steel bearings. The FAA is issuing this AD to prevent corrosion of the bearings due to pooling at the bellcrank assembly from precipitation in the forward portion of the roof structure. The unsafe condition, if not addressed, could result in restrictions in the collective, directional, or pitch control systems, and subsequent loss of helicopter control.

(f) Compliance

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

(g) Required Actions

(1) For Model 429 helicopters serial number (S/N) 57001 through 57296 inclusive, within 12 months after the helicopter was manufactured or 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 6 months:

(i) Disconnect the forward ends of the collective control tube, longitudinal stability and control augmentation system (SCAS) actuator, and lateral SCAS actuator. Stow the collective control tube and each SCAS actuator to prevent binding.

(ii) Move the cyclic stick fore, aft, and laterally, and the collective stick up and down from stop to stop to determine if there is any roughness. If there is any roughness in the flight control system, before further flight, remove each pivot bearing P/N MS27646–41, each arm assembly bearing P/N MS27643–4, and each sleeve P/N 120–13–4A from service and install bellcrank assemblies P/N 429–001–523–101FM and 429–001–532–101FM; or 429–001–523–107FM and 429–001–532–107FM; or 429–001–523–107 and 429–001–532–107.

(iii) Inspect the collective arm assembly P/N 429–001–525–101, the lateral arm assembly P/N 429–001–527–101, and the longitudinal arm assembly P/N 429–001–530–101, by rotating each bearing and determining whether each bearing rotates freely. If there is any binding in any arm end bearing or on the longitudinal bellcrank assembly, before further flight, remove each pivot bearing P/N MS27646–41, each arm assembly bearing P/N MS27643–4, and each sleeve P/N 120–13–4A from service and install bellcrank assemblies P/N 429–001–523–101FM and 429–001–532–101FM; or 429–001–523–107FM and 429–001–532–107FM; or 429–001–523–107 and 429–001–532–107.

(2) For Model 429 helicopters S/N 57001 through 57296 inclusive, unless already accomplished by following paragraphs (g)(1)(ii) or (iii) of this AD, within 24 months after the effective date of this AD, install bellcrank assemblies P/N 429–001–523–101FM and 429–001–532–101FM; or 429–001–523–107FM and 429–001–532–107FM; or 429–001–523–107 and 429–001–532–107.

(3) As of the effective date of this AD, installing bellcrank assemblies P/N 429–001–523–101FM and 429–001–532–101FM; or 429–001–523–107FM and 429–001–532–107FM; or 429–001–523–107 and 429–001–532–107, constitutes a terminating action for the recurring inspections required by paragraph (g)(1) of this AD.

(4) As of the effective date of this AD, do not install any bellcrank assembly P/N 429–001–523–101, 429–001–523–103, 429–001–532–101 or 429–001–532–103 on any helicopter.

(h) Special Flight Permits

Special flight permits are prohibited.

(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)(1) 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 more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

(2) For service information identified in this AD, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(3) The subject of this AD is addressed in Transport Canada AD CF–2016–11R3, dated August 30, 2021. You may view the Transport Canada AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2021–1178.

Issued on January 4, 2022.

Ross Landes,

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

[FR Doc. 2022–00164 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1071; Project Identifier AD–2021–01055–E]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2017–18–14, which applies to certain Rolls-Royce Corporation (RRC) 250 model turboshaft engines. AD 2017–18–14 requires repetitive visual inspections and fluorescent penetrant inspections (FPIs) of the 3rd-stage turbine wheel and removal from service of the 4th-stage turbine wheel. Since the FAA issued AD 2017–18–14, the manufacturer redesigned the 3rd-stage turbine wheel. This proposed AD would require replacement of the 3rd-stage and 4th-stage turbine wheels. This proposed AD would also revise the applicability to add an additional turboshaft engine model. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 28, 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 Rolls-Royce Corporation, 450 South Meridian Street, Mail Code NB–01–06, Indianapolis, IN 46225; phone: (317) 230–2720; email: *HelicoptCustSupp@Rolls-Royce.com;* website: *www.rolls-royce.com.* You may view this service information at the Airworthiness Products Section, Operational Safety Branch, FAA, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1071; 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: John Tallarovic, Aviation Safety Engineer, Chicago ACO, FAA, 2300 E Devon Avenue, Des Plaines, IL 60018; phone:

(847) 294–8180; fax: (847) 294–7834; email: *john.m.tallarovic@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–2021–1071; Project Identifier AD–2021–01055–E'' 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 we receive 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 John Tallarovic, Aviation Safety Engineer, Chicago ACO, FAA, 2300 E. Devon Avenue, Des Plaines, IL 60018. 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 2017–18–14, Amendment 39–19023 (82 FR 42443, September 8, 2017), (AD 2017–18–14), for RRC 250–C20, –C20B, –C20F, –C20J, –C20R, –C20R/1, –C20R/2, –C20R/4, –C20W, –C300/A1, and –C300/B1 turboshaft engines with either a 3rd-stage turbine wheel, part number (P/N) 23065818, or a 4th-stage turbine wheel, P/N 23055944 or RR30000240, installed. AD 2017–18–14 was prompted by in-service turbine blade failures that revealed the need for changes to the inspections of a certain 3rd-stage turbine wheel and removal from service of a certain 4th-stage turbine wheel. AD 2017–18–14 requires repetitive visual inspections and FPIs of the 3rd-stage turbine wheel and removal from service of the 4th-stage turbine wheel. AD 2017–18–14 also revises the applicability to remove all RRC turboprop engines and adds additional turboshaft engines. The agency issued AD 2017–18–14 to prevent failure of the 3rd-stage and 4th-stage turbine wheel blades, damage to the engine, and damage to the aircraft.

Actions Since AD 2017–18–14 Was Issued

Since the FAA issued AD 2017–18–14, the manufacturer redesigned the 3rd-stage turbine wheel. The manufacturer has issued Rolls-Royce (RR) Alert Commercial Engine Bulletin (CEB) CEB A–1428/CEB A–72–4111 (single document), specifying procedures for replacement of the 3rd-stage turbine wheel, P/N 23065818, with the new increased blade fillet 3rd-stage turbine wheel, P/N M250–10473. Additionally, the FAA determined that the RRC 250–C20C (T63–A–720) model turboshaft engine is also susceptible to the unsafe condition. The FAA, therefore, added RRC 250–C20C (T63–A–720) model turboshaft engines to the applicability of this proposed AD. The FAA is proposing this AD to require the replacement of 3rd-stage and 4th-stage turbine wheels with redesigned 3rd-stage and 4th-stage turbine wheels.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information

The FAA reviewed RR Alert CEB CEB A–1428/CEB A–72–4111 (single document), Revision 1, dated September 29, 2021. This service information describes procedures for replacing the 3rd-stage turbine wheel, P/N 23065818, with the new increased blade fillet 3rd-stage turbine wheel, P/N M250–10473.

The FAA reviewed Rolls-Royce Alert CEB CEB–A–1422/CEB–A–72–4108 (single document), Original Issue, dated September 13, 2017. This service information describes procedures for replacing 4th-stage turbine wheel, P/N 23055944, with the new increased fillet 4th-stage turbine wheel, P/N M250–10445.

The FAA also reviewed Rolls-Royce Alert Service Bulletin SB RR300–A–72–024, Original Issue, dated September 13, 2017. This service information describes procedures for replacing the 4th-stage turbine wheel, P/N RR30000240, with the new increased fillet 4th-stage turbine wheel, P/N RR30000494.

Proposed AD Requirements in This NPRM

This proposed AD would require removal and replacement of the 3rd-stage and 4th-stage turbine wheels.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 3,041 3rd-stage stage turbine wheels and 3,769 4th-stage stage turbine wheels installed on 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
Replace 3rd-stage turbine wheel, P/N 23065818.	3 work-hours × $85 per hour = $255	$11,170	$11,425	$34,743,425 (3,041 engines).
Replace 4th-stage turbine wheel, P/N 23055944 or RR30000240.	3 work-hours × $85 per hour = $255	8,928	9,183	$34,610,727 (3,769 engines).

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals.

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 that the 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 2017–18–14, Amendment 39–19023 (82 FR 42443, September 8, 2017); and

■ b. Adding the following new airworthiness directive:

Rolls-Royce Corporation: Docket No. FAA–2021–1071; Project Identifier AD–2021–01055–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by February 28, 2022.

(b) Affected ADs

This AD replaces AD 2017–18–14, Amendment 39–19023 (82 FR 42443, September 8, 2017).

(c) Applicability

This AD applies to Rolls-Royce Corporation (RRC) 250–C20, 250–C20B, 250–C20C (T63–A–720), 250–C20F, 250–C20J, 250–C20R, 250–C20R/1, 250–C20R/2, 250–C20R/4, 250–C20W, 250–C300/A1, and 250–C300/B1 model turboshaft engines with either a 3rd-stage turbine wheel, part number (P/N) 23065818, or a 4th-stage turbine wheel, P/N 23055944 or RR30000240, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by in-service turbine blade failures that resulted in the loss of power and engine in-flight shutdowns. The FAA is issuing this AD to prevent failure of the 3rd-stage and 4th-stage turbine blades. The unsafe condition, if not addressed, could result in 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) Within 1,775 hours since last visual inspection and fluorescent penetrant inspection (FPI), or at the next engine shop visit, whichever occurs first after the effective date of this AD, remove:

(i) 3rd-stage turbine wheel, P/N 23065818, and replace with a part eligible for installation.

(ii) 4th-stage turbine wheel, P/N 23055944, and replace with a part eligible for installation.

(2) Within 2,025 hours since last visual inspection and FPI inspection, or at the next engine shop visit, whichever occurs first after the effective date of this AD, remove 4th-stage turbine wheel, P/N RR30000240, and replace with a part eligible for installation.

(h) Definitions

(1) For this purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance in which the turbine module is separated from the exhaust collector, the gas-producer-support is separated from the power-turbine-support, or there is 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) For the purpose of this AD, a ''part eligible for installation'' is a 3rd-stage turbine wheel or 4th-stage turbine wheel that does not have a P/N listed in the Applicability, paragraph (c), of this AD.

(i) Special Flight Permit

A special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 to permit a one-time, non-revenue ferry flight to operate the airplane to a maintenance facility where the engine can be removed from service. This ferry flight must be performed with only essential flight crew.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Chicago ACO, 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 (k) of this AD.

(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 John Tallarovic, Aviation Safety Engineer, Chicago ACO, FAA, 2300 E Devon Avenue, Des Plaines, IL 60018; phone: (847) 294–8180; fax: (847) 294–7834; email: *john.m.tallarovic@faa.gov.*

Issued on December 9, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–00232 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1180; Project Identifier MCAI–2021–00794–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 all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–3 helicopters. This proposed AD was prompted by reports of a main rotor (M/R) blade lead-lag damper in a tilted position. This proposed AD would require inspecting the Flex Control Unit (FCU), and corrective actions if necessary, as well as rework and re-identification of the bearing pin, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 28, 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 EASA material that is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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–2021–1180.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1180; 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: Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@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–2021–1180; Project Identifier MCAI–2021–00794–R'' 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 Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0160, dated July 5, 2021 (EASA AD 2021–0160), to correct an unsafe condition for Airbus Helicopters Deutschland GmbH (AHD), formerly Eurocopter Deutschland GmbH, Model MBB–BK117 D–3 helicopters, all serial numbers, including Model MBB–BK117 D–2 helicopters that have been converted into Model MBB–BK117 D–3 helicopters through Airbus Helicopters Service Bulletin MBB–BK117 D–2–00–003.

This proposed AD was prompted by reports of an M/R blade lead-lag damper in a tilted position. EASA advises that subsequent investigation results determined that the tolerances stack-up may lead to an insufficient clamping on the bearing pin. The FAA is proposing this AD to address this unsafe condition, which if not detected and corrected, could result in an unbalance of the M/R system, excessive vibration, and reduced control of the helicopter. See EASA AD 2021–0160 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0160 requires a one-time inspection of the affected FCU and depending on findings, accomplishment of applicable corrective actions. EASA AD 2021–0160 also requires after the initial FCU inspection, re-working and re-identifying each affected part by marking the part with a letter ''M.'' EASA AD 2021–0160 prohibits installing an affected FCU or affected part on any helicopter.

This material is reasonably available because the interested parties have access to it through their normal course

of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA reviewed Airbus Helicopters Alert Service Bulletin ASB MBB–BK117 D–3–62A–002, dated June 29, 2021, which specifies procedures for a one-time inspection of the FCU and re-work of the bearing pin installed on the support assembly.

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 the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0160, 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 2021–0160 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0160 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 2021–0160 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 2021–0160. Service information referenced in EASA AD 2021–0160 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1180 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 41 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Inspecting each FCU, including inspecting each rotor hub-shaft, hexagonal screw, nut, damper assembly, bearing pin, support assembly, spherical bearing, and integrated bearing sleeve, would take about 3 work-hours for an estimated cost of $255 per FCU inspection and $10,455 for the U.S. fleet per FCU inspection.

Reworking and re-identifying the bearing pin would take about 0.5 work-hour for an estimated cost of $43 per helicopter and $1,763 for the U.S. fleet per bearing pin.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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–2021–1180; Project Identifier MCAI–2021–00794–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 28, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–3 helicopters, certificated in any category.

Note 1 to paragraph (c) of this AD: Model MBB–BK117 D–2 helicopters that have been converted into Model MBB–BK117 D–3 helicopters are Model MBB–BK 117 D–3 helicopters and this AD is also applicable to those helicopters.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

(e) Unsafe Condition

This AD was prompted by reports of a main rotor (M/R) blade lead-lag damper in a tilted position. The FAA is issuing this AD to prevent an unbalance of the M/R system. The unsafe condition, if not addressed, could result in excessive vibration and reduced control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0160, dated July 5, 2021 (EASA AD 2021–0160).

(h) Exceptions to EASA AD 2021–0160

(1) Where EASA AD 2021–0160 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2021–0160 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where the service information referenced in EASA AD 2021–0160 specifies to contact Airbus Helicopters or replace the Flex Control Unit (FCU) if you find cracks or damage at the protruding conical end of the integrated bearing sleeve, this AD requires removing the FCU from service and replacing with an airworthy part, or repairing the FCU in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; or EASA; or Airbus Helicopters' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(4) Where a work card in the service information referenced in EASA AD 2021–0160 specifies performing the corrective action and contacting Airbus Helicopters when discrepancies are found, this AD requires performing the corrective actions as specified in the work card but does not require contacting Airbus Helicopters.

(5) Where a work card in the service information referenced in EASA AD 2021–0160 specifies to do a dye penetrant inspection for the inspection of Zone B of the rotor hub-shaft ''if you are not sure there are cracks,'' this AD requires performing a dye penetrant inspection.

(6) Where paragraph (5) of EASA AD 2021–0160 specifies ''it is allowed to install a hexagonal screw P/N D622M0500207 on any helicopter, provided that installation is accomplished in accordance with the instructions of section 3.D of the ASB, or in accordance with the instructions of an AMM revision which includes the technical content of section 3.D of the ASB,'' for this AD replace the text ''in accordance with the instructions of section 3.D of the ASB, or in accordance with the instructions of an AMM revision which includes the technical content of section 3.D of the ASB'' with ''in accordance with the instructions of section 3.D of the ASB, or in accordance with the instructions of an AMM revision which includes the identical content of section 3.D of the ASB.

(7) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0160.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0160 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the helicopter can be modified, provided no passengers are onboard.

(k) 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 (l)(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.

(l) Related Information

(1) For EASA AD 2021–0160, contact the 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–2021–1180.

(2) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

Issued on January 6, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–00358 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1194; Airspace Docket No. 19–AAL–39]

RIN 2120–AA66

Proposed Establishment of United States Area Navigation (RNAV) Route T–370; Kenai, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish United States Area Navigation (RNAV) route T–370 in the vicinity of Kenai, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Comments must be received on or before February 28, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–1194; Airspace Docket No. 19–AAL–39 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

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

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2021–1194; Airspace Docket No. 19–AAL–39) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–1194; Airspace Docket No. 19–AAL–39''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

Background

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

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

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from dependency on Non-Directional Beacons (NDB), and move to develop and improve the RNAV route structure. The FAA proposes to establish RNAV route T–370 between Port Heiden Airport (PTH), Alaska and the Kenai, AK, (ENA) VHF Omnidirectional Radar/Distance Measuring Equipment (VOR/DME). The intent of this proposal is to support future decommissioning of the Port Heiden, AK, (PDN); Wood River, AK, (BTS); and Iliamna, AK, (ILI) NDBs. The proposed route would provide an alternative to G–1, V–351, and V–457 with lower GNSS MEAs, while ensuring continuous two-way VHF communications throughout. Finally, the proposed route would provide instrument approach procedures connectivity to PTH.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV route T–370 in the vicinity of Kenai, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. The proposed route is described below.

T–370: The FAA proposes to establish T–370 from the newly established WIXER, AK, waypoint (WP), located over Port Heiden Airport to the Kenai, AK, (ENA) VOR/DME. The full legal description is included in ''The Proposed Amendment'' section below.

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

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

Regulatory Notices and Analyses

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

certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 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–370 WIXER, AK to Kenai, AK [New]

WIXER, AK WP
(Lat. 56°54′29.00″ N, long. 158°36′10.00″ W)
ITAWU, AK WP
(Lat. 57°02′41.91″ N, long. 159°02′16.39″ W)
Dillingham, AK (DLG) VOR/DME
(Lat. 58°59′39.24″ N, long. 158°33′07.99″ W)
DUMZU, AK WP
(Lat. 59°44′53.05″ N, long. 154°54′46.79″ W)
Kenai, AK (ENA) VOR/DME
(Lat. 60°36′52.93″ N, long. 151°11′42.87″ W)

* * * * *

Issued in Washington, DC, on January 4, 2022.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2022–00438 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0465; Airspace Docket No. 20–ANM–59]

RIN 2120–AA66

Proposed Modification of Class E Airspace; Rifle Garfield County Airport, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class E airspace extending upward from 700 feet above the surface at Rifle Garfield County Airport, Rifle, CO. This action would ensure the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before February 28, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0465; Airspace Docket No. 20–ANM–59, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.2 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: Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would modify the Class E airspace at Rifle Garfield County Airport, Rifle, CO, to support IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0465; Airspace Docket No. 20–ANM–59''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://*

www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by modifying the Class E airspace extending upward from 700 feet above the surface at Rifle Garfield County Airport, Rifle, CO. This airspace is designed to contain IFR departures to 1,200 feet above the surface and IFR arrivals descending below 1,500 feet above the surface. The FAA is proposing a modification to the RNAV (GPS) Y Runway 8 approach into the airport; to ensure containment of the procedure, additional airspace should be added west of the airport. The additional airspace would be 4.8 miles wide and would extend from the 11-mile radius of the airport to 11.9 miles west of the airport.

Class E5 airspace designations are published in paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

ANM CO E5 Rifle, CO [Amended]

Rifle Garfield County Airport, Rifle, CO
(Lat. 39°31′36″ N, long. 107°43′41″ W)

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the airport from the 336° bearing from the airport clockwise to the 065° bearing from the airport, and within an 11-mile radius of the airport from the 065° bearing from the airport clockwise to the 336° bearing from the airport, and within 2.4 miles each side of the 257° bearing from the airport, extending from the 11-mile radius to 11.9 miles west of the airport.

Issued in Des Moines, Washington, on January 5, 2022.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2022–00337 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1190; Airspace Docket No. 21–AEA–41]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Elkton, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface at Claremont Airport, Elkton, MD, as an airspace review found the airspace radius required an increase, as well as updating the airport's name. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before February 28, 2022.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2021–1190; Airspace Docket No. 21–AEA–41, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; Telephone: (202) 267–8783. 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: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2021–1190 and Airspace Docket No. 21–AEA–41) and be submitted in triplicate to DOT Docket Operations (see ''**ADDRESSES**'' section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–1190; Airspace Docket No. 21–AEA–41.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface at Claremont Airport, Elkton, MD, providing the controlled airspace required to support the IFR operations at this airport. This action would increase the radius to 6.9 miles (previously 6.0 miles), and update the airport's name to Claremont Airport, (formerly Cecil County Airport). Also, this action would remove the city name from the airport's description, as it is unnecessary (as per FAA Order 7400.2).

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

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'', prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA MD E5 ELKTON, MD [Amended]

Claremont Airport, MD
(Lat. 39°34′27″ N, long. 75°52′11″ W)

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

Issued in College Park, Georgia, on January 7, 2022.

Andreese C. Davis,

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

[FR Doc. 2022–00498 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1189; Airspace Docket No. 21–AGL–40]

RIN 2120–AA66

Proposed Establishment of Area Navigation (RNAV) Route T–768; Northcentral United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish area navigation (RNAV) route T–768 in the northcentral United States (U.S.). The new T–768 would compensate for the removal of VOR Federal airway V–242 due to the decommissioning of the Atikokan, Ontario (ON), Canada, Non-Directional Beacon (NDB) navigational aid (NAVAID) as part of NAV CANADA's Airspace Modernization Program. The new T–768 in U.S. airspace would also connect to NAV CANADA's existing T–768 RNAV route to support cross border connectivity. Additionally, the new route would expand the availability of RNAV routing in support of transitioning the National Airspace System (NAS) from ground-based to satellite-based navigation.

DATES: Comments must be received on or before February 28, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1(800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–1189; Airspace Docket No. 21–AGL–40 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would expand the availability of RNAV in the northcentral United States and improve the efficient flow of air traffic within the NAS by lessening the dependency on ground-based navigation.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2021–1189; Airspace Docket No. 21–AGL–40) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–1189; Airspace Docket No. 21–AGL–40.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX, 76177.

Availability and Summary of Documents for Incorporation by Reference

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

Background

In August, 2021, the FAA revoked VOR Federal airway V–242 within the U.S. to mirror similar action taken by NAV CANADA within Canadian airspace due to the decommissioning of the Atikokan, ON, Canada, NDB in support of Canada's Airspace Modernization Program. Upon revocation of V–242, NAV CANADA initiated action to replace V–242 with an RNAV route designated T–768. T–768 has been established within Canadian airspace; however, the route is currently charted as T–786 and being corrected to reflect T–768.

The FAA is proposing this action to provide routing across the U.S./Canada border by connecting to NAV CANADA's T–768 at the border. The proposed T–768 within U.S. airspace would extend between the International Falls, MN, VOR/Tactical Air Navigation (VORTAC) NAVAID and the U.S./Canada border located approximately 16 nautical miles northeast of International Falls, MN.

Additionally, the proposed T–768 would support FAA NextGen efforts to transition the NAS from a ground-based navigation system to a satellite-based navigation system. The proposed route would provide positive course guidance into and out of Canadian airspace; support enroute structure in an area of limited or no radar coverage; reduce air traffic control sector workload and complexity; reduce pilot and controller communications; and increase NAS efficiency and capacity in the International Falls, MN, area.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV route T–768. The proposed new T-route is described below.

T–768: T–768 is a new RNAV route proposed to extend between the International Falls, MN, VORTAC and the ARBBY, MN, waypoint (WP). This proposed T-route would provide routing between the International Falls VORTAC and the U.S./Canada border; connecting to NAV CANADA's existing T–768 within Canadian airspace.

Canadian RNAV T-routes are published in paragraph 6013 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 T-route listed in this document would be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6013 Canadian Area Navigation Routes.

* * * * *

T–768 International Falls, MN (INL) to ARBBY, MN [New]

International Falls, MN, (INL) VORTAC
(Lat. 48°33′56.87″ N, long. 093°24′20.44″ W)
ARBBY, MN WP
(Lat. 48°37′29.35″ N, long. 093°00′31.59″ W)

* * * * *

Issued in Washington, DC, on January 6, 2022.

Michael R. Beckles,

Manager, Rules and Regulations Group.

[FR Doc. 2022–00459 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–623]

Schedules of Controlled Substances: Placement of 4-hydroxy-*N*,*N*-diisopropyltryptamine (4-OH-DiPT), 5-methoxy-*alpha*-methyltryptamine (5-MeO-AMT), 5-methoxy-*N*-methyl-*N*-isopropyltryptamine (5-MeO-MiPT), 5-methoxy-*N*,*N*-diethyltryptamine (5-MeO-DET), and *N*,*N*-diisopropyltryptamine (DiPT) in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration proposes placing five tryptamine hallucinogens, as identified in this proposed rule, in schedule I of the Controlled Substances Act. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess), or propose to handle these five specific controlled substances.

DATES: Comments must be submitted electronically or postmarked on or before February 14, 2022.

Requests for hearing and waivers of an opportunity for a hearing or to participate in a hearing must be received on or before February 14, 2022.

ADDRESSES: Interested persons may file written comments on this proposal in accordance with 21 CFR 1308.43(g). The electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period. To ensure proper handling of comments, please reference ''Docket No. DEA–623'' on all electronic and written correspondence, including any attachments.

- *Electronic comments:* DEA encourages commenters to submit all comments electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the on-line instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number. Submitted comments are not instantaneously available for public view on *regulations.gov.* If you have received a Comment Tracking Number, you have submitted your comment successfully and there is no need to resubmit the same comment. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.
- *Paper comments:* Paper comments that duplicate electronic submissions are not necessary and are discouraged. Should you wish to mail a paper comment in lieu of an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA FR Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.
- *Hearing requests:* All requests for a hearing and waivers of participation, together with a written statement of position on the matters of fact and law asserted in the hearing, must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing and waivers of participation 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 FR Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug & Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: In this proposed rule, the Drug Enforcement Administration (DEA) proposes to schedule the following five controlled substances in schedule I of the Controlled Substances Act (CSA), including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- 4-Hydroxy-N,N-diisopropyltryptamine (4-OH-DiPT),
- 5-Methoxy-alphamethyltryptamine (5-MeO-AMT),
- N-Isopropyl-5-Methoxy-N-Methyltryptamine (5-MeO-MiPT),
- N,N-Diethyl-5-methoxytryptamine (5-MeO-DET), and
- N,N-Diisopropyltryptamine (DiPT).

Posting of Public Comments

All comments received in response to this docket are considered part of the public record. DEA will make comments available, unless reasonable cause is given, for public inspection online at *https://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want DEA to make it publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want DEA to make it publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment.

DEA will generally make available in publicly redacted from comments containing personal identifying information and confidential business information identified, as directed above. If a comment has so much confidential business information that DEA cannot effectively redact it, DEA may not make available publicly all or part of that comment. Comments posted to *https://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as confidential as directed above.

An electronic copy of this document and supplemental information to this proposed rule are available at *https://www.regulations.gov* for easy reference.

Request for Hearing or Appearance; Waiver

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 551–59. 21 CFR 1308.41 through 1308.45; 21 CFR part 1316, subpart D. Interested persons may file requests for a hearing or notices of intent to participate in a hearing in conformity with the requirements of 21 CFR 1308.44(a) or (b), and such requests must include a statement of interest in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. 21 CFR 1316.47(a). Any interested person may file a waiver of an opportunity for a hearing or to participate in a hearing together with a written statement regarding the interested person's position on the matters of fact and law involved in any hearing as set forth in 21 CFR 1308.44(c).

All requests for hearing and waivers of participation, together with a written statement of position on the matters of fact and law involved in such hearing, must be sent to DEA using the address information provided above.

Legal Authority

The CSA provides that proceedings for the issuance, amendment, or repeal of the scheduling of any drug or other substance may be initiated by the Attorney General on his own motion. 21 U.S.C. 811(a). This proposed action was initiated on the Attorney General's own motion, as delegated to the Administrator of DEA (Administrator), and is supported by, *inter alia,* a recommendation from the former Assistant Secretary for Health of the Department of Health and Human Services (former Assistant Secretary of

HHS or former Assistant Secretary)[1] and an evaluation of all relevant data by DEA. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions applicable to controlled substances, including those specific to schedule I controlled substances, on persons who handle or propose to handle 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT.

Background

4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT are tryptamine hallucinogens. They share structural and pharmacological similarities with several schedule I tryptamine hallucinogens, such as *alpha*-methyltryptamine (AMT), *N,N*-dimethyltryptamine (DMT), 5-methoxy-*N,N*-diisopropyltryptamine (5-MeO-DiPT), and psilocyn. They have no approved medical use in the United States.

Proposed Determination To Schedule 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT

Pursuant to 21 U.S.C. 811(b), DEA gathered the necessary data on 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT, and on December 19, 2008, submitted it to the former Assistant Secretary with a request for a scientific and medical evaluation of available information and a scheduling recommendation for 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT.

On March 29, 2012, May 17, 2012, and August 14, 2012, HHS provided to DEA scientific and medical evaluations for the above mentioned five tryptamines and a scheduling recommendation for each. The evaluations were entitled: (1) ''Basis for the Recommendation to Control 4-Hydroxy-N,N-diisopropyltryptamine (4-OH-DIPT) and its Salts in Schedule I of the Controlled Substances Act (CSA);'' (2) ''Basis for the Recommendation to Control 5-Methoxy-alphamethyltryptamine (5-MeO-AMT) and its Salts in Schedule I of the Controlled Substances Act (CSA);'' (3) ''Basis for the Recommendation to Control N-Isopropyl-5-Methoxy-N-Methyltryptamine (5-MeO-MIPT) and its Salts in Schedule I of the Controlled Substances Act (CSA);'' (4) ''Basis for the Recommendation to Control N,N-Diethyl-5-methoxytryptamine (5-MeO-DET) and its Salts in Schedule I of the Controlled Substances Act (CSA);'' and (5) ''Basis for the Recommendation to Control N,N-Diisopropyltryptamine (DIPT) and its Salts in Schedule I of the Controlled Substances Act (CSA).'' Following consideration of the eight factors and findings related to each of the substances' abuse potential, legitimate medical use, and dependence liability, HHS recommended that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT and their respective salts be controlled in schedule I of the CSA under 21 U.S.C. 812(b).

In response, DEA reviewed the scientific and medical evaluation and scheduling recommendation provided by HHS and all other relevant data, and completed its own eight-factor review pursuant to 21 U.S.C. 811(c). Included below is a brief summary of each factor as analyzed by HHS and DEA in their respective eight-factor analyses, and as considered by DEA in this proposed scheduling determination. Please note that both DEA and HHS analyses are available in their entirety under ''Supporting Documents'' of the public docket for this proposed rule at *https://www.regulations.gov* under docket number ''DEA–623.''

1. The Drugs' Actual or Relative Potential for Abuse

In addition to considering the information HHS provided in its scientific and medical evaluation documents for 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT, DEA also considered all other relevant data regarding actual or relative potential for abuse of each substance. The term ''abuse'' is not defined in the CSA, however the legislative history of the CSA suggests the following four prongs in determining whether a particular drug or substance has a potential for abuse:[2]

a. Individuals are taking the drug or other substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or to the community; or

b. There is a significant diversion of the drug or other substance from legitimate drug channels; or

c. Individuals are taking the drug or other substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs; or

d. The drug is so related in its action to a drug or other substance already listed as having a potential for abuse to make it likely that it will have the same potential for abuse as such substance, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.

DEA reviewed the scientific and medical evaluation provided by HHS and all other data relevant to the abuse potential of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT. These data as presented below demonstrate that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT have a high potential for abuse.

a. There is evidence that individuals are taking the drug or other substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or to the community.

According to HHS 2012 review, and more current DEA findings, data show that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT have been encountered by law enforcement (Factor 5). Based on published case reports in the medical literature and anecdotal reports (Factor 2), HHS states that these substances are being abused for their hallucinogenic properties. HHS has determined that consumption of these five tryptamines due to their hallucinogenic properties poses a safety hazard to the public health. There were hospital emergency room admissions related to the abuse of 5-MeO-AMT and 5-MeO-MiPT. One confirmed death was reported in 2004 from the abuse of 5-MeO-AMT, taken in combination with alcohol and the antidepressant bupropion; however, it is unclear what role 5-MeO-AMT played in the death.

b. There is significant diversion of the drug or substance from legitimate drug channels.

HHS, in its 2012 review, stated that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT are not Food and Drug Administration (FDA)-approved drug products for treatment in the United States and that it is unaware of any country in which their use is legal. DEA has confirmed with HHS that their 2012 statements are still applicable. In addition, HHS' 2012 review stated that there appear to be no legitimate sources for 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT as marketed drugs. DEA notes that these substances are available for purchase from legitimate suppliers for scientific research. However, there is no evidence of significant diversion of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT from legitimate suppliers.

[1] The Secretary of HHS has delegated to the Assistant Secretary for Health the authority to make domestic drug scheduling recommendations.

[2] Comprehensive Drug Abuse Prevention and Control Act of 1970, H.R. Rep. No. 91–1444, 91st Cong., 2nd Sess. (1970) reprinted in 1970 U.S.C.C.A.N. 4566, 4603.

c. Individuals are taking the substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such substance.

4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT are not approved for medical use and are not formulated or available for clinical use. Therefore, individuals are taking 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT on their own initiative, rather than based on medical advice from a practitioner licensed by law to administer drugs. This is consistent with the data from law enforcement seizures and case reports suggesting that individuals are taking these substances for similar hallucinogenic effects produced by lysergic acid diethylamide (LSD) and *N,N*-diethyltryptamine (DET), while possibly simultaneously attempting to circumvent criminal prosecution since these are explicitly scheduled substances (*see* Factor 5 for more detailed information).

d. The drug is a new drug so related in its action to a drug or other substance already listed as having a potential for abuse to make it likely that the drug substance will have the same potential for abuse as such drugs, thus making it reasonable to assume that there may be significant diversion from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.

After scientific evaluation, HHS states that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT are structural analogs of schedule I hallucinogens (4-OH-DiPT of 5-MeO-DiPT, 5-MeO-AMT of AMT, 5-MeO-MiPT of DMT, 5-MeO-DET of 5-MeO-DMT and DMT, and DiPT of 5-MeO-DiPT) and produce similar pharmacological effects to natural and synthetic schedule I hallucinogens.

4-OH-DiPT

4-OH-DiPT elicits pharmacological responses similar to the schedule I substances 4-methyl-2,5-dimethoxy-amphetamine (DOM) and LSD, which have no accepted medical use and have high abuse potential. In animal drug discrimination studies, 4-OH-DiPT fully generalizes for the discriminative stimulus effects of DOM and LSD in rats. Additionally, 4-OH-DiPT produces classic hallucinogenic effects such as perceptual distortions and pleasurable physical effects. Risks and effects of 4-OH-DiPT include: Hallucinations, euphoria, fatigue, headache, gastrointestinal distress, insomnia, and anxiety. HHS states that these effects are like those of schedule I hallucinogens and concludes that based on the psychological and cognitive disturbances associated with effects of 4-OH-DiPT, it is reasonable to assume that this substance has a substantial capability to cause a hazard to public health, both to the user and to the community.

5-MeO-AMT

According to HHS, 5-MeO-AMT elicits pharmacological responses similar to the schedule I substances LSD and DET which have no accepted medical use and have high abuse potential. Drug discrimination data demonstrate that 5-MeO-AMT produces partial generalization for the discriminative stimulus effects of LSD in rats. In humans, 5-MeO-AMT produces hallucinogenic effects similar to those produced by LSD and DET, including euphoria and visual and auditory hallucinations. Adverse effects caused by 5-MeO-AMT are similar to those of schedule I hallucinogens including: Fatigue, headache, gastrointestinal distress, insomnia, and anxiety. Based on the hallucinogenic and other effects caused by 5-MeO-AMT, HHS states that it is reasonable to assume that this substance has substantial capability to cause a hazard to public health, both to the user and to the community.

5-MeO-MiPT

According to HHS, 5-MeO-MiPT elicits pharmacological responses similar to the schedule I substances LSD and DMT, which have no accepted medical use and have high abuse potential. Drug discrimination studies showed that 5-MeO-MiPT fully generalizes to the discriminative stimulus effects of DOM in rats, and partially generalizes to the discrimination stimulus effects of LSD, DMT, and 3,4-methylenedioxy-methamphetamine (MDMA, schedule I). In humans it has been reported that 5-MeO-MiPT is 15-fold more potent than DMT when comparing doses that produce hallucinogenic effects. Thus, HHS concluded that it is reasonable to assume that 5-MeO-MiPT has substantial capability to cause a hazard to public health, both to the user and to the community.

5-MeO-DET

According to HHS, 5-MeO-DET elicits pharmacological responses similar to the schedule I substances DMT and DOM, which have no accepted medical use and have high abuse potential. In animal drug discrimination studies, 5-MeO-DET fully generalizes for the discriminative stimulus effect of DMT in rats. 5-MeO-DET partially generalizes to the discriminative stimulus cues of DOM and MDMA. The reports from users describe the effects of 5-MeO-DET as being similar to those produced by DMT and LSD. Adverse health risks associated with 5-MeO-DET use include: Bizarre behavior, hallucinations, and sympathomimetic effects, such as increased heart rate. These adverse effects are similar to those of schedule I hallucinogens. Based on available information, it is reasonable to assume that 5-MeO-DET has substantial capability to cause a hazard to public health, both to the user and to the community.

DiPT

According to HHS, DiPT elicits pharmacological responses similar to the schedule I substances DOM and DMT, which have no accepted medical use and have high abuse potential. Drug discrimination studies showed that DiPT fully substitutes for the discriminative stimulus effects of DOM and DMT in rats. The reports from users describe the effects of DiPT as being similar to those produced by 4-bromo-2,5-dimethoxyphenethylamine (2C-B), 2-(2,5-dimethoxy-4-methylphenyl)ethanamine (2C-D), and 2,5-dimethoxy-4-ethylamphetamine (DOET), all of which are classified as schedule I substances. Risks associated with DiPT use are based on the perceptual changes in the auditory experience. Like schedule I hallucinogens, DiPT produces adverse effects such as: Auditory and other sensory distortions, lethargy, nausea, hyperreflexia, and mydriasis. Based on the adverse effects associated with DiPT, it is reasonable to assume that this substance has substantial capability to cause a hazard to public health, both to the user and to the community.

2. Scientific Evidence of the Drugs' Pharmacological Effects, If Known

As stated by HHS (HHS reviews, 2012a–e), the neurochemical effects of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT mainly involve serotonergic system in the central nervous system (CNS). Tryptamine hallucinogens are believed to produce their characteristic effects primarily through stimulation of the 2A subtype of serotonin (5-HT) receptors (5-HT_{2A}). DEA further notes that the 5-HT_{2A} receptor has also been shown to mediate the *in vivo* behavioral effects and discriminative stimulus effects of the three classes of classic hallucinogens, ergotamines (*e.g.,* LSD),

phenethylamines (*e.g.,* DOM), and tryptamines (*e.g.,* DMT).

Animal testing data in rats show that stimulus properties of 4-OH-DiPT are similar to DOM and LSD, and partially similar to DMT; 5-MeO-AMT substantially overlaps with LSD; 5-MeO-MiPT substantially overlaps with DOM, LSD, and MDMA; 5-MeO-DMT are similar to DMT, DOM, and MDMA; and DiPT are similar to DOM and DMT, and are partially similar to LSD. Thus, 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT produce psychopharmacologic effects similar to those produced by serotonin-mediated hallucinogens in an animal model, which are predictive of its abuse in humans.

In humans, users of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT report hallucinogenic effects similar to LSD and DET including: Euphoria, hallucinations involving various senses, perceptual distortions and pleasant intensification of sensory experiences. Physiological and psychological effects have been reported to be frightening or disturbing and can include: Dizziness, fatigue, headache, trembling, anxiety, insomnia, restlessness, cold sweats, and gastrointestinal disturbances (*i.e.,* nausea, vomiting, and diarrhea), among others. One death was reported in 2004 with the use of 5-MeO-AMT, however alcohol and bupropion (an antidepressant) were also detected in post mortem toxicology analyses.

3. The State of Current Scientific Knowledge Regarding the Drugs or Other Substances

Chemistry

4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT are part of the tryptamine family and share the core tryptamine structure with substitutions at the α-position, 4-position, 5-position, and on the nitrogen (N) atom. All of these substances contain an indole ring with a substituted ethylamino sidechain. 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT share structural similarities with schedule I tryptamine hallucinogens such as DMT, DET, AMT, and psilocyn.

Pharmacokinetics

Metabolism studies have not been conducted for 4-OH-DiPT, 5-MeO-AMT, 5-MeO-DET, and DiPT. However, metabolism has been reported for 5-MeO-MiPT. Similar to other structurally related tryptamines, 5-MeO-MiPT has been reported to undergo metabolism through oxidative deamination, *N*-demethylation, *O*-demethylation, and *N*-oxidation with *N*-oxides as the major metabolites. Thus, it is highly likely that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-DET, and DiPT will be metabolized in a similar manner.

4. Its History and Current Pattern of Abuse

In the U.S., law enforcement entities have initially encountered 5-MeO-AMT and DiPT in 2003, 5-MeO-MiPT in 2004, 5-MeO-DET in 2006, and 4-OH-DiPT in 2009, according to the National Forensic Laboratory Information System (NFLIS).[3] Each of these tryptamines has been encountered in one or more of the following forms: Powder, tablets, capsules, liquid, or on blotter paper. These substances are generally purchased from internet-based companies in addition to being purchased from dealers. These tryptamines are often misrepresented as LSD to users due to their similarities in producing hallucinogenic effects.

4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT do not have an approved medical indication in the U.S. and therefore have no legitimate medical use in the U.S. Anecdotal reports from users of these substances indicate that these substances produce classical hallucinogenic properties, such as perceptual distortions and pleasurable physical effects. Users report oral administration as the most common route of administration. Other routes of administration such as insufflation, smoking, and rectal administration have been reported.

5. The Scope, Duration, and Significance of Abuse

Tryptamine hallucinogens, both natural and synthetic, have been popular among the attendees of rave parties, music concerts, and other large or social venues, as well as in intimate and smaller settings since the 1990s in the U.S. and Europe. Often these substances are promoted as substitutes for LSD. Synthetic hallucinogens and stimulants are known as ''club drugs.'' In addition to sales in raves and nightclubs, internet sales have become one of the main outlets for the sale and distribution of tryptamine hallucinogens.

In the U.S., there has been significant availability, trafficking and abuse of a number of tryptamines including 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT. This is evidenced by large numbers of encounters of one or more of these tryptamines by U.S. law enforcement in 47 states and the District of Columbia.

According to NFLIS, there have been 5 reports of 4-OH-DiPT (first reported in 2009), 92 reports of 5-MeO-AMT (first reported in 2003), 348 reports of 5-MeO-MiPT (first reported in 2004), 17 reports of 5-MeO-DET (first reported in 2006), and 25 reports of DiPT (first reported in 2003).[4]

6. What, if Any, Risk There Is to the Public Health

HHS indicates that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT pose a risk to public health due to their hallucinogenic properties that usually occur quickly (often between 5–15 minutes, dependent on the route of administration) after ingestion and may cause impairing effects on the user's judgment and lead to dangerous behavior. The risks could be to the individual user or to the community, especially when the user is operating a motor vehicle. Several adverse effects were reported in animal studies and in humans from internet forums for all five tryptamines (see Factor 2). HHS also cited published and anecdotal reports that described the adverse effects of these five hallucinogens including agitation, confusion, psychological distress for all five substances, and death in the case of 5-MeO-AMT. It is unclear what role 5-MeO-AMT played in the death. The toxicology report also reported alcohol and the presence of an antidepressant, bupropion. Users of 4-OH-DiPT reported that the hallucinations were intense and the psychological and physiological effects were frightening or disturbing. A non-lethal poisoning was reported in an adolescent after ingesting an alleged combination of 5-MeO-MiPT and harmaline, a CNS stimulant.

7. Its Psychic or Physiological Dependence Liability

According to HHS, hallucinogens are not usually associated with physical dependence and the physiological dependence liability in animals or humans has not been reported in scientific and medical literature for these five substances. Thus, it is not possible at this time to determine whether 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT produce physiological dependence

[3] NFLIS is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state and local forensic laboratories across the country. The NFLIS participation rate, defined as the percentage of the national drug caseload represented by laboratories that have joined NFLIS, is over 97 percent. NFLIS includes drug chemistry results from completed analyses only.

[4] NFLIS data were queried August 17, 2021, by date of submission.

following acute or chronic administration. However, hallucinogen abusers may develop psychological dependence to these substances as evidenced by the continued use of these substances despite knowledge of the potential toxic and adverse effects.

The data on the drug discrimination studies conducted by the National Institute on Drug Abuse, cited in HHS reviews and later published, show that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT share discriminative stimulus effects with other schedule I hallucinogens: 4-OH-DiPT fully substitutes for DOM and LSD; 5-MeO-AMT partially substitutes for LSD and DMT; 5-MeO-MiPT fully substitutes for DOM; 5-MeO-DET fully substitutes for DMT; and DiPT fully substitutes for DOM and DMT. DEA adds that LSD, DOM, and MDMA fully substitute for DiPT-trained discriminative stimulus effects, confirming that DiPT has hallucinogenic effects similar to other schedule I hallucinogens.

8. Whether the Substance Is an Immediate Precursor of a Substance Already Controlled Under the CSA

4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT are not immediate precursors of a substance already controlled under the CSA as defined by 21 U.S.C. 802(23).

Conclusion

Based on consideration of the scientific and medical evaluation and accompanying recommendations of HHS, and on DEA's consideration of its own eight-factor analysis, DEA finds that these facts and all relevant data constitute substantial evidence of potential for abuse of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT. As such, DEA hereby proposes to schedule 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT as controlled substances under the CSA.

Proposed Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also outlines the findings required to place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the former Assistant Secretary and review of all other available data, the Administrator, pursuant to 21 U.S.C. 812(b)(1), finds that:

(1) 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT elicit pharmacological effects qualitatively similar to those of schedule I hallucinogens (*e.g.,* DOM, LSD, DMT, DET). These effects are marked by hallucinations and CNS stimulation. Law enforcement reported a number of encounters of 5-MeO-AMT and DiPT beginning in 2003, 5-MeO-MiPT beginning in 2004, 5-MeO-DET beginning in 2006, and 4-OH-DiPT beginning in 2009.

The available data indicate that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT have high potential for abuse that is similar to that of other schedule I tryptamine hallucinogens DET (5-MeO-AMT) and DMT (5-MeO-DET, 5-MeO-MiPT, and DiPT), the phenethylamine hallucinogen DOM (4-OH-DiPT, 5-MeO-DET, 5-MeO-MiPT, and DiPT), and the ergotamine hallucinogen LSD (5-MeO-AMT, 4-OH-DiPT, 5-MeO-DET, 5-MeO-MiPT).

(2) 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT are not legally marketed in the U.S. They lack current marketing approval under new drug applications, abbreviated new drug applications, or investigational use under an active investigational new drug application. There is no evidence that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT have a currently accepted medical use in treatment in the U.S.[5]

(3) Because 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT have no approved medical use and have not been thoroughly investigated as new drugs, their safety for use under medical supervision is not determined. Thus, there is a lack of accepted safety for use of these substances under medical supervision.

Based on these findings, the Administrator concludes that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT warrant control in schedule I of the CSA. More precisely, because of their hallucinogenic effects, and because they may produce hallucinogenic-like tolerance and dependence in humans, DEA proposes to place 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical description, in 21 CFR 1308.11(d) (the hallucinogenic substances category of schedule I).

Requirements for Handling 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT

If this rule is finalized as proposed, 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT would be subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, import, export, research, conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances, including the following:

1. Registration. Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, or DiPT would be required to be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312, as of the effective date of a final scheduling action. Any person who currently handles 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, or DiPT, and is not registered with DEA, would need to submit an application for registration and may not continue to handle 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, or DiPT as of the effective date of a final scheduling action, unless DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, 958, and in accordance with 21 CFR parts 1301 and 1312.

2. Disposal of stocks. Any person unwilling or unable to obtain a schedule I registration would be required to surrender or transfer all quantities of currently held 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT to a person registered with DEA before the effective date of a final scheduling action, in accordance with all applicable Federal, State, local, and tribal laws. As of the effective date of a final scheduling action, 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT would be required to be disposed of in accordance with 21 CFR part 1317, in

[5] Although there is no evidence suggesting that 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT have a currently accepted medical use in treatment in the United States, it bears noting that a drug cannot be found to have such medical use unless DEA concludes that it satisfies a five-part test. Specifically, with respect to a drug that has not been approved by FDA, to have a currently accepted medical use in treatment in the United States, all of the following must be demonstrated: i. the drug's chemistry must be known and reproducible; ii. there must be adequate safety studies; iii. there must be adequate and well-controlled studies proving efficacy; iv. the drug must be accepted by qualified experts; and v. the scientific evidence must be widely available. 57 FR 10499 (1992), *pet. for rev. denied, Alliance for Cannabis Therapeutics* v. *DEA,* 15 F.3d 1131, 1135 (D.C. Cir. 1994).

addition to all other applicable Federal, State, local, and tribal laws.

3. Security. 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT would be subject to schedule I security requirements for DEA registrants and would need to be handled and stored pursuant to 21 U.S.C. 823 and in accordance with 21 CFR 1301.71 through 1301.76 as of the effective date of a final scheduling action. Non-practitioners handling 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT would also need to comply with the employee screening requirements of 21 CFR 1301.90 through 1301.93.

4. Labeling and Packaging. All labels and labeling for commercial containers of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, or DiPT would need to be in compliance with 21 U.S.C. 825, and be in accordance with 21 CFR part 1302, as of the effective date of a final scheduling action.

5. Quota. Only registered manufacturers would be permitted to manufacture 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303, as of the effective date of a final scheduling action.

6. Inventory. Every DEA registrant who possesses any quantity of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT on the effective date of the final rule would need to take an inventory of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and/or DiPT on hand at that time, pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (d).

Any person who registers with DEA on or after the effective date of the final scheduling action would be required to take an initial inventory of all stocks of controlled substances (including 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and/or DiPT) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (b).

After the initial inventory, every DEA registrant would be required to take a new inventory of controlled substances (including 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and/or DiPT) on hand every two years, pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

7. Records and Reports. Every DEA registrant would be required to maintain records and submit reports with respect to 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, DiPT, or products containing 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and/or DiPT pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1301.74(b) and (c) and parts 1304, 1312, and 1317, as of the effective date of a final scheduling action. Manufacturers and distributors would need to submit reports regarding these substances to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312, as of the effective date of a final scheduling action.

8. Order Forms. Every DEA registrant who distributes 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, or DiPT would be required to comply with the order form requirements, pursuant to 21 U.S.C. 828, and 21 CFR part 1305, as of the effective date of a final scheduling action.

9. Importation and Exportation. All importation and exportation of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, or DiPT would need to be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312, as of the effective date of a final scheduling action.

10. Liability. Any activity involving 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, or DiPT not authorized by, or in violation of, the CSA or its implementing regulations would be unlawful, and could subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866 and 13563 (Regulatory Planning and Review; Improving Regulation and Regulatory Review)

In accordance with 21 U.S.C. 811(a), this proposed scheduling action is subject to formal rulemaking procedures performed ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563.

Executive Order 12988, Civil Justice Reform

This proposed regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988, to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This proposed rulemaking does not have federalism implications warranting the application of E.O. 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications warranting the application of E.O. 13175. It does not 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.

Paperwork Reduction Act of 1995

This proposed action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has reviewed this proposed rule, and by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities.

DEA proposes placing the substances 4-hydroxy-*N,N*-diisopropyltryptamine (4-OH-DiPT), 5-methoxy-*alpha*-methyltryptamine (5-MeO-AMT), 5-methoxy-*N*-methyl-*N*-isopropyltryptamine (5-MeO-MiPT), 5-methoxy-*N,N*-diethyltryptamine (5-MeO-DET), and *N,N*-diisopropyltryptamine (DiPT), including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, in schedule I of the CSA. If finalized, this action would impose regulatory controls and administrative, civil, and/or criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities, or chemical analysis with, or possess), or propose to handle 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, or DiPT.

There appear to be no legitimate sources for 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT as marketed drugs and no accepted medical use in the United States, but DEA notes that these substances are available for purchase from legitimate suppliers for scientific research. There is no evidence of significant diversion of 4-OH-DiPT, 5-MeO-AMT, 5-MeO-MiPT, 5-MeO-DET, and DiPT from legitimate suppliers.

DEA has identified 31 domestic suppliers of one or more of the following substances: 4-hydroxy-*N,N*-diisopropyltryptamine (4-OH-DiPT), 5-methoxy-*alpha*-methyltryptamine (5-MeO-AMT), 5-methoxy-*N*-methyl-*N*-isopropyltryptamine (5-MeO-MiPT), 5-methoxy-*N,N*-diethyltryptamine (5-MeO-DET), and *N,N*-diisopropyltryptamine (DiPT). Thirty (30) of the 31 domestic suppliers are not registered with DEA to handle controlled substances. The one registered supplier is already registered with DEA and has all security and other handling processes in place, resulting in minimal impact to this supplier. Therefore, the remaining 30 non-registered domestic suppliers are affected. Since the vast majority of DEA registrants are small entities or are employed by small entities, all 30 affected suppliers are assumed to be small entities. It is impossible to know how much 4-hydroxy-*N,N*-diisopropyltryptamine (4-OH-DiPT), 5-methoxy-*alpha*-methyltryptamine (5-MeO-AMT), 5-methoxy-*N*-methyl-*N*-isopropyltryptamine (5-MeO-MiPT), 5-methoxy-*N,N*-diethyltryptamine (5-MeO-DET), and *N,N*-diisopropyltryptamine (DiPT) are distributed by these suppliers. It is common for suppliers to have items on their catalog while not actually having any material level of sales. Based on the discussion above, DEA believes any quantity of sales from these distributors for legitimate purposes is minimal. Therefore, these suppliers are expected to remove the product from their catalog rather than incur the cost of obtaining a DEA registration and physical security for products with minimal sales. Therefore, DEA estimates the cost of this rule, in form of lost sales, if any, on the affected small entities is minimal. DEA welcomes any public comment regarding this estimate.

Because of these facts, this proposed rule will not, if promulgated, result in a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

On the basis of information contained in the ''Regulatory Flexibility Act'' section above, DEA has determined pursuant to the Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1501 *et seq.*) that this proposed action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year . . . .'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA proposes to amend 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11, as proposed to be amended at 86 FR 16553 (March 30, 2021), 86 FR 37719 (July 16, 2021), and 86 FR 69187 (December 7, 2021), add paragraphs (d)(101) through (105) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(101) 4-hydroxy-*N,N*-diisopropyltryptamine (other names: 4-OH-DiPT; 3-(2-(diisopropylamino)ethyl)-1*H*-indol-4-ol) 7516.

(102) 5-methoxy-*alpha*-methyltryptamine (Other names: 5-MeO-AMT; 1-(5-methoxy-1*H*-indol-3-yl)propan-2-amine) 7506.

(103) 5-methoxy-*N*-methyl-*N*-isopropyltryptamine (Other names: 5-MeO-MiPT; *N*-(2-(5-methoxy-1*H*-indol-3-yl)ethyl)-*N*-methylpropan-2-amine) 7512.

(104) 5-methoxy-*N,N*-diethyltryptamine (Other names: 5-MeO-DET; *N,N*-diethyl-2-(5-methoxy-1*H*-indol-3-yl)ethanamine) 7525.

(105) *N,N*-diisopropyltryptamine (Other names: DiPT; *N*-(2-(1*H*-indol-3-yl)ethyl)-*N*-isopropylpropan-2-amine) 7522.

* * * * *

Anne Milgram,

Administrator.

[FR Doc. 2022–00713 Filed 1–13–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 537

RIN 3141–AA58

Background Investigations for Persons or Entities With a Financial Interest in or Having a Management Responsibility for a Management Contract; Correction

AGENCY: National Indian Gaming Commission, Department of the Interior.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of December 2, 2021, regarding Background Investigations for Persons or Entities with a Financial Interest in or Having a Management Responsibility for a Management Contract. The document contained incorrect dates for submitting comments. This correction clarifies that comments are due January 31, 2022.

FOR FURTHER INFORMATION CONTACT: Michael Hoenig, 202–632–7003.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 2, 2021, in proposed rule FR Doc. 2021–25844, on page 68446, in the second column, change the **DATES** caption to read:

DATES: Written comments on this proposed rule must be received on or before January 31, 2022.

Dated: January 6, 2022.

Michael Hoenig,

General Counsel.

[FR Doc. 2022–00631 Filed 1–13–22; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 537

RIN 3141–AA77

Fees; Correction

AGENCY: National Indian Gaming Commission, Department of the Interior.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of December 2, 2021, regarding Fees. The document contained incorrect dates for submitting comments. This correction clarifies that comments are due January 31, 2022.

FOR FURTHER INFORMATION CONTACT: Michael Hoenig, 202–632–7003.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 2, 2021, in proposed rule FR Doc. 2021–25838, on page 68445, in the first column, change the **DATES** caption to read:

DATES: Written comments on this proposed rule must be received on or before January 31, 2022.

Dated: January 6, 2022.

Michael Hoenig,

General Counsel.

[FR Doc. 2022–00630 Filed 1–13–22; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 559

RIN 3141–AA73

Submission of Gaming Ordinance or Resolution; Correction

AGENCY: National Indian Gaming Commission, Department of the Interior.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of December 9, 2021, regarding the Submission of Gaming Ordinances or Resolutions. The document contained incorrect dates for submitting comments. This correction clarifies that comments are due February 7, 2022.

FOR FURTHER INFORMATION CONTACT: Michael Hoenig, 202–632–7003.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 1, 2021, in proposed rule FR Doc. 2021–25843, on page 70067, in the third column, change the **DATES** caption to read:

DATES: Written comments on this proposed rule must be received on or before February 7, 2022.

Dated: January 6, 2022.

Michael Hoenig,

General Counsel.

[FR Doc. 2022–00636 Filed 1–13–22; 8:45 am]

BILLING CODE 7565–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2022–3; Order No. 6090]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal One). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES:

Comments are due: March 14, 2022.

Reply comments are due: March 28, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On January 5, 2022, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] The Petition identifies the proposed analytical changes filed in this docket as Proposal One.

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal One), January 5, 2022 (Petition). The Petition was accompanied by a study supporting its proposal. *See* Michael D. Bradley (Bradley), *On the Estimation of a Top-Down Model for City Carrier Street Time *,* January 5, 2022. The Postal Service also filed a notice of filing of public and non-public materials relating to Proposal One. Notice of Filing of USPS–RM2022–3–1 and USPS–RM2022–3–NP1 and Application for Nonpublic Treatment, January 5, 2022.

II. Proposal One

Background. In Docket No. RM2015–7,[2] the Postal Service proposed, and the Commission accepted, an approach to estimating variabilities for city carrier street time that relied upon three separate econometric equations, one for letters and flats, one for in-receptacle parcels, and one for deviation parcels and accounts. Petition, Proposal One at 1. The Commission directed the Postal Service to undertake an effort to investigate what data would be needed to estimate a unified, or ''top-down,'' model. *Id.* Subsequent to Docket No. RM2015–7, the Commission opened a public inquiry case, Docket No. PI2017–1,[3] to follow the Postal Service's progress in updating its data capabilities and modeling efforts for city carrier street time and specified the type and structure of the data set that would be appropriate to estimate a top-down model. *Id.* at 2. In response to the Commission's directives, the Postal Service compiled the appropriate data, investigated alternative methods of estimating a top-down model, and specified a model that includes an estimation of new variabilities for city carrier, letter route, and street time. *Id.* at 2–3.

Proposal. Proposal One would update the methodology for calculating attributable city carrier, letter route, street time costs by employing an overall top-down model that replies upon expanded operational carrier data. *Id.* at 1, 3. The Postal Service proposes that the new top-down study would improve the previous analysis of letter route street time by making use of ongoing operation data systems; incorporating seasonality effects and controls for day-of-week effects; including new characteristic variables that help control for non-volume variations in hours across ZIP Codes; relying upon a new econometric technique, called a correlated random effects model, that controls for unobserved differences across ZIP Codes while explicitly recognizing those differences are correlated with volume; taking a holistic approach to analyzing city street time; and producing marginal delivery and collection times that comport with current carrier street time operational practice. *Id.* at 3–4.

The overall levels of variabilities produced by the top-down model is lower than the current model because a

[2] *See* Docket No. RM2015–7, Order Approving Analytical Principles Used in Periodic Reporting (Proposal Thirteen), October 29, 2015, at 66 (Order No. 2792).

[3] *See* Docket No. PI2017–1, Interim Order, November 2, 2018, at 16 (Order No. 4869).

reduction in the variabilities for the volume types associated with market dominant letter and flat mail is only partially offset by an increase in the parcel variabilities. The overall changes in the variabilities result in lower costs for letters and flats and higher costs for parcels. *Id.* at 6.

Impact. The following table presents the impact of Proposal One on city carrier street unit costs, including indirect costs.

TABLE 1—CITY CARRIER COSTS INCLUDING INDIRECT COSTS

Product	Current unit city carrier costs	New unit city carrier costs	Change in city carrier unit costs	% Change in city carrier unit costs
Total First-Class Mail	$0.063	$0.041	−$0.022	−34.98
Total USPS Marketing Mail	0.063	0.043	−0.020	−32.28
Total Periodicals	0.145	0.113	−0.033	−22.58
Bound Printed Matter Flats	0.216	0.173	−0.043	−19.90
Bound Printed Matter Parcels	0.365	0.452	0.088	24.02
Media/Library Mail	0.421	0.506	0.085	20.07
Total Package Services	0.324	0.365	0.041	12.74
Total Domestic Market Dominant Mail	0.067	0.046	−0.021	−31.63
Total Competitive Mail and Services	0.453	0.528	0.075	16.52

Source: Excel file ''FY21 Proposal One Cost Impact.xlsx,'' tab ''Unit Costs.''

Under the new top-down model, the unit costs for market dominant products fall while the unit costs for competitive products rise, reflecting the changes in variabilities. *Id.* at 7.

III. Notice and Comment

The Commission establishes Docket No. RM2022–3 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal One no later than March 14, 2022. Reply comments on the Petition and Proposal One are due no later than March 28, 2022. Pursuant to 39 U.S.C. 505, Philip T. Abraham is designated as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2022–3 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal One), filed January 5, 2022.

2. Comments by interested persons in this proceeding are due no later than March 14, 2022. Reply comments on the Petition and Proposal One are due no later than March 28, 2022.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Philip T. Abraham to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2022–00654 Filed 1–13–22; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2021–0834; FRL–9382–01–R3]

Air Plan Approval; Maryland; Philadelphia Area Base Year Inventory for the 2015 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision consists of the base year inventory for the Maryland portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal nonattainment area (Philadelphia Area) for the 2015 ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before February 14, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2021–0834 at *https://www.regulations.gov,* or via email to *Gordon.Mike@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, 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. 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.*

FOR FURTHER INFORMATION CONTACT: Adam Yarina, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2103. Mr. Yarina can also be reached via electronic mail at *Yarina.Adam@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 30, 2020, the Maryland Department of the Environment (MDE), on behalf of the State of Maryland, submitted a revision to the Maryland SIP entitled, ''2015 8-

Hour Ozone NAAQS (0.070 ppm) Marginal Area State Implementation Plan for the Cecil County, MD Nonattainment Area, SIP #20–09.'' Cecil County comprises the Maryland portion of the Philadelphia Area. This SIP revision, referred to in this rulemaking action as the ''Cecil County base year inventory SIP,'' addresses the base year inventory requirement for the 2015 ozone NAAQS.

I. Background

On October 1, 2015, EPA strengthened the 8-hour ozone NAAQS, lowering the level of the NAAQS from 0.075 ppm parts per million (ppm) to 0.070 ppm. 80 FR 65292 (October 26, 2015). Effective August 3, 2018, EPA designated the Philadelphia Area, which consists of Cecil County in Maryland and counties in Delaware, New Jersey, and Pennsylvania, as marginal nonattainment for the 2015 ozone NAAQS. 83 FR 25776 (June 4, 2018). CAA section 182(a)(1) requires ozone nonattainment areas classified as marginal or above to submit a comprehensive, accurate, current inventory of actual emissions from all emissions sources in the nonattainment area, known as a ''base year inventory.'' The Cecil County base year inventory SIP addresses a base year inventory requirement for the Philadelphia Area.

II. Summary of SIP Revision and EPA Analysis

A. EPA Evaluation of the Cecil County Base Year Inventory SIP

EPA's review of the Maryland's base year inventory SIP indicates that it meets the base year inventory requirements for the 2015 ozone NAAQS. As required by 40 CFR 51.1315(a), MDE selected 2017 for the base year inventory, which is consistent with the baseline year for the RFP because it is the year of the most recent triennial inventory. MDE included actual ozone season day emissions, pursuant to 40 CFR 51.1315(c).

EPA has prepared a technical support document (TSD) in support of this rulemaking. In that TSD, EPA reviewed the results, procedures, and methodologies for the SIP base year, and found them to be acceptable and developed in accordance with EPA's technical guidance. The TSD is available online at *https://www.regulations.gov,* Docket ID No. EPA–R03–OAR–2021–0834.

B. Base Year Inventory Requirements

In EPA's December 6, 2018 (83 FR 62998) rulemaking, ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,'' known as the ''SIP Requirements Rule,'' EPA set out nonattainment area requirements for the 2015 ozone NAAQS. The SIP Requirements Rule established base year inventory requirement, which are codified at 40 CFR 51.1315. 40 CFR 51.1315(a) requires each 2015 ozone nonattainment area to submit a base year inventory within 2 years of designation, *i.e.,* by no later than August 3, 2020.

40 CFR 51.1315(a) also requires that the inventory year be selected consistent with the baseline year for the reasonable further progress (RFP) plan as required by 40 CFR 51.1310(b), which states that the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the provisions of subpart A of 40 CFR part 51, Air Emissions Reporting Requirements, 40 CFR 51.1 through 50. The most recent triennial inventory year conducted for the National Emissions Inventory (NEI) pursuant to the Air Emissions Reporting Requirements (AERR) rule is 2017. 73 FR 76539 (December 17, 2008). Maryland selected 2017 as their baseline emissions inventory year for RFP. This selection comports with EPA's implementation regulations for the 2015 ozone NAAQS because 2017 is the inventory year. 40 CFR 51.1310(b).[1]

40 CFR 51.1315(c) requires emissions values included in the base year inventory to be actual ozone season day emissions as defined by 40 CFR 51.1300(q), which states:

> Ozone season day emissions means an average day's emissions for a typical ozone season work weekday. The state shall select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity.

C. Cecil County Base Year Inventory SIP

The Cecil County base year inventory SIP contains an explanation of MDE's 2017 base year emissions inventory for Cecil County (2017 Cecil County BYE) for stationary, non-point, non-road, and on-road anthropogenic sources, as well as biogenic sources, in the Cecil County Area. The Cecil County Area consists solely of Cecil County, MD. MDE estimated anthropogenic emissions for volatile organic compound (VOC), nitrogen oxide (NO_X), and carbon monoxide (CO) for a typical ozone season workweek day.

MDE developed the 2017 Cecil County BYE with the following source categories of anthropogenic emissions sources: Point, quasi-point, non-point, non-road, on-road, and commercial marine vessels, airport, and railroad emissions sources (MAR). Appendix A of the Cecil County base year inventory SIP, 2017 Base Year SIP Emissions Inventory Methodologies (Appendix A), sets out the methodologies MDE used to develop its base year inventory.

1. Point Sources

Point sources are larger sources that are located at a fixed, stationary location. As defined by the AERR in 40 CFR 51.50, point sources are large, stationary (non-mobile), identifiable sources of emissions that release pollutants into the atmosphere. A point source is a facility that is a major source under 40 CFR part 70 for one or more of the pollutants for which reporting is required by 40 CFR 51.15(a)(1). These point sources can be associated with a single point or group of points in space. Examples of point source emissions categories include power plants, industrial boilers, petroleum refineries, cement plants, and other industrial plants.

As stated in Appendix A, for the 2017 Cecil County BYE, MDE defined a point source located within a designated ozone nonattainment area as a stationary commercial or industrial facility that operations and emits more than 10 tons per year (tpy) of VOC; or 25 tons per year of NO_X; or a 100 tpy of CO, sulfur oxides (SO_X), particulate matter with an aerodynamic diameter less than 10 micrometers (PM_{10}), diameter less than 2.5 micrometers ($PM_{2.5}$), and total suspended particulates (TSP).

In Appendix A, MDE explains that it used several methods of source identification to ensure the point source inventory is as complete as possible. MDE's primary data source is its permitting program, and MDE's compliance program identifies other point sources through facility inspections and investigations. In addition, facilities are required by Maryland's emissions statement regulations, Code of Maryland Regulations (COMAR) 26.11.01.05–1 and 26.11.02.19D to certify the air

[1] On January 29, 2021 the Court of Appeals for the D.C. Circuit issued its decision regarding multiple challenges to EPA's implementation rule for the 2015 ozone NAAQS which included, among other things, upholding this provision allowing states to use an alternative baseline year for RFP. *Sierra Club* v. *EPA,* 985 F.3d 1055 (D.C. Cir.). The other provisions of EPA's ozone implantation rule at issue in the case are not relevant for this rulemaking.

emissions for the past calendar year. The certified emissions are used for inventory and planning purposes.

MDE developed the point source data for the 2017 base year inventory. The point source inventory contains emissions for electric generating units (EGUs) and Non-EGU sources in the nonattainment area. EPA guidance for emissions inventory development provides that ozone season day emissions are used for the base year inventory for the nonattainment area. MDE developed their 2017 inventory by using emissions directly reported to the agency by facilities as required by Maryland air quality regulations. These emissions are also reported to EPA, and after going through EPA's quality assurance (QA) and quality control (QC) process, are included in EPA's National Emissions Inventory (NEI). The emissions for this base year can be found in EPA's 2017 NEI.[2]

2. Quasi-Point Sources

MDE defines quasi-point sources as that are generally considered part of the non-point or non-road emissions sectors but are included in the point source emissions inventory for a particular reason. Such reasons include Federal guidance, as in the case of certain airports, or to facilitate future general conformity determinations, as in the case of military bases, ports, and other similar facilities. EPA has reviewed the source categories included in the quasi-point sources and has found this to be a reasonable approach to handle these sources. MDE has not identified any quasi-point sources in Cecil County.

3. Non-Point Sources

Non-point sources are also called ''area sources.'' These sources collectively represent individual sources of emissions that have not been inventoried as either specific point or mobile sources. These individual sources treated collectively as non-point sources are typically too small, numerous, or difficult to inventory using the methods for the other classes of sources.

Non-point sources that MDE evaluated for the 2017 Cecil County BYE include petroleum distribution losses (*e.g.,* tank truck unloading and auto refueling), stationary source solvent application (*e.g.,* dry cleaners, auto refinishing), bioprocess emissions sources (*e.g.,* bakeries, breweries, wineries, distilleries), catastrophic/accidental releases (*e.g.,* oil spills and leaking underground storage tanks), solid waste disposal, treatment, and recovery (*e.g.,* incineration, open burning), small stationary source fossil fuel use (*e.g.,* small utility boilers, wood combustion, commercial cooking), fugitive sources (*e.g.,* construction activity and unpaved roads), fire sources (*e.g.,* agricultural burning and vehicle fires), and ammonia sources (*e.g.,* agricultural livestock production operations). Appendix A sets out the methodologies MDE used to estimate emissions for each of these non-point source categories. These methods are consistent with the most recent EPA emission inventory guidance.

4. Non-Road

Non-road mobile sources are also called ''off-highway'' mobile sources. These are defined as a non-road engine or non-road vehicle. As per 40 CFR 51.50, a non-road engine is an internal combustion engine (including the fuel system) that is not used in an on-road motor vehicle or a vehicle used solely for competition, or that is not affected by sections 111 or 202 of the CAA. Also defined by 40 CFR 51.50, a non-road vehicle (rather than engine) is a vehicle that is run by a non-road engine and that is not an on-road motor vehicle or a vehicle used solely for competition. Examples of non-road mobile sources include airport ground support equipment, agricultural and construction equipment powered by an internal combustion engine, and lawn and garden engines and equipment.

As explained in Appendix A, consistent with EPA's Emission Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards and Regional Haze Regulations, MDE used the most current version of EPA's NONROAD2008a model, which is incorporated into EPA's Motor Vehicle Emission Simulator (MOVES) model, specifically MOVES2014a, to develop the inventory for non-road mobile sources. The NONROAD2008a model includes more than 80 basic and 260 specific types of non-road equipment (*e.g.,* agricultural, airport support, commercial, construction, industrial, recreational vehicles, recreational watercraft, lawn and garden, railway maintenance, etc.) and further stratifies equipment types by horsepower rating. Fuel types include gasoline, diesel, compressed natural gas (CNG), and liquefied petroleum gas (LPG).

Marine Vessels, Airport, Railroad Locomotives (MAR) Sources are a non-road subcategory. MDE states in its Cecil County base year inventory SIP that, for MAR sources, MDE calculated emissions by collecting data directly from surveyed sources, or activity from state and federal reporting agencies. To develop the commercial marine vehicle emissions for the base year, Maryland used EPA's 2016 beta modeling platform. This platform was used because it provided the most recent descriptions and methodologies for calculation of marine vessel emissions. To estimate emissions for aircraft, Maryland used airport activity statistics from the Federal Aviation Agency (FAA), landing and takeoff cycle information from the Maryland Aviation Administration, and statewide survey information for landing and takeoffs, engine type, location, and usage data. Railroad emission estimates were developed using activity and fuel consumption estimates collected from the rail companies and proportioned to each county by the amount of track miles each company utilized in a county. MDE applied EPA emission factors using EPA guidance and methodologies or the best engineering method. These methods of calculating emissions are consistent with the most recent EPA emission inventory guidance.[3] Details of the development of emissions for these sources along with other non-road model sources are provided in Appendix A.

5. On-Road Sources

On-road mobile sources are also called ''highway mobile sources.'' These sources are the motor vehicles (*e.g.,* automobiles, buses, trucks) traveling on local and highway roads. On-road mobile source emission estimates should utilize the latest recommended on-road mobile source models; currently, that means the EPA's MOVES model for all states except California.

The MOVES model estimates emissions from vehicle exhaust and from mobile source evaporative emissions, both of which must be included in the inventory. Volatile hydrocarbons evaporate from fuel systems while a vehicle is refueling, parked, or driving. Evaporative processes differ from exhaust emissions because they don't directly involve combustion, which is the main process driving exhaust emissions.

[2] Technical Support Document (TSD) for the Base Year Inventory Submitted with the 2015 8-Hour Ozone NAAQS Marginal Area State Implementation Plan for the Baltimore, MD Nonattainment Area, included in the docket for this rulemaking available online at *https://www.regulations.gov,* Docket ID: EPA–R03–OAR–2021–0834.

[3] Emission Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations, Page 130, included in the docket for this rulemaking available online at *https://www.regulations.gov,* Docket ID: EPA–R03–OAR–2021–0834 PG 130.

As stated in Appendix A, MDE used EPA's MOVES2014a model to estimate the 2017 annual emissions as well as 2017 daily emissions from on-road vehicles and total energy consumption in Maryland. Emissions were estimated based on emission factors and vehicle activity. Emission factors for vehicles were based on vehicle type (*e.g.,* passenger cars, passenger trucks), vehicle age, and the vehicle's operating modes. Operating modes for running, start, and idle emissions are included in MOVES. The emission factors varied over a range of conditions, such as the ambient air temperature, speed, traffic conditions, road types, road topography, etc. The generated emission factors were then multiplied by the appropriate vehicle miles traveled (VMT) to estimate emissions.

To estimate the rate at which emissions are being generated and to calculate VMT, MDE examined its road network and fleet to estimate vehicle activity. For the annual inventories, this was done for each of the twelve months in 2017 and aggregated for the entire year. MDE used computer models to perform these calculations by simulating the travel of vehicles on the Maryland's roadway system.

EPA has reviewed the results, procedures, and methodologies for the SIP base year, as well as comparing the inventory with previously QA/QC data in EPA's 2017 NEI for any data discrepancies and found none. EPA has therefore determined the base year inventory to be acceptable and developed in accordance with EPA's technical guidance.

6. Biogenic Emissions

MDE also inventoried biogenic emissions, which are not included in the anthropogenic total. Biogenic emissions come from natural sources, including vegetation, soils, volcanic emissions, lightning, and sea salt. They need to be accounted for in photochemical grid models, as most types are widespread and ubiquitous contributors to background formation of ozone. However, they are not included in the RFP baseline.

Biogenic emissions are typically computed using a model which utilizes spatial information on vegetation and land use and environmental conditions of temperature and solar radiation. The model inputs are typically horizontally allocated (gridded) data, and the outputs are gridded biogenic emissions which can then be speciated and utilized as input to photochemical grid models.

In Appendix A, MDE explains that it used the data files created and made available by EPA. MDE computed biogenic emissions with a modified version of EPA's Biogenic Emission Inventory System (BEIS) model that utilized county land use data from EPA's land use inventory and temperature and cloud cover data from the National Weather Service. This method is acceptable under EPA's emission inventory guidance.

7. Emissions Summary

The Cecil County base year inventory SIP contains a summary of 2017 ozone season day emissions by source category, which is presented in Table 1 in this document. MDE notes that the biogenic emissions are taken from EPA's NEI 2014 database. Total biogenic emissions for July 2014 were divided by 31 days to develop average ozone season day emissions for each jurisdiction in the region and then added together to develop the regional total.

TABLE 1—2017 CECIL COUNTY BYE SUMMARY

[Tons per ozone season day]

Source category	VOC	NO_X	CO
Point	0.415	1.604	0.472
Quasi-Point	0.000	0.000	0.000
Non-Point	2.729	0.333	1.272
Non-Road	2.315	1.019	15.546
MAR	0.063	1.463	0.259
On-Road Mobile	1.468	4.460	19.110
Anthropogenic Total	6.990	8.879	36.660
Biogenic	33.776	0.555	4.079

III. Proposed Action

EPA's review of this material indicates the Cecil County base year inventory SIP meets the base year inventory requirement for the 2015 ozone NAAQS for Maryland's portion of the Philadelphia Area, which consists solely of Cecil County, Maryland. Therefore. EPA is proposing to approve the Cecil County base year inventory SIP, which was submitted on July 30, 2020. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

• Does not provide 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 proposed rulemaking, proposing to approve Maryland's portion of the Philadelphia nonattainment area base year inventory for the 2015 ozone NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 3, 2022

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2022–00468 Filed 1–13–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2020–0109; FF09E22000 FXES11130900000 223]

RIN 1018–BC98

Endangered and Threatened Wildlife and Plants; Removal of 23 Extinct Species From the Lists of Endangered and Threatened Wildlife and Plants; Ivory-Billed Woodpecker; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and announcement of public hearing; correction.

SUMMARY: This document corrects a date in a document that reopened a comment period on a proposed rule and announced a public hearing. On January 11, 2022, we, the U.S. Fish and Wildlife Service, announced that we are reopening the public comment period on our September 30, 2021, proposal to remove 23 species from the Federal Lists of Endangered and Threatened Wildlife and Plants (List) due to extinction. We also announced a public hearing on the proposal to remove the ivory-billed woodpecker from the List and stated that the comment period reopening is only for the ivory-billed woodpecker proposed delisting. The document stated that the public hearing would take place on January 26, 2021. The correct date is January 26, 2022.

DATES: January 14, 2022.

FOR FURTHER INFORMATION CONTACT: Elizabeth Maclin, Branch of Delisting and Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: ES, Falls Church, VA 22041; telephone 703–358–2646. If you use a telecommunications device for the deaf, call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule document FR Doc. 2022–00322 in the issue of January 11, 2022, on page 1390 in the third column, make the following correction in **DATES:**

Public hearing: On January 26, 2022, we will hold a public hearing on the ivory-billed woodpecker proposed delisting from 6:00 to 7:30 p.m., Central Time, using the Zoom platform (for more information, see Public Hearing, below).

Madonna Baucum,

Regulations and Policy Chief, Division of Policy, Economics, Risk Management, and Analytics, Joint Administrative Operations, U.S. Fish and Wildlife Service.

[FR Doc. 2022–00658 Filed 1–13–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 220110–0006]

RIN 0648–BL00

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Fishery of the Atlantic; Amendment 10

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 10 to the Fishery Management Plan (FMP) for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin and Wahoo FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This proposed rule would revise the annual catch limits (ACLs), accountability measures (AMs), and additional management measures for dolphin and wahoo. The additional management measures would address commercial trip limits, authorized fishing gear, the operator permit (card) requirement for dolphin and wahoo, and the recreational vessel limit for dolphin. Amendment 10 would also revise the acceptable biological catch (ABC) and sector allocations for both dolphin and wahoo. The purpose of this proposed rule and Amendment 10 is to base conservation and management measures for dolphin and wahoo on the best scientific information available and increase net benefits to the fishery.

DATES: Written comments must be received on or before February 14, 2022.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2021–0093,'' by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter ''NOAA–NMFS–2021–0093'', in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Written comments on the burden-hour estimates or other aspects of the

collection-of-information requirements contained in this proposed rule may be submitted to Adam Bailey, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701 and 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.

Electronic copies of Amendment 10, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-10-changes-catch-levels-sector-allocations-accountability-measures-and-management.*

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727–824–5305, or email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery in Federal waters from Maine south to the Florida Keys in the Atlantic is managed under the Dolphin and Wahoo FMP. The Dolphin and Wahoo FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The current total ACLs for both dolphin and wahoo were implemented in 2014 by Amendment 5 to the Dolphin and Wahoo FMP (Amendment 5), and are based on the Council's Scientific and Statistical Committee's (SSC) ABC recommendations using the third highest landings value during 1999–2008 (79 FR 32878; June 9, 2014). The landings data during that time period did not include recreational landings from Monroe County, Florida, and were based on recreational data from the Marine Recreational Information Program's (MRIP) Coastal Household Telephone Survey (CHTS) method. In April 2020, the Council's SSC recommended new ABC levels for dolphin and wahoo using the third highest annual commercial and recreational landings value during 1994–2007. These landings include recreational landings from Monroe County, Florida, and used MRIP's Fishing Effort Survey (FES) method, which is considered more reliable and robust compared to the CHTS survey method. The new ABC recommendations for dolphin and wahoo are also based on the new weight estimation procedure from NMFS Southeast Fisheries Science Center (SEFSC) that uses a 15 fish minimum sample size and represents the best scientific information available. This proposed rule would revise the total ACLs for dolphin and wahoo to equal the new ABC values.

The current sector allocations for dolphin were implemented in 2016 by Amendment 8 to the Dolphin and Wahoo FMP (Amendment 8), with 10.00 percent of the total ACL to the commercial sector and 90.00 percent of the total ACL to the recreational sector (81 FR 3731; January 22, 2016). In 2015, the commercial sector was closed because the commercial ACL was met during that fishing year. In Amendment 8, the Council set the commercial allocation at the average of the percentages of the total commercial catch for 2008–2012, and the resulting 10 percent of the total ACL for the commercial allocation was expected to prevent subsequent closures of the commercial sector. The current sector allocations for wahoo were implemented in 2014 by Amendment 5, with 3.93 percent of the total ACL to the commercial sector and 96.07 percent of the total ACL to the recreational sector. The Council decided on these wahoo allocations by balancing long-term catch history with recent catch history, and determined this method as the most fair and equitable way to allocate fishery resources since it considered past and present participation. The current allocations for both dolphin and wahoo were applied to the respective species' total ACLs (equal to the ABCs) to obtain the sector ACLs.

Amendment 10 would specify commercial and recreational allocations for dolphin at 7.00 percent and 93.00 percent, respectively. For wahoo, Amendment 10 would specify commercial and recreational allocations at 2.45 percent and 97.55 percent, respectively. These proposed allocations would be applied to the respective species' proposed total ACLs (equal to the proposed ABCs) using the third highest landings value during 1994–2007 to determine the proposed sector ACLs. The proposed sector ACLs for dolphin and wahoo were derived from landings which include recreational landings from Monroe County, Florida, use MRIP's FES method, and SEFSC'S new weight estimation procedure. For dolphin, the Council has determined that the proposed allocations and revised sector ACLs would avoid a decrease in the current pounds of dolphin available to either sector's ACL. For wahoo, the Council's intent is to maintain the current commercial ACL and allocate the remaining revised ACL to the recreational sector.

Amendment 10 and this proposed rule do not propose any changes to the commercial AMs for dolphin or wahoo. The current recreational AMs for dolphin and wahoo were implemented in 2014 by Amendment 5, and do not contain an in-season AM but instead require a monitoring for persistence in recreational landings during the year following any recreational ACL overage. Further, the current recreational post-season AMs state that if the combined commercial and recreational landings exceed the combined commercial and recreational ACLs, and dolphin and wahoo are overfished, the recreational ACL for the following year will be reduced by the amount of the recreational overage in the prior fishing year, and the recreational fishing season will be reduced by the amount necessary to ensure recreational landings do not exceed the reduced ACL. The Regional Administrator (RA) will determine, using the best scientific information available, if a reduction in the recreational ACL and a reduction in the length of the following fishing season is unnecessary. These recreational post-season AMs for dolphin and wahoo are not viable because the post-season AMs would not be triggered as there is not a peer-reviewed stock assessment for dolphin and wahoo, and such assessment is unlikely to be conducted in the near future. Therefore, there is no likely method to determine their stock status. This proposed rule would establish a trigger to implement post-season AMs and once triggered, specify the post-season AMs for dolphin and wahoo that would not be based on their stock status.

In 2017, Regulatory Amendment 1 to the Dolphin and Wahoo FMP and associated final rule implemented the current commercial trip limit for dolphin of 4,000 lb (1,814 kg), round weight, once 75 percent of the commercial ACL is reached (82 FR 8820; January 31, 2017). Prior to reaching 75 percent of the commercial ACL, there is no commercial trip limit for dolphin. In 2004, the final rule for the original Dolphin and Wahoo FMP implemented the current commercial trip limit for wahoo of 500 lb (227 kg); and a commercial trip limit of 200 lb (91 kg) of dolphin and wahoo, combined, provided that all fishing on and landings from that trip are north of 39° N latitude, for a vessel that does not have a Federal commercial vessel permit for dolphin and wahoo but has a Federal commercial vessel permit in any other fishery.

In 2004, the final rule for the original Dolphin and Wahoo FMP also

implemented the currently authorized commercial gear types in the dolphin and wahoo fishery in the Atlantic Exclusive Economic Zone (EEZ) as automatic reel, bandit gear, handline, pelagic longline, rod and reel, and spearfishing gear (including powerheads). A person aboard a vessel in the Atlantic EEZ that has on board gear types (including trap, pot, or buoy gear) other than authorized gear types may not possess dolphin or wahoo. In 2016, the Atlantic Offshore Lobstermen's Association initially requested that the Council modify the fishing gear regulations to allow the lobster fishery's historical practice of harvesting dolphin by rod and reel while in the possession of lobster pots to continue. This proposed rule would allow a vessel in the Atlantic EEZ that possesses both a Federal Atlantic Dolphin/Wahoo commercial permit and any valid Federal commercial permit(s) required to fish using trap, pot, or buoy gear; or is in compliance with permit requirements specified for the spiny lobster fishery in 50 CFR 622.400 to retain dolphin and wahoo caught by rod and reel while in possession of such gear types.

In 2004, the original Dolphin and Wahoo FMP and associated final rule implemented the requirement for a vessel operator or a crew member to hold a valid operator permit (also called an operator card) for the Atlantic dolphin and wahoo commercial permit or a charter vessel/headboat permit for Atlantic dolphin and wahoo to be valid. The operator permit requirement was implemented to improve enforcement within the fishery, aid in data collection, and decrease costs to vessel owners from fishery violations by vessel operators. However, in actuality, the benefits of operator permits to improve enforcement have not occurred as they have not been widely used as an enforcement tool since implementation. Rather, other methods of fishery enforcement, such as vessel permits and landings, have been used by law enforcement within the fishery. Because the expected benefits from operator permits are not being realized, this proposed rule would remove the requirement for operator permits in the dolphin and wahoo fishery.

The current dolphin recreational bag limit of 10 fish per person, not to exceed 60 fish per vessel in the Atlantic EEZ, was implemented by the original Dolphin and Wahoo FMP in 2004. Since then, interest in recreational harvest of dolphin has increased and Council public testimony, especially from Florida and its constituents, has recommended a decrease in the recreational retention limits to further control recreational harvest. This proposed rule would decrease the dolphin recreational vessel limit for charter vessels and private recreational vessels, excluding headboats. The dolphin individual recreational bag limit or 10 fish per person in the Atlantic EEZ remains unchanged.

Management Measures Contained in This Proposed Rule

ACLs

Dolphin

The current total ACL for dolphin is 15,344,846 lb (6,960,305 kg), round weight. This proposed rule would revise the total ACL for dolphin to 24,570,764 lb (11,145,111 kg), round weight, based on the ABC recommended by the Council's SSC. The revised total ACL is equal to the ABC as described in Amendment 10 and is based upon best scientific information available. As a species, dolphin are highly fecund, spawn throughout a wide geographical range, have an early age at first maturity, and a short generation time and so therefore, dolphin's life-history could support the increase in the total ACL. The Report to Congress on the Status of U.S. Stocks indicates dolphin is not overfished, and is not undergoing overfishing. Additionally, the Council noted that based on the last 20 years of total landings data for dolphin, it appears unlikely that harvest would consistently exceed the proposed total ACL. Commercial landings are well tracked through electronic dealer reporting requirements, there is a commercial trip limit in place, and recreational landings for dolphin exhibit relatively low percent standard errors (PSE). The Council also noted that setting the ACL equal to the ABC may allow the dolphin portion of the dolphin and wahoo fishery to take advantage of years of exceptionally high abundance of dolphin.

The current commercial and recreational ACLs for dolphin are 1,534,485 lb (696,031 kg), round weight, and 13,810,361 lb (6,264,274 kg), round weight, respectively. These are based on the current commercial and recreational allocations of 10.00 percent and 90.00 percent, respectively. The proposed commercial and recreational ACLs for dolphin are 1,719,953 lb (780,158 kg), round weight, and 22,850,811 lb (10,364,954 kg), round weight, respectively. The proposed dolphin sector ACLs are based on the commercial and recreational allocations of 7.00 percent and 93.00 percent, respectively.

Wahoo

The current total ACL for wahoo is 1,794,960 lb (814,180 kg), round weight. The proposed rule would revise the total ACL for wahoo to 2,885,303 lb (1,308,751 kg), round weight based upon the ABC recommended by the Council's SSC. The revised total ACL is equal to the ABC and is based upon best scientific information available. Wahoo also exhibit rapid growth rates, are highly migratory, and are sexually mature at an early age and so their life history also supports an increase in the ACL. The overfishing and overfished status of wahoo is unknown. However, recent studies found that wahoo did not show a negative decline in relative abundance in recent years. The Council noted that commercial landings for wahoo are also well tracked through electronic dealer reporting requirements, there is a commercial trip limit of 500 lb (227 kg), and that recreational landings for wahoo exhibit relatively low PSEs. The Council also noted that setting the ACL equal to the ABC will allow the wahoo portion of the dolphin and wahoo fishery to take advantage of years when there is exceptionally high abundance of wahoo.

The current commercial and recreational ACLs for wahoo are 70,542 lb (31,997 kg), round weight, and 1,724,418 lb (782,183 kg), round weight, respectively. These are based on the current commercial and recreational allocations of 3.93 percent and 96.07 percent, respectively. The proposed commercial and recreational ACLs for wahoo are 70,690 lb (32,064 kg), round weight, and 2,814,613 lb (1,276,687 kg), round weight, respectively. The proposed sector ACLs are based on the commercial and recreational allocations of 2.45 percent and 97.55 percent, respectively.

No biological effects are expected to the dolphin and wahoo stocks from these allocation changes because the proposed sector ACLs would not change the proposed total ACLs for dolphin and wahoo. The commercial sector for dolphin and wahoo has effective in-season AM already in place to help constrain commercial harvest, and this proposed rule considers modifications to the post-season AMs to both stocks to reduce the risk of the recreational ACL from being exceeded. In deciding on new sector allocations, the Council wanted to recognize the needs of the recreational sector for dolphin and wahoo which would exhibit higher landings than previously estimated with the new accounting of recreational landings using MRIP's FES method. At the same time the Council did not want

to reduce the commercial ACLs on a pound basis for dolphin and wahoo and noted that the proposed allocations and sector ACLs would strike a balance between the needs of both sectors.

AMs

Dolphin

This proposed rule would revise the recreational AMs for dolphin. The current in-season closure and stock status based post-season AM would be replaced. The proposed recreational AM would be a post-season AM that would be triggered in the following fishing year if the total ACL (commercial and recreational ACLs, combined) is exceeded. The Council's intent is to avoid closing recreational harvest in-season and extend maximum fishing opportunities to the recreational sector without triggering the recreational AM, as long as the commercial sector is under harvesting its sector ACL. The revised recreational AM trigger would also help ensure sustainable harvest by preventing the total ACL from being exceeded on a consistent basis. Once triggered, the proposed post-season recreational AM would reduce the length of the following recreational fishing season by the amount necessary to prevent the recreational ACL from being exceeded in the following year. However, the length of the recreational season would not be reduced if the Regional Administrator (RA) determines, using the best available science, that the season reduction is not necessary. The Council noted that there would be a relatively low likelihood of the recreational AM for dolphin being triggered, because the proposed recreational ACL is based on the proposed ABC, which is set at a relatively high level of landings that is not often observed in the dolphin portion of the dolphin and wahoo fishery. Additionally, any determination that the total ACL had been exceeded would allow for the monitoring of landings during the following season to evaluate whether the elevated landings from the previous fishing year are continuing to persist. That information would inform decisions on whether a fishing season closure would actually need to occur to constrain harvest to the ACL.

Wahoo

This proposed rule would revise the recreational AMs for wahoo. The current in-season closure and stock status based post-season AM would be replaced. The proposed recreational AM would be a post-season AM that would be triggered in the following fishing year if the recreational ACLs are constant and the 3-year geometric mean of landings exceeds the recreational ACL. As described in Amendment 10, whenever the recreational ACL is changed, a single year of landings would be used an overage determination, beginning with the most recent available year of landings, then a 2-year average of landings from that single year and the subsequent year, then a 3-year average of landings from those 2 years and the subsequent year, and thereafter a progressive running 3-year average would be used to determine if the recreational AM trigger has been met. The Council noted this approach would allow the recreational AM to be triggered if the ACL was exceeded on a consistent basis. A 3-year geometric mean would help to smooth the data and potentially avoid implementing restrictive recreational post-season AMs unnecessarily if there was an anomaly in the recreational landings estimates during those 3 years that was not accurately reflecting an actual increase in the harvest of wahoo. It was also noted by the Council that a geometric mean is less sensitive to being affected by abnormally large variations in landings estimates than using the arithmetic mean or using a single year point estimate. Once triggered, the post-season recreational AM would reduce the length of the following recreational fishing season by the amount necessary to prevent the recreational ACL from being exceeded in that year. However, the length of the recreational season would not be reduced if the RA determines, using the best available science, that a fishing season reduction is not necessary. Additionally, any determination that the ACL had been exceeded would allow for the monitoring of landings for the following season to evaluate whether the elevated landings from the previous year are continuing to persist. That information would inform decisions on whether a late season harvest closure would actually need to occur. The Council also noted the relatively equitable nature and equally distributed effects of a shortening of the recreational season, as wahoo are often targeted and caught late in the year in many areas of the Atlantic region.

Commercial Trip Limits and Authorized Gear Exemption

For vessels with a commercial permit for Atlantic dolphin and wahoo, under the current trip limits, dolphin and wahoo may only be harvested and possessed with the authorized gear types onboard. These gear types are automatic reel, bandit gear, handline, pelagic longline, rod and reel, and spearfishing gear. Possession on the vessel of any other gear type results in a prohibition of the possession of any dolphin or wahoo.

American lobster fishers requested to the Council that they be allowed to possess dolphin or wahoo while they moved from one lobster pot to the next. The Council wanted to allow for the authorized gear exemption based on a request from the Atlantic Offshore Lobstermen's Association to allow the historical practice of harvesting dolphin with rod and reel while in the possession of lobster pots to continue and also take a broader approach to allow vessels fishing with trap, pot, or buoy gear to possess dolphin or wahoo as long as the fish were harvested with rod and reel gear. The Council decided to be more comprehensive and included other trap, pot, and buoy gear. This proposed rule would allow for a new category of commercial trip limits for dolphin and wahoo based on a proposed authorized gear exemption for trap, pot, and buoy gear. This proposed rule would allow the harvest and retention of 500 lb (227 kg), gutted weight, of dolphin and 500 lb (227 kg) of wahoo, on board a vessel in the Atlantic EEZ that possesses both an Atlantic Dolphin/Wahoo commercial permit and any valid Federal commercial permit(s) required that allow a vessel to fish using trap, pot, or buoy gear or is in compliance with the permitting requirements for the spiny lobster of the Gulf of Mexico and South Atlantic as described at 50 CFR 622.400, caught by rod and reel while in possession of such gear types. The proposed commercial trip limits under the authorized gear exemption may not be combined with the current commercial trip limits for commercially permitted dolphin and wahoo vessels. The Council determined that this additional regulatory flexibility would have positive economic effects within the fishery while also limiting the potential for any unforeseen significant increases in commercial landings through the specific setting of the 500 lb (227 kg), gutted weight, trip limit.

Operator Permits

Currently, an operator of a vessel with either a commercial permit or a charter vessel/headboat permit for dolphin and wahoo is required to have an operator permit. Such operator permit must be onboard the vessel and the vessel owner is required to have a permitted operator onboard the vessel while it is at sea or offloading. This operator permit requirement was implemented in 2004, through the original FMP for dolphin

and wahoo, as a way to assist in law enforcement efforts within the fishery by holding the vessel operator accountable for any violation of regulations and to aid in data collection (69 FR 30235; May 27, 2004).

This proposed rule would remove the current requirements for operator permits and permitted operators for both the dolphin and wahoo commercial and charter vessel/headboat permitted vessels. At the March 2016 Council meeting, the NMFS Office of Law Enforcement (OLE) gave a presentation on operator permits, and stated that the operator permits are not used to a large extent by OLE or their law enforcement partners for gathering data, distributing information, or enforcement. The Council noted that there is some potential value for operator permits in aiding law enforcement efforts, but the inconsistent requirements between Atlantic fisheries greatly diminishes this utility. Public testimony indicated that operator permits are rarely checked by enforcement personnel during fishing trips and are burdensome for fishermen to renew and maintain. The Council determined that the limited use of operator permits in the dolphin and wahoo fishery did not outweigh the cost to fishermen to obtain the permit, and removing this requirement would yield positive social, economic, and administrative benefits.

Recreational Bag and Vessel Limits for Dolphin

For Atlantic dolphin, the current bag and possession limits are 10 fish per person, not to exceed 60 fish per vessel, whichever is less, except onboard a headboat where the limit is 10 per paying passenger. This proposed rule would decrease the recreational dolphin vessel limit from 60 fish per vessel to 54 fish for charter vessels and private recreational vessels, excluding headboats, in the Atlantic EEZ. The recreational bag limit for private recreational anglers and passengers onboard charter vessels and headboats will remain at 10 fish per person in the Atlantic EEZ. As a result of the proposed possession limit reduction, the total estimated annual reduction in recreational landings is expected to be 114,051 lb (51,733 kg), round weight. Data analysis in Amendment 10 demonstrated that most of the recreational trips in the Atlantic EEZ targeting dolphin harvested less than 10 fish per vessel. Therefore, as a result of the very small proportion of recreational trips that might reach the proposed vessel limit of 54 fish per vessel, no change in fishing activity or behavior is anticipated. The Council noted that one of the goals of the Dolphin and Wahoo FMP is to maintain a precautionary approach to management. While there is no Southeast Data and Assessment Review stock assessment for dolphin and the stock is listed as not overfished or undergoing overfishing, the Council heard public testimony, particularly from anglers in Florida, that dolphin abundance appears to be low and there was concern over the health of the dolphin stock and the associated fishery. The Council determined a coast-wide reduction in the vessel limit was appropriate to maintain consistency of regulations across the region in the retention limits for dolphin and noted that such a change in retention limits would lead to more substantial harvest reductions than a Florida-specific or regional approach.

Management Measures in Amendment 10 Not Contained in This Proposed Rule

ABC

The current ABC for dolphin and wahoo was implemented in 2014 by Amendment 5, and are based on the Council's SSC's recommendations using the third highest landings value during 1999–2008. These landings did not include recreational landings from Monroe County, Florida, and were based on recreational data from the MRIP CHTS method. In April 2020, the Council's SSC recommended new ABC levels for dolphin and wahoo using the third highest landings value during 1994–2007. These landings include recreational landings from Monroe County, Florida, and used MRIP's FES method, which is considered more reliable by the Council's SSC, the Council, and NMFS, and more robust compared to the CHTS survey method. The new ABC recommendations within Amendment 10 for dolphin and wahoo are also based on the new weight estimation procedure from NMFS SEFSC that uses a 15 fish minimum sample size and represents the best scientific information available.

Sector Allocations

As discussed, Amendment 10 would revise the commercial and recreational allocations for both dolphin and wahoo. For dolphin, the current commercial and recreational allocations are 10.00 percent and 90.00 percent, respectively. The new dolphin sector allocations would result in commercial and recreational allocations of 7.00 percent and 93.00 percent, respectively. For wahoo, the current commercial and recreational allocations are 3.93 percent and 96.07 percent, respectively. The new wahoo sector allocations would result in commercial and recreational allocations of 2.45 percent and 97.55 percent, respectively.

As discussed, in deciding on new sector allocations, the Council wanted to recognize the needs of the recreational sector for both dolphin and wahoo which would exhibit higher landings than previously estimated with the new accounting of recreational landings using MRIP's FES method. At the same time the Council did not want to reduce the commercial ACLs on a pound basis for dolphin and wahoo and noted that the proposed allocations and sector ACLs would strike a balance between the needs of both sectors.

Goals and Objectives

The goals and objectives of the Dolphin and Wahoo FMP were implemented through the original fishery management plan in 2004 and have not been revised since then. In 2016, the Fisheries Allocation Review Policy (NMFS Policy Directive 01–119) encouraged the use of adaptive management with respect to allocation revisions, and recommended periodic re-evaluation and updating of the management goals and objectives of any FMP to ensure they are relevant to current conditions and needs. Amendment 10 would revise these Dolphin and Wahoo FMP goals and objectives in response to the 2016 Fisheries Allocation Review Policy and ensure the goals and objectives reflect the current dolphin and wahoo fishery. Specifically, the revised goals and objectives seek to manage the dolphin and wahoo fishery using a precautionary approach that maintains access, minimizes competition, preserves the social and economic importance of the fishery, as well as promotes research and incorporation of ecosystem considerations where practicable.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 10, the Dolphin and Wahoo FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Magnuson-Stevens Act provides the legal basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-

keeping requirements are introduced by this proposed rule. A description of this proposed rule, why it is being considered, and the purposes of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble. The objectives of this proposed rule are to base conservation and management measures on the best scientific information available and increase net benefits to the Nation, consistent with the Magnuson-Stevens Act and its National Standards.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. A description of the factual basis for this determination follows. All monetary estimates in the following analysis are in 2019 dollars.

This proposed rule, if implemented, would set the total ACL for dolphin equal to the new ABC for dolphin that was recommended by the Council's SSC. The new total ACL would be equal to 24,570,764 lb (11,145,102 kg), round weight, where the recreational component of the total ACL is based on MRIP–FES data. The current total ACL is 15,344,846 lb (6,960,299 kg), round weight, where the recreational component of the total ACL is based on MRIP–CHTS data. Amendment 10 would increase the recreational allocation of the total ACL for dolphin from 90 percent to 93 percent and decrease the commercial allocation of the total ACL for dolphin from 10 percent to 7 percent.

This proposed rule would set the total ACL for wahoo equal to the new ABC for wahoo that was recommended by the Council's SSC. The new total ACL would be equal to 2,885,303 lb (1,308,750 kg), round weight, where the recreational component of the total ACL is based on MRIP–FES data. The current total ACL is 1,794,960 lb (814,179 kg), round weight, where the recreational component of the total ACL is based on MRIP–CHTS data. Amendment 10 would also increase the recreational allocation of the total ACL for wahoo from 96.07 percent to 97.55 percent and decrease the commercial allocation of the total ACL for wahoo from 3.93 percent to 2.45 percent.

This proposed rule would also revise the trigger for the post-season recreational AM for dolphin and revise the post-season recreational AM for dolphin. Currently, if recreational landings exceed the recreational ACL, then during the following fishing year, recreational landings will be monitored for persistence in increased landings. If the recreational ACL is exceeded, it will be reduced by the amount of the recreational ACL overage in the following fishing year and the recreational season will be reduced by the amount necessary to ensure that recreational landings do not exceed the reduced ACL, only if the species is overfished and the total ACL is exceeded. Under the proposed rule, post season AMs would be implemented in the following fishing year for the recreational sector if the total ACL is exceeded, and the length of the following recreational fishing season would be reduced by the amount necessary to prevent the recreational ACL from being exceeded in the following year. However, the length of the recreational season would not be reduced if the RA determines it is not necessary using the best available science.

This proposed rule would also revise the trigger for the post-season recreational AM for wahoo and revise the post-season recreational AM for wahoo. Currently, if recreational landings exceed the recreational ACL, then during the following fishing year, recreational landings will be monitored for persistence in increased landings. If the recreational ACL is exceeded, it will be reduced by the amount of the recreational ACL overage in the following fishing year and the recreational season will be reduced by the amount necessary to ensure that recreational landings do not exceed the reduced ACL only if wahoo is overfished and the total ACL is exceeded. Under the proposed rule, if the recreational ACL is constant, post season AMs would be implemented in the following fishing year if the 3-year geometric mean of landings exceeds the recreational ACL and the length of the following recreational fishing season would be reduced by the amount necessary to prevent the recreational ACL from being exceeded in the following year. If the recreational ACL is changed, then the most recent 1-year or 2-year average of landings would be used as the trigger in place of the 3-year geometric mean. However, the length of the recreational season would not be reduced if the RA determines it is not necessary using the best available science.

This proposed rule would also allow a vessel that possesses a valid Atlantic dolphin and wahoo commercial vessel permit, and either possesses a valid Federal commercial permit to fish trap, pot, or buoy gear or is in compliance with the Federal regulations for spiny lobster permits, to retain up to 500 lb (228 kg), gutted weight, of dolphin and 500 lb (228 kg) of wahoo using rod and reel gear with trap, pot, or buoy gear on board. Currently, vessels with trap, pot, or buoy gear on board are not allowed to retain dolphin or wahoo.

This proposed rule would also remove the requirement for a vessel captain or crewmember to possess an operator permit (also known as an ''operator card'') in order for a vessel's Atlantic dolphin and wahoo commercial permit or Atlantic dolphin and wahoo charter vessel/headboat permit to be valid. Lastly, this proposed rule would also reduce the recreational vessel limit for dolphin from 60 fish to 54 fish per trip for private recreational and charter vessels.

From 2015 through 2019, the average number of vessels that commercially harvested dolphin or wahoo using any type of gear was 721 per year. Many vessels commercially harvest both dolphin and wahoo and some vessels use longline gear as well as other gear to harvest dolphin or wahoo on trips throughout a given year. The direct effects on commercial vessels from the actions to change the total ACLs and sector allocations are expected to vary depending on whether they harvest dolphin or wahoo as well as whether they use longline gear or other gear to harvest dolphin or wahoo. From 2015 through 2019, the average number of vessels commercially harvesting Atlantic dolphin per year was 677. Of these 677 vessels, an average of 85 vessels used longline gear while an average of 592 vessels used other gear to commercially harvest Atlantic dolphin per year. During this time, the average number of vessels commercially harvesting Atlantic wahoo was 319. Of these 319 vessels, an average of 53 vessels used longline gear and an average of 266 vessels used other gear to commercially harvest Atlantic wahoo.

However, the proposed action to remove the requirement for a vessel captain or crewmember to possess an operator permit would affect all vessels with valid Atlantic dolphin and wahoo commercial or Atlantic charter vessel/headboat permits regardless of whether they harvest dolphin or wahoo. Further, some vessels possess both permits. The total number of vessels with either a valid Atlantic dolphin and wahoo commercial or Atlantic charter vessel/headboat permit is estimated to be 4,070, of which 2,266 were determined to primarily be commercial fishing vessels while 1,804 vessels were determined to primarily be for-hire fishing vessels.

Although NMFS possesses complete ownership data for businesses and vessels that participate in other industries, ownership data regarding businesses that possess Atlantic dolphin and wahoo commercial or charter vessel/headboat permits are incomplete. Therefore, it is not currently feasible to accurately determine affiliations between these particular businesses. Because of the incomplete ownership data, for purposes of this analysis, it is assumed each of these vessels is independently owned by a single business, which is expected to result in an overestimate of the actual number of businesses directly regulated by this proposed action. Thus, based on the information above, this proposed rule is estimated to directly regulate 2,266 commercial fishing businesses and 1,804 for-hire fishing businesses in the Atlantic dolphin and wahoo fishery.

From 2015 through 2019, the average annual gross revenue for a vessel commercially harvesting Atlantic dolphin using longline gear was $268,849 while the average annual gross revenue for a vessel commercially harvesting Atlantic wahoo using longline gear was $244,552. The best available estimate of economic profit for longline vessels is net revenue as a percentage of gross revenue, which is estimated to be 39.7 percent. This estimate results in an overestimate of actual economic profit as it does not account for implicit costs (*e.g.,* the cost of an owner operator's time) or fixed costs. Nonetheless, annual economic profit for vessels harvesting Atlantic dolphin using longline gear is estimated to be $105,472 per vessel, while annual economic profit for vessels harvesting Atlantic wahoo using longline gear is estimated to be $136,787.

From 2015 through 2019, the average annual gross revenue for a vessel commercially harvesting Atlantic dolphin using other gear was $52,009 while the average annual gross revenue for a vessel commercially harvesting Atlantic wahoo using other gear was $46,336. For vessels using other gear, after accounting for all costs, net operating revenue is estimated to be 0.5 percent of gross revenue. Therefore, annual economic profit for vessels harvesting Atlantic dolphin using other gear is estimated to be $261 per vessel, while annual economic profit for vessels harvesting Atlantic wahoo using other gear is estimated to be $232.

For Regulatory Flexibility Act purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (50 CFR 200.2). A business primarily involved in the commercial fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts (revenue) are not in excess of $11 million for all of its affiliated operations worldwide. From 2015 through 2019, the maximum annual gross revenue earned by a single commercial fishing vessel (business) in the Atlantic dolphin wahoo fishery was approximately $1.56 million. Based on the information above, all commercial fishing businesses directly regulated by this proposed rule are determined to be small businesses for the purpose of this analysis.

For other industries, the SBA has established size standards for all major industry sectors in the U.S., including for-hire fishing businesses (NAICS code 487210). A business primarily involved in for-hire fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has annual receipts (revenue) not in excess of $8 million for all its affiliated operations worldwide. Average annual gross revenue for a charter vessel in the South Atlantic is slightly more than $125,000, while average annual gross revenue for a headboat in the South Atlantic is more than $304,000. Thus, on average, annual gross revenue for headboats is more than double the annual gross revenue for charter vessels, reflecting the fact that businesses that own charter vessels are typically smaller than businesses that own headboats. Average annual gross revenues for charter vessels and headboats in the Northeast region are less than in the South Atlantic. The maximum annual gross revenue for a single headboat in the South Atlantic was about $.78 million in 2017. Based on this information, all for-hire fishing businesses directly regulated by this proposed rule are determined to be small businesses for the purpose of this analysis.

The proposed actions to increase the total ACLs for dolphin and wahoo are not expected to directly affect for-hire fishing vessels. Harvest for the non-headboat components of the recreational sector, including for charter vessels, will now be based on MRIP–FES data rather than MRIP–CHTS data. Non-headboat landings accounted for 99.9 percent of dolphin and wahoo recreational landings from 2015 through 2019. This change in the estimation method does not change how many dolphin or wahoo are actually being harvested by for-hire vessels. Rather, the FES method generates more accurate estimates of effort (trips) and harvest. Thus, the increase in the recreational component of the new ACLs does not necessarily reflect an actual increase in what the recreational sector, including for-hire fishing vessels, can potentially harvest.

With respect to the proposed actions to increase the recreational sector allocations for dolphin and wahoo, assuming the new total ACLs discussed above, the recreational ACL for dolphin is expected to increase by 737,123 lb (334,353 kg), round weight, or by 3.3 percent, and the recreational ACL for wahoo is expected to increase by 42,702 lb (19,369 kg), round weight, or 1.5 percent. The underlying analysis assumed that changes in the recreational ACLs due to these proposed actions would only affect catch per angler trip and not the total number of trips harvesting dolphin or wahoo (*i.e.,* catch trips or effort). It is even more likely that target trips for dolphin and wahoo are unlikely to change because of these proposed actions, which is important as target trips are assumed to be the source of profits for for-hire fishing vessels. The recreational fishing seasons for dolphin and wahoo are currently year-round and that is not expected to change because of these actions. Thus, target trips for dolphin or wahoo would not be expected to change because of a change in the fishing season length. Headboats only accounted for 0.1 percent of dolphin and wahoo landings from 2015 through 2019. If that trend continues in the future, their landings would only potentially increase by 7,371 lb (3,343 kg), round weight, of dolphin and 43 lb (20 kg), round weight, of wahoo. It is highly unlikely that headboats would increase their target effort for dolphin or wahoo because of such small increases. Charter vessels accounted for 15.8 percent of dolphin landings and 13.4 percent of wahoo landings from 2015 through 2019. If that continues in the future, their landings could potentially increase by 116,465 lb (52,828 kg), round weight, for dolphin and 5,722 lb (2,595 kg), round weight, for wahoo. As with headboats, this minor increase in their potential landings for wahoo would not be expected to change their target effort for wahoo. However, the potential increase in dolphin landings by charter vessels is not insignificant and it is possible that the number of trips harvesting and even targeting dolphin could increase. However, the increase in the supply of dolphin available for harvest by charter vessels would only lead to an increase in the number of target trips for dolphin if it is accompanied by an increase in the demand for trips targeting dolphin

by charter vessels. As the proposed action by itself is not expected to induce a higher demand for target trips, the assumption that target trips for dolphin by charter vessels would not change seems reasonable. Because the number of for-hire fishing trips targeting dolphin or wahoo is not expected to change, no change in economic profits to for-hire fishing vessels is expected due to these actions. However, if target trips for dolphin by charter vessels were to increase, their profits would be expected to increase as well.

Conversely, the proposed actions to increase the total ACL and decrease the commercial sector's allocation of the total ACL for dolphin are expected to directly affect vessels commercially harvesting dolphin. The magnitude of these effects are expected to vary depending on whether vessels use longline gear or other gear to commercially harvest dolphin, in part because longline vessels are responsible for harvesting 78 percent of the commercial Atlantic dolphin landings while vessels using other gear only harvest 22 percent. Further, the average ex-vessel price for dolphin landed by longline gear is $3.17/lb, round weight, while the average ex-vessel price for dolphin landed by other gear is only $3.05/lb, round weight.

Compared to average annual landings from 2015 through 2019, for longline vessels, the increase in the total ACL for dolphin could result in an increase of 1,309,456 lb (593,959 kg), round weight, in landings of dolphin. This increase in landings would be expected to increase their gross revenue by approximately $4,150,976, or $48,835 per vessel. This potential increase in gross revenue would be expected to increase economic profit for longline vessels by approximately $1,647,937, or $19,387 per vessel, which represents an 18.4 percent increase in their economic profits. Compared to average annual landings from 2015 through 2019, for vessels using other gear, the increase in the total ACL could result in an increase of 369,480 lb (167,593 kg), round weight, in landings of dolphin. This would be expected to increase their gross revenue by approximately $1,126,914, or $1,904 per vessel. This potential increase in gross revenue would be expected to increase economic profits by approximately $5,634, or about $10 per vessel, which represents a 3.6 percent increase in their economic profits.

However, the decrease in the commercial sector's allocation from 10 percent to 7 percent would partially offset some of these potential gains in landings, revenue and economic profits. Specifically, given the increased total ACL, for longline vessels, the decrease in the commercial sector's allocation for dolphin would reduce the potential landings, revenue, and economic profits of dolphin by 574,956 lb (260,795 kg), round weight, $1,822,611, and $723,577, respectively. On a per vessel basis, revenue and economic profit would decrease by approximately $21,442 and $8,513, respectively. Thus, for longline vessels, the combined effects of the higher total ACL and reduced commercial sector allocation for dolphin would potentially lead to an increase in landings, revenue, and economic profits for dolphin of 734,500 lb (333,163 kg), round weight, $2,328,365, and $924,360, respectively. On a per vessel basis, revenue and economic profit would increase by approximately $27,393 and $10,875, respectively, or by about 10.3 percent.

For vessels using other gear, increase in the total ACL and the decrease in the commercial sector's allocation for dolphin would reduce the potential landings, revenue, and economic profits of dolphin by 162,176 lb (73,562 kg), round weight, $494,610, and $2,473, respectively. On a per vessel basis, revenue and economic profit would decrease by approximately $36 and $4, respectively. Thus, for vessels using other gear, the combined effects of the higher total ACL and reduced commercial sector allocation for dolphin would potentially lead to an increase in landings, revenue, and economic profits for dolphin of 207,313 lb (94,036 kg), round weight, $632,304, and $3,161, respectively. On a per vessel basis, revenue and economic profit would increase by approximately $1,068 and $5, respectively, or by about 2 percent.

Similarly, the proposed actions to increase the total ACL and decrease the commercial sector's allocation of the total ACL for wahoo are expected to directly affect vessels commercially harvesting wahoo. The magnitude of these effects are expected to vary depending on whether vessels use longline gear or other gear to commercially harvest wahoo, in part because longline vessels are responsible for harvesting 28 percent of the commercial Atlantic wahoo landings while vessels using other gear harvest 72 percent. Further, the average ex-vessel price for wahoo landed by longline gear is $3.75/lb, round weight, while the ex-vessel price for wahoo landed by other gear is $4.05/lb, round weight.

Compared to average annual landings for longline vessels from 2015 through 2019, the increase in the total ACL for wahoo could result in an increase of 13,936 lb (6,321 kg), round weight, in landings of wahoo. This increase in landings would be expected to increase their gross revenue by approximately $52,260, or $986 per vessel. This potential increase in gross revenue would be expected to increase economic profits for longline vessels by approximately $20,747, or $391 per vessel, which represents a 0.3 percent increase in their economic profits. Compared to average annual landings for vessels using other gear from 2015 through 2019, the increase in the total ACL could result in an increase of 38,837 lb (17,616 kg), round weight, in landings of wahoo. This increase in landings would be expected to increase their gross revenue by approximately $157,290, or $591 per vessel. This potential increase in gross revenue would be expected to increase economic profits by approximately $786, or about $3 per vessel, which represents a 1.3 percent increase in their economic profits.

However, the decrease in the wahoo commercial sector's allocation from 3.93 percent to 2.45 percent would mostly offset these potential gains in landings, revenue and economic profits. Specifically, for longline vessels, the decrease in the commercial sector's allocation for wahoo would reduce the potential landings, revenue, and economic profits of wahoo by 11,957 lb (5,424 kg), round weight, $44,839, and $17,800, respectively. On a per vessel basis, revenue and economic profit would decrease by approximately $846 and $336, respectively. Thus, for longline vessels, the combined effects of the higher ACL and reduced commercial sector allocation for wahoo would potentially lead to an increase in landings, revenue, and economic profits for wahoo of 1,979 lb (898 kg), round weight, $7,421, and $2,947, respectively. On a per vessel basis, revenue and economic profit would increase by approximately $140 and $55, respectively, or by less than 0.1 percent.

For vessels using other gear, the decrease in the commercial sector's allocation for wahoo would reduce the potential landings, revenue, and economic profits of wahoo by 30,745 lb (13,946 kg), round weight, $124,519, and $623, respectively. On a per vessel basis, revenue and economic profit would decrease by approximately $468 and slightly more than $2, respectively. Thus, for vessels using other gear, the combined effects of the higher ACL and reduced commercial sector allocation for wahoo would potentially lead to an increase in landings, revenue, and

economic profits for wahoo of 8,092 lb (3,670 kg), round weight, $32,771, and $163, respectively. On a per vessel basis, revenue and economic profit would increase by approximately $123 and less than $2, respectively, or by about 0.2 percent.

The proposed actions to revise the triggers for the post-season recreational AMs for dolphin and wahoo and to revise the post-season recreational AMs for dolphin and wahoo do not directly regulate any for-hire fishing businesses and are not expected to directly affect for-hire fishing vessels. These actions revise existing administrative procedures that could affect management measures in the future if various criteria are met. Thus, these actions may only cause indirect economic effects in the future and neither the direction nor the magnitude of those effects are foreseeable at this time.

The proposed action to allow a vessel that possesses a valid Atlantic dolphin and wahoo commercial vessel permit, and either possesses a valid Federal commercial permit to fish trap, pot, or buoy gear or is in compliance with the Federal regulations for spiny lobster permits, to retain up to 500 lb (228 kg), gutted weight, of dolphin and 500 lb (228 kg) of wahoo using rod and reel gear with trap, pot, or buoy gear on board is expected to increase economic profits. Under the current regulations, vessels with trap, pot, or buoy gear on board were not allowed to retain dolphin or wahoo, and thus were forced to discard any dolphin or wahoo they may have incidentally harvested. Because these vessels may now retain and sell these fish, their gross revenue from fishing would be expected to increase without any increase in costs, and thus their economic profits would be expected to increase as well. Because retention has not been previously allowed and discard data are limited, it is not possible to determine how many commercial fishing vessels may benefit, or the magnitude of the potential increase in economic profits that may result, from this proposed action.

The proposed action to remove the requirement for a vessel captain or crewmember to possess an operator permit is expected to reduce costs for 2,266 commercial fishing businesses and 1,804 for-hire fishing businesses. The current requirement results in direct costs to vessels that possess Atlantic dolphin and wahoo commercial or charter vessel/headboat permits. These costs include application fees and associated preparation costs incurred in the permit application process, including the need to obtain two passport photos, postage, and the time to prepare and send the application materials once every 3 years. The total reduction in costs associated with removing this requirement is estimated to be $369,515, of which $205,730 would accrue to fishing vessels determined to primarily be commercial fishing businesses and $163,785 would accrue to vessels determined to primarily be for-hire fishing businesses. The reduction to both types of businesses is approximately $91 per vessel/business, which represents less than 0.1 percent of a commercial longline vessel's annual economic profit but as much as 39 percent of the annual economic profit for a commercial vessel using other gear. Profit estimates are not available for these for-hire fishing businesses, but this cost reduction represents less than 0.1 percent of the average annual gross revenue for both charter vessels and headboats in the South Atlantic and headboats in the Northeast Region, and about 0.3 percent of the annual average gross revenue for charter vessels in the Northeast Region.

The proposed action to reduce the recreational vessel limit for dolphin from 60 fish to 54 fish per trip for private recreational and charter vessels does not apply to headboats. Further, private recreational vessels are not businesses or entities under the Regulatory Flexibility Act and therefore are not germane to this analysis. In addition, this proposed action is not expected to directly affect charter vessels for reasons similar to why the proposed actions to change the total ACL is not expected to directly affect charter vessels and the recreational sector allocation for dolphin is not expected to adversely affect charter vessels. Specifically, the recreational fishing season for dolphin is currently year-round and that is not expected to change because of this action. Further, the underlying analysis assumed that a change in the vessel limit would only affect catch per angler on charter vessel trips and not the total number of charter vessel trips. Because the number of for-hire fishing trips is not expected to change, no change in economic profits to for-hire fishing businesses is expected due to this action.

Based on the information above, although a substantial number of small entities would be affected by this proposed rule, this proposed rule would not have a significant economic impact on those entities. Because this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a change to a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This proposed rule would revise existing requirements for the collection of information approved under OMB Control Number 0648–0205, Southeast Region Permit Family of Forms. NMFS proposes to remove the requirement for an operator permit in the commercial and for-hire portions of the Atlantic dolphin and wahoo fishery as specified by 50 CFR 622.270(c). For the Federal Permit Application for Southeast Region Issued Operator Card, NMFS estimates this proposed rule would decrease the annual number of respondents to 74 and decrease the annual number of responses to 74. Further, NMFS estimates the annual burden hours would decrease to 37 hours, and the annual burden cost would decrease to $3,774. Public reporting burden for the Federal Permit Application for Southeast Region Issued Operator Card is estimated to average 30 minutes 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.

Public comment is sought regarding whether this proposed change to a 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 burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at *www.reginfo.gov/public/do/PRAMain.*

Notwithstanding any other provision of the law, no person is required to respond to, nor will any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 622

Accountability measures, Annual catch limits, Atlantic, Commercial, Dolphin, Fisheries, Fishing, Recreational, Wahoo.

Dated: January 10, 2022.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NOAA proposes to amend 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.270:
■ a. Revise paragraphs (a)(1) and (2);
■ b. Revise paragraph(b)(1); and
■ c. Remove and reserve paragraph (c).

The revisions read as follows:

§ 622.270 Permits.

(a) * * *

(1) For a person aboard a vessel to be eligible for exemption from the bag and possession limits for dolphin or wahoo in or from the Atlantic EEZ or to sell such dolphin or wahoo, a commercial vessel permit for Atlantic dolphin and wahoo must be issued to the vessel and must be on board, except as provided in paragraph (a)(2) of this section.

(2) The provisions of paragraph (a)(1) of this section notwithstanding, a fishing vessel, except a vessel operating as a charter vessel or headboat, that does not have a commercial vessel permit for Atlantic dolphin and wahoo but has a Federal commercial vessel permit in any other fishery, is exempt from the bag and possession limits for dolphin and wahoo and may sell dolphin and wahoo, subject to the trip and geographical limits specified in § 622.278(a)(3). (A charter vessel/headboat permit is not a commercial vessel permit.)

(b) * * *

(1) For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess Atlantic dolphin or wahoo, in or from the Atlantic EEZ, a valid charter vessel/headboat permit for Atlantic dolphin and wahoo must have been issued to the vessel and must be on board.

* * * * *

■ 3. In § 622.272, revise paragraphs (a)(1) and (2) to read as follows:

§ 622.272 Authorized gear.

(a) * * *

(1) *Authorized gear.* Except as allowed in paragraph (a)(2) of this section, the following are the only authorized gear types in the fishery for dolphin and wahoo in the Atlantic EEZ: Automatic reel, bandit gear, handline, pelagic longline, rod and reel, and spearfishing gear (including powerheads). A person aboard a vessel in the Atlantic EEZ that has on board gear types other than authorized gear types may not possess a dolphin or wahoo.

(2) *Trap, pot, and buoy gear authorization.* A vessel in the Atlantic EEZ that possesses both a valid Federal commercial permit for Atlantic dolphin and wahoo and any Federal commercial permit(s) required that allow a vessel to fish using trap, pot, or buoy gear or that is in compliance with the permitting requirements for the spiny lobster fishery of the Gulf of Mexico and South Atlantic as described at § 622.400, is authorized to retain both dolphin and wahoo harvested by rod and reel while in possession of trap, pot, or buoy gear. See § 622.278(a)(2)(ii) for the amount of dolphin that may be retained under the commercial trip limits as described in this paragraph (a)(2). See § 622.278(a)(1)(ii) for the amount of wahoo that may be retained under the commercial trip limits as described in this paragraph (a)(2).

* * * * *

■ 4. In § 622.277, revise paragraph (a)(1)(i) to read as follows:

§ 622.277 Bag and possession limits.

* * * * *

(a) * * *

(1) * * *

(i) In the Atlantic EEZ—10, not to exceed 54 per vessel, whichever is less, except on board a headboat, 10 per paying passenger.

* * * * *

■ 5. In § 622.278, revise paragraph (a) to read as follows:

§ 622.278 Commercial trip limits.

* * * * *

(a) *Trip-limited permits*—(1) *Atlantic wahoo.* (i) When using the fishing gear for wahoo and as authorized under § 622.272(a)(1), the trip limit for wahoo in or from the Atlantic EEZ is 500 lb (227 kg). This trip limit applies to a vessel that has a Federal commercial permit for Atlantic dolphin and wahoo, provided that the vessel is not operating as a charter vessel or headboat.

(ii) When using the fishing gear for wahoo and as authorized and permitted as described under § 622.272(a)(2), the trip limit for wahoo in or from the Atlantic EEZ is 500 lb (227 kg). The trip limit in this paragraph (a)(1)(ii) may not be combined with the trip limit specified in paragraph (a)(1)(i) of this section.

(iii) See § 622.280(b)(1) for the limitations regarding wahoo after the ACL is reached.

(2) *Atlantic dolphin.* (i) Once 75 percent of the ACL specified in § 622.280(a)(1)(i) is reached, the trip limit is 4,000 lb (1,814 kg), round weight. When the conditions in this paragraph (a)(3)(i) have been met, the Assistant Administrator will implement this trip limit by filing a notification with the Office of the Federal Register. This trip limit applies to a vessel that has a Federal commercial permit for Atlantic dolphin and wahoo, provided that the vessel is not operating as a charter vessel or headboat.

(ii) When using the fishing gear for dolphin and as authorized and permitted as described under § 622.272(a)(2), the trip limit for dolphin in or from the Atlantic EEZ is 500 lb (227 kg), gutted weight. The trip limit in this paragraph (a)(2)(ii) may not be combined with the trip limit specified in paragraph (a)(2)(i) of this section.

(iii) See § 622.280(a)(1) for the limitations regarding dolphin after the ACL is reached.

(3) *Vessels without a Federal dolphin and wahoo commercial permit.* The trip limit for a vessel that does not have a Federal commercial vessel permit for Atlantic dolphin and wahoo but has a Federal commercial vessel permit in any other fishery is 200 lb (91 kg) of dolphin and wahoo, combined, provided that all fishing on and landings from that trip are north of 39° N lat. (A charter vessel/headboat permit is not a commercial vessel permit.)

* * * * *

■ 6. In § 622.280:
■ a. Revise the first sentence of paragraph (a)(1)(i);
■ b. Revise paragraph (a)(2);
■ c. Add paragraph (a)(3);
■ d. Revise the first sentence of paragraph (b)(1)(i); and
■ e. Revise paragraph (b)(2).

The revisions and additions read as follows:

§ 622.280 Annual catch limits (ACLs) and accountability measures (AMs).

(a) * * *

(1) * * *

(i) If commercial landings for Atlantic dolphin, as estimated by the SRD, reach or are projected to reach the commercial ACL of 1,719,953 lb (780,158 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

* * * * *

(2) *Recreational sector.* If the total ACL specified in paragraph (a)(3) of this

section is exceeded in a fishing year, then during the following fishing year, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season by the amount necessary to ensure that the recreational ACL is not exceeded during the fishing year following the total ACL overage. However, the recreational fishing season will not be reduced in the following fishing year if NMFS determines, based on the best scientific information available, that the reduction in the recreational fishing season is unnecessary. The recreational ACL is 22,850,811 lb (10,364,954 kg), round weight.

(3) *Total ACL.* The total ACL, commercial and recreation ACLs combined, for Atlantic dolphin, is 24,570,764 lb (11,145,111 kg), round weight.

(b) * * *

(1) * * *

(i) If commercial landings for Atlantic wahoo, as estimated by the SRD, reach or are projected to reach the commercial ACL of 70,690 lb (32,064 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

* * * * *

(2) *Recreational sector.* As described in the FMP, if average annual recreational landings, when determined using 3-year geometric mean, exceed the recreational ACL of 2,814,613 lb (1,276,687 kg), round weight, then in the following fishing year, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season by the amount necessary to ensure that the recreational ACL is not exceeded during the fishing year following the recreational ACL overage determination. However, the length of the recreational fishing season will not be reduced in the following fishing year if NMFS determines, based on the best scientific information available, that the reduction in the recreational fishing season is unnecessary.

[FR Doc. 2022–00635 Filed 1–13–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–BK17

Fisheries of the Northeastern United States; Amendment 23 to the Northeast Multispecies Fishery Management Plan

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

ACTION: Announcement of availability of amendment; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council has transmitted Amendment 23 to the Northeast Multispecies Fishery Management Plan, incorporating the Environmental Impact Statement and the Regulatory Flexibility Analysis, for review by the Secretary of Commerce, and is requesting comments from the public. This action would adjust the existing industry-funded at-sea monitoring program for groundfish sectors to improve the accuracy of collected catch data (landings and discards) and catch accounting in order to better determine total catch and effort and achieve coverage levels sufficient to minimize effects of potential monitoring bias. The measures recommended by the New England Fishery Management Council in Amendment 23 are intended to ensure there is a precise and accurate representation of catch to set catch limits at levels that prevent overfishing and to determine when catch limits are exceeded.

DATES: Comments must be received on or before March 15, 2022

ADDRESSES: The New England Fishery Management Council (Council) has prepared an Environmental Impact Statement (EIS) for this action that describes the proposed measures in Amendment 23 to the Northeast Multispecies Fishery Management Plan (FMP) and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council transmitted the amendment to NMFS, including the EIS, a description of the Council's preferred alternatives, the Council's rationale for selecting each alternative, and a Regulatory Impact Review (RIR). Copies of supporting documents used by the Council, including the EIS and RIR, are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: *https://www.nefmc.org/library/amendment-23*.

You may submit comments, identified by NOAA–NMFS–2020–0144, by:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2020–0144 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Mark Grant, Fishery Policy Analyst, (978) 281–9145.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council transmit any amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment and associated regulations deemed necessary by the Council to implement the amendment, immediately publish notification in the **Federal Register** that the amendment is available for public review and comment. The Council transmitted its final version of Amendment 23 to the Northeast Multispecies FMP (Amendment 23) to NMFS for review on August 9, 2021. On January 3, 2022, the Council submitted Amendment 23 proposed rule regulations they deemed to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Act.

The Council initiated Amendment 23 to consider changes to the Northeast multispecies (groundfish) monitoring and reporting system to ensure it is providing the accurate catch information necessary to manage the fishery effectively and efficiently. The alternatives considered in this action

focus on measures that adjust the existing industry-funded sector monitoring program to better (1) determine effort and the total catch of target and regulated species; and (2) achieve monitoring coverage sufficient to minimize the effects of potential monitoring bias while maintaining flexibility to enhance fleet viability. To address these issues, the Council approved Amendment 23 that would:

- Replace the current process for calculating an annual monitoring coverage target with a fixed coverage target as a percentage of trips. The coverage target would be 100 percent of trips for 4 years, as long as Federal funding can support agency and industry costs;
- Set a baseline coverage target for when there is an absence of Federal funding to pay industry costs. The coverage target in that instance would default to 40 percent;
- Allow for increased coverage in subsequent years (years 5+) when Federal funding is available to support industry costs;
- Approve additional electronic monitoring (EM) technologies as an alternative to human at-sea monitors;
- Exclude from the human at-sea monitoring requirement all trips in geographic areas with low groundfish catch;
- Require periodic evaluation of the monitoring program and exclusions from the monitoring requirement;
- Allow for removal of the management uncertainty buffer from the portion of the acceptable biological catch (ABC) allocated to the sector catch share when the monitoring coverage target is 100 percent; and
- Grant authority to the Greater Atlantic Regional Administrator to revise sector reporting requirements to streamline reporting for the industry.

Background

The Northeast Multispecies FMP specifies the management measures for 13 groundfish species (cod, haddock, yellowtail flounder, pollock, plaice, witch flounder, white hake, windowpane flounder, Atlantic halibut, winter flounder, redfish, ocean pout, and Atlantic wolffish) off the New England and Mid-Atlantic coasts. The Northeast multispecies fishery occurs from Maine to North Carolina, although most fishing activity takes place north of New Jersey. The fishery has a recreational component and a commercial component. The commercial component is comprised of the common pool and the sector system. NMFS manages fishing by vessels in the common pool with a suite of effort controls, including limits to the number of days-at-sea that vessels may fish and possession limits for various species. The sector system is a voluntary catch share program where vessels form legal entities, called sectors. NMFS allocates each sector annual catch entitlements, subdivisions of annual catch limits (ACL), for most groundfish species. The annual catch entitlements are based on the collective catch history of the sector's members. NMFS also grants each sector exemptions from many effort controls in exchange for the sector monitoring and managing the catch of all member vessels.

The Groundfish Sector System

Amendment 16 (75 FR 18261; April 9, 2010), which became effective on May 1, 2010, expanded the sector management program and adopted a process for setting ACLs for the groundfish fishery. Each sector must submit an operations plan and sector contract to the Regional Administrator, and must receive approval to operate for a fishing year. The sector contract binds all members to the sector and to each other for a fishing year. The sector operations plan, once approved by NMFS, is an enforceable set of requirements governing how the sector and its members operate, including administrative measures (*e.g.,* sector fees and membership rules) and fishing operations. The Council specified a number of operational requirements for sectors and require that sector operations plans explain how the sector will meet the requirements and operate. Sector operations plans and/or contracts must contain a number of elements. Required elements are codified at § 648.87(b)(2), and additional requirements are specified by NMFS in the Sector Operations Plan, Contract, and Environmental Assessment Requirements posted at: *https://bit.ly/3pdau1L.*

The Sector Monitoring Program

Amendment 16 also updated the requirements for sector and common pool monitoring programs, including requirements for industry-funded at-sea monitoring (ASM) and dockside monitoring (DSM). Amendment 16 required each sector to implement an industry-funded monitoring program as part of its approved operations plan. Each sector must monitor catch (landings and discards) by participating sector vessels to ensure that the sector does not exceed its allocated quotas during the fishing year. Each sector must determine all species landings by stock areas; apply discard estimates to landings; deduct catch from each quota allocated to the sector; and report the sector's catch on a weekly basis to NMFS. Sectors are required to pay for their monitoring costs to the extent they are not covered by Federal funds. Sectors may use EM systems (*e.g.,* cameras and hydraulic sensors) in place of human at-sea monitors if NMFS has approved the EM method and technology. Currently, sectors can use the audit model EM method and technology, which we have described in more detail below.

Framework Adjustment 48 (78 FR 26117; May 3, 2013) specified the overall goals and objectives of the groundfish monitoring program and discontinued the DSM program. Framework 55 (81 FR 26411; May 2, 2016) clarified that the primary goal of the monitoring program is to verify area fished, catch, and discards by species and gear type; and should be done in the most cost effective means practicable. Framework 55 further clarified that all other goals and objectives of groundfish monitoring programs are equally weighted secondary goals. Additionally, Framework 55 modified the method used to set the coverage target for the industry-funded sector ASM program and excluded certain types of groundfish trips with low groundfish catch from the monitoring requirement. Amendment 23 would revise the monitoring program further to improve catch accounting and management of the groundfish sector program fishery.

Amendment 23 would require sectors to meet the coverage level for each year, as described below. The amendment includes an exemption for vessels that fish on trips that occur entirely west of 71°30′ W longitude. This provision is intended to reduce the monitoring burden on vessels that fish in areas where groundfish catch is minimal.

Monitoring Coverage Target Calculation

Current regulations at § 648.87(b)(1)(v)(B)(*1*)(*i*) set forth an annual process for determining the target at-sea coverage rate for the sector monitoring program, which must be less than 100 percent. NMFS is required to determine an ASM coverage target that is sufficient to at least meet the coefficient of variation (CV) specified in the Standardized Bycatch Reporting Methodology at the overall stock level for each stock of regulated species and ocean pout, and to monitor sector operations, to the extent practicable, in order to reliably estimate overall catch by sector vessels. Framework 55 revised the method used to calculate the coverage target necessary to meet the CV standard to make the program more cost

effective and smooth the fluctuations in the annual coverage level to provide additional stability for the fishing industry. NMFS determines the coverage target for the upcoming fishing year based on the most recent 3-year average of the total required coverage level necessary to reach the required CV for each stock. For each stock, the coverage level needed to achieve the required CV is calculated first for each of the 3 years and then averaged. The coverage level that will apply is the maximum stock-specific level after considering several criteria. For a given fishing year, stocks that are not overfished, with overfishing not occurring according to the most recent available stock assessment, and that in the previous fishing year have less than 75 percent of the sector sub-ACL harvested and less than 10 percent of catch comprised of discards, are not used to set the coverage target. A stock must meet all of these criteria to be eliminated from use as the annual coverage target for a given year. This prescriptive methodology is used to calculate the ASM coverage target that would meet the CV standard, but NMFS must also ensure that the coverage target reliably estimates overall catch by sector vessels. Accordingly, NMFS considers factors beyond the coverage target that meets the CV standard and in recent years has set an ASM coverage target above the minimum to account for bias in the monitoring program.

Amendment 23 would replace the current process for calculating an annual monitoring coverage target with a fixed coverage target as a percentage of trips. The coverage target would be 100 percent of trips for 4 years, as long as Federal funding can pay for both agency and industry costs. The amendment would set a baseline coverage target for when there is an absence of Federal funding to pay industry's costs. In that instance, the coverage target would default to 40 percent. Amendment 23 would also allow for increased coverage in subsequent years, *i.e.,* for years 5 and beyond, when Federal funding is available to pay for industry's costs.

Electronic Monitoring

Beginning in 2016, NMFS worked with members of industry and other stakeholders to develop EM as a tool to meet the sector monitoring requirements. In December 2019, NMFS notified the Council of its intent to expand EM and allow sectors to submit an EM plan as part of the fishing years 2021–2022 sector operations plan approval process. On March 31, 2021, NMFS announced its determination that the EM audit model is sufficient for use instead of ASM to meet sector monitoring and reporting requirements (86 FR 16687).

Amendment 23 would implement two EM programs that sector vessels could use to satisfy the sector monitoring requirement. Amendment 23 does not remove or alter the existing authority for the Regional Administrator to deem types of EM technology sufficient to be used in place of human at-sea monitors. However, the two EM models in Amendment 23 would be available for sectors to include in their operations plans without requiring a separate determination by the Regional Administrator. The audit model, as described in the rule announcing its approval, is one of the EM models included in Amendment 23 (86 FR 16687; March 31, 2021). Amendment 23 would also allow the maximized retention EM model (MREM).

Under the MREM model, on all sector EM trips, the vessel operator and crew are required to retain and land all catch of allocated groundfish, including fish below the minimum size that they would otherwise be required to discard. Unallocated groundfish and non-groundfish species must be handled in accordance with standard commercial fishing operations. Any allowable discards must occur at designated discard control points on the vessel, described in the vessel-specific monitoring plan. EM data from the trip would be reviewed by the EM service provider to verify that the vessel operator and crew complied with the catch retention requirements. A human dockside monitor would meet the vessel at port upon its return from each trip to observe the offload and collect information on the catch. Landings of all fish, including fish below the minimum size in the regulations, are reported to NMFS by the dealer.

Sector Reporting Requirements

Amendment 16 established sector monitoring requirements, codified at § 648.87(b)(1)(v), and sector reporting requirements, codified at § 648.87(b)(1)(vi). Each sector must submit weekly reports to NMFS. When a sector has caught 90 percent of any quota, that sector must submit daily catch reports. Each sector must also submit an annual report that summarizes the fishing activities of participating vessels. In addition to the reporting requirements applicable to all commercial groundfish vessels, sector vessels must submit additional information through their vessel monitoring systems.

At the time the reporting requirements were developed for Amendment 16, sectors were expected to use real-time information from their vessels to monitor catch. In practice, NMFS provides sector managers with a weekly download of official trip data (dealer and vessel trip report landings data, observer discard data, and calculated discard rates for unobserved trips), which most sectors use to update their sector accounting and then submit a weekly report to NMFS. Some sectors use data collected directly from vessels in their reports. Data reconciliation occurs regularly between the sectors and NMFS to improve monitoring accuracy by identifying and resolving any data errors in either the sector's or NMFS' information.

Amendment 23 would authorize the Regional Administrator to modify the sector monitoring requirements at § 648.87(b)(1)(v) and the sector reporting requirements at § 648.87(b)(1)(vi) to streamline the sector reporting process. More efficient methods might be developed that would still involve timely monitoring and reconciliation of data sources between sectors and NMFS. For example, NMFS could eliminate the requirement for sectors to submit weekly and daily reports and instead the agency would provide monitoring summaries for the sectors to use for catch accounting and managing annual catch entitlements, while continuing the process where NMFS and sectors reconcile catch data to confirm accuracy. Authorizing the Regional Administrator to streamline the sector reporting process could help to reduce reporting redundancies, provide flexibility to sectors and sector managers, and improve timeliness of data processing.

Management Uncertainty Buffer

In 2010, Amendment 16 implemented new requirements of the Magnuson-Stevens Act, including ACLs and accountability measures. Amendment 16 included a process for setting an overfishing limit (OFL) for groundfish stocks. The OFL represents the maximum amount of fish that can be caught in a year without resulting in overfishing. The Council typically recommends an ABC for a groundfish stock that is lower than the OFL to account for scientific uncertainty. The Council sets an ACL at a level below the ABC to account for management uncertainty, and this serves as a buffer to prevent the fishery from exceeding the ABC. The management uncertainty buffer accounts for the possibility that management measures will result in a level of catch greater than expected. The

current process for evaluating management uncertainty buffers includes consideration of the following elements: (1) Enforceability of management measures; (2) monitoring adequacy (including timeliness, completeness, and accuracy of monitoring data); (3) precision; (4) latent effort; and (5) other fishery catch.

The Council evaluates the management uncertainty buffers in each specification setting action. The current default adjustment for management uncertainty for groundfish stocks is 5 percent of the ABC. For stocks with less management uncertainty, the buffer is set at 3 percent of the ABC; for stocks with more uncertainty, the buffer is set at 7 percent of the ABC. Stocks not caught in state waters have a lower management uncertainty buffer of 3 percent of the ABC; zero possession, discard-only stocks have a higher management uncertainty buffer of 7 percent of the ABC.

Amendment 23 would remove the management uncertainty buffer from the portion of the ABC allocated to the sector catch share when the monitoring coverage target is 100 percent. The revised management uncertainty buffers would apply only to sectors, and not to the common pool component of the fishery, or other sub-ACLs or sub-components for any stocks. After NMFS determines the coverage target for a fishing year, NMFS will remove the management uncertainty buffer from the sector allocation in any year the coverage target is 100 percent. If Federal funds are not available for 100 percent coverage and a lower target coverage level is set, the management uncertainty buffers would be in place for that fishing year, subject to the Council's review as part of each specification action.

The Magnuson-Stevens Act allows us to approve, partially approve, or disapprove measures recommended by the Council in an amendment based on whether the measures are consistent with the FMP, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. The Council develops policy recommendations for its fisheries and NMFS review and approves the recommendations after considering consistency the Magnuson-Steven Act and other applicable law. As such, we are seeking comment on whether the measures in Amendment 23 are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law, including whether the Amendment's measures will achieve its goals and objectives. Through this notice, NMFS seeks comments on Amendment 23 and its incorporated documents through the end of the comment period stated in the **DATES** section of this notice of availability (NOA). Following the publication of this NOA, a rule proposing the implementation of measures in this amendment is anticipated to be published in the **Federal Register** for public comment. Public comments must be received by the end of the comment period provided in this NOA of Amendment 23 to be considered in the approval/disapproval decision. All comments received by the end of the comment period on the NOA, whether specifically directed to the NOA or the proposed rule, will be considered in the approval/disapproval decision. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision of Amendment 23.

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

Dated: January 11, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–00677 Filed 1–13–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 10
Friday, January 14, 2022

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

Office of the Secretary

Request for Nominations of Members for the National Agricultural Research, Extension, Education, and Economics (NAREEE) Advisory Board, Specialty Crop Committee (SCC), Citrus Disease Subcommittee (CDS), and National Genetic Resources Advisory Council (NGRAC)

AGENCY: Research, Education, and Economics, Department of Agriculture (USDA).

ACTION: Solicit nominations for memberships for the NAREEE Advisory Board, SCC, CDS, and the NGRAC.

SUMMARY: In accordance with the Federal Advisory Committee Act, the U.S. Department of Agriculture (USDA) announces the opening of the solicitation for nominations to fill vacancies on the National Agricultural Research, Extension, Education, and Economics (NAREEE) Advisory Board and its committees and subcommittees for Fiscal Year 2023 and any vacancies that may occur in the current fiscal year.

DATES: Written nominations will be received continuously until September 30, 2022.

SUPPLEMENTARY INFORMATION: All board members will receive reimbursement for per diem and travel expenses incurred for attending meetings and/or conducting other business on behalf of the Board/Subcommittee authorized by 5 U.S.C. 5703 of the Federal Travel Regulation for persons employed intermittently in government service.

Background

National Agricultural Research, Extension, Education and Economics Advisory Board

The NAREEE Advisory Board was established in 1996 via Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) to provide advice to the Secretary of Agriculture and land-grant colleges and universities on top priorities and policies for food and agricultural research, education, extension, and economics. Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 was amended by the Farm Security and Rural Investment Act of 2002 to reduce the number of members on the NAREEE Advisory Board to 25 members and required the Board to also provide advice to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate; the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations of the House of Representatives; and the Subcommittee on Agriculture, Rural Development and Related Agencies of the Committee on Appropriations of the Senate. Subsequently, Section 1408 of the Agricultural Improvement Act of 2018 further reduced the number of members from 25 to 15 and changed the categories of membership for the advisory board. Each member of the Board represents a specific category including National Farm or Producer Organizations; Academic or Research Societies; Agricultural Research, Extension and Education; or Industry, Consumer or Rural Interests.

Specialty Crop Committee

The Specialty Crop Committee was created as a committee of the NAREEE Advisory Board in accordance with the Specialty Crops Competitiveness Act of 2004 under title III, section 303 of Public Law 108–465. The committee was formulated to study the scope and effectiveness of research, extension, and economics programs affecting the specialty crop industry. The legislation defines ''specialty crops'' as fruits, vegetables, tree nuts, dried fruits and nursery crops (including floriculture). The Agricultural Act of 2014 further expanded the scope of the Specialty Crop Committee to provide advice to the Secretary of Agriculture on the relevancy review process of the Specialty Crop Research Initiative, a grant program of the National Institute of Food and Agriculture.

Citrus Disease Subcommittee

The Citrus Disease Subcommittee was established by the Agricultural Act of 2014 (sec. 7103) to advise the Secretary of Agriculture on citrus research, extension, and development needs, engage in regular consultation and collaboration with USDA and other organizations involved in citrus, and provide recommendations for research and extension activities related to citrus disease. The Citrus Disease Subcommittee also advises the Department on the research and extension agenda of the Emergency Citrus Disease Research and Extension Program, a grant program of the National Institute of Food and Agriculture.

Section 1408(a)(2) of the Agricultural Improvement Act of 2018 amended the membership of the Citrus Disease Subcommittee to increase the number of members from 9 members to 11. Members must be a producer of citrus with representation from the following States: Five members from Arizona or California, five members from Florida, and one member from Texas.

National Genetic Resources Advisory Council

The National Genetic Resources Advisory Council was originally established in March, 1992 via section 1634 (7 U.S.C. 5843) of the Food, Agriculture, Conservation and Trade Act of 1990 to formulate recommendations on actions and policies for the collection, maintenance, and utilization of genetic resources; to make recommendations for coordination of genetic resources plans of several domestic and international organizations; and to advise the Secretary of Agriculture and the National Genetic Resources Program, part of the Agricultural Research Service, of new and innovative approaches to genetic resources conservation. It was subsequently re-established in 2012 as a permanent subcommittee of the NAREEE Advisory Board. The Agricultural Improvement Act of 2018 further expanded the responsibilities of the Council to include recommendations on cultivar development and increased the number of members from 9 to 13. The membership is required to have 6 members from scientific disciplines relevant to the National Genetic

Resources Program, including agricultural sciences, economics and policy, environmental sciences, natural resource sciences, health sciences, and nutritional sciences; 3 members from the general public and shall include leaders in fields of public policy, community development, trade, international development, law, or management; and 4 members with expertise in cultivar development and animal breed development. In addition, 4 of the members of the NGRAC shall be appointed from among individuals representing: 1862 land-grant colleges and universities; 1890 land-grant colleges and universities; Hispanic-serving institutions; or 1994 Equity in Education land-grant institutions.

Nominations

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure the recommendation of the Advisory Board takes into account the needs of the diverse groups served by the USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

Please note, individuals may not serve on more than one USDA Federal Advisory Committee. Individuals who are federally registered lobbyists, appointed to committees to exercise their own individual best judgment on behalf of the government (*e.g.,* as Special Government Employees), are ineligible to serve.

All nominees will be carefully reviewed for their relevant experience, expertise, and leadership. Appointed members will serve one-, two-, or three-year terms in order to properly stagger term rotation. All nominees will be vetted before selection. Appointments to the NAREEE Advisory Board and its committees and subcommittees will be made by the Secretary of Agriculture.

Instructions

The following information must be included in the package of materials submitted for each, individual being nominated for consideration: (1) AD–755 *https://www.ocio.usda.gov/document/ad-755* stating your full birth name and completed application in its entirety; (2) A letter(s) of nomination stating the Board (Board Category)/Subcommittee (SCC, CDS, NGRAC) *must* be identified (3) 1 page bio of nominee; and (4) a current copy of the nominee's resumé. You may apply for as many categories on the Advisory Board and Committees and/or subcommittee(s) and this must be stated in your application and nomination letter(s). Nomination packages may be submitted directly by the individual being nominated or by the person/organization recommending the candidate.

Nominee Selection

Nominated individuals will be picked by the Secretary of Agriculture based on how well they meet the required qualifications and the current needs of the Board/Subcommittees. It is anticipated that the members will start serving on the Advisory Board/committees/subcommittee beginning October 1, 2022.

ADDRESSES: All sections of the AD–755 form must be filled out completely and signed from the nominee. The completed AD–755 and any submission of letters of support can be sent via Email to *nareee@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Kate Lewis, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, 1400 Independence Avenue SW, Room 6019, The South Building, Washington, DC 20250–2255; telephone: 202–720–3684 or email: *nareee@usda.gov.* Committee website: *https://nareeeab.ree.usda.gov/.*

Done at Washington, DC, this day of January 10, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–00650 Filed 1–13–22; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Big Piney Ranger District and Greys River Ranger District; Bridger-Teton National Forest; Wyoming, Dell Creek and Forest Park Elk Feedgrounds: Long-Term Special Use Permits

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Bridger-Teton National Forest (BTNF) is preparing an Environmental Impact Statement (EIS) for the Dell Creek and Forest Park Feedgrounds: Long-Term Special Use Permit project. The Wyoming Game and Fish Commission (WGFC) has applied for continued use of facilities on National Forest System lands to conduct their elk management activities, including providing hay to wintering elk at Dell Creek and Forest Park feedgrounds between mid-November and the end of April. The Dell Creek feedground is in the Big Piney Ranger District on Dell Creek Road (Forest Service Road 30600) about 4 miles east of Highway 191/189, in Bondurant, Wyoming, and has been maintained by the WGFC under a Forest Service special use permit since 1975. The Forest Park feedground is in the Greys River Ranger District along the Greys River Road (Forest Service Road 10138) about 33 miles from Alpine, Wyoming, and has been maintained by the WGFC under a Forest Service special use permit since 1979. The Forest Service action is to determine whether to authorize the requested long-term use and if so, under what conditions.

DATES: Comments concerning the scope of the analysis must be received by February 14, 2022. The draft environmental impact statement is expected January 2023 and the final environmental impact statement is expected January 2024.

ADDRESSES: Scoping comments can be submitted electronically through the project web page or directly to *https://cara.ecosystem-management.org/Public//CommentInput?Project=60949.* Comments may also be mailed to P.O. Box 1888, Jackson, WY 83001, or sent via facsimile to 307–739–5010.

FOR FURTHER INFORMATION CONTACT: Visit the project web page at *https://www.fs.usda.gov/project/?project=60949* for current information. A public meeting will be held virtually during the comment period to share information about the project. For additional information contact Mary Cernicek, Planning and Public Affairs Staff Officer by email at *mary.cernicek@usda.gov* or by phone at 307–739–5564 or cellphone 307–413–2481. Individuals who use telecommunication devices for the deaf/hard-of-hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Forest Service received a request from the WGFC to continue to use facilities at Dell Creek and Forest Park feedgrounds to conduct their elk winter feeding and related management activities. Under 36 Code of Federal Regulations (CFR) 251.50, authorization is required for this type of special use of National Forest System lands. The purpose of the WGFC's proposal is to prevent conflicts with nearby livestock operations including reduce the risk of

brucellosis transmission, maintain elk population objectives pursuant to the interests of their constituents and without excessive winter elk mortality, and prevent vehicle collisions on Highway 191. The purpose of the federal action is to decide whether to approve the WGFC's request and, if so, under what conditions to continue to permit the use. As part of the federal action, the Forest Service must ensure that the decision complies with the BTNF Land and Resource Management Plan (Forest Plan), Forest Service regulations and policies, and other applicable direction. Pertinent direction in the Forest Plan includes but is not limited to: An objective to ''[p]rovide suitable and adequate habitat to support the game and fish populations established by the Wyoming Game and Fish Department, as agreed to by the Forest Service'' (Objective 2.1(a)); and to ''[h]elp re-establish historic elk migration routes to provide increased viewing and hunting opportunities for outfitters and clients'' (Objective 1.1(g)). The need for the federal action is to respond to the WGFC's application as required under 36 CFR 251.50. In addition, the need for the federal action is to address any gaps between desired and existing conditions at Dell Creek and Forest Park feedgrounds associated with disease (including brucellosis and chronic wasting disease), elk habitat, recreation opportunities (hunting and wildlife viewing), and the condition of soil, vegetation, riparian areas, and associated fish and wildlife.

Proposed Action

The WGFC's proposal is to continue long-term use (20 years) of the Dell Creek feedground (35 acres), Forest Park feedgound (100 acres), and existing facilities for their winter elk management program. Hay would be distributed from horse-drawn sleighs daily between November 15th and April 30th, depending on winter conditions. The WGFC would maintain and operate existing facilities necessary for their ongoing winter elk management activities including: Hay storage sheds, fenced stackyard, corrals, elk traps, fencing, 0.25 mile of road, bridge, cabin, spring development, water well and portable tack shed. No new construction would be permitted. Winter elk management activities would include, but are not limited to, feeding, capturing, collaring, vaccinating and testing elk, and removing seropositive elk from the population.

Preliminary Alternatives

Three preliminary alternatives, in addition to the proposed action, have been identified. (1) No Special Use Authorization Alternative: Use of National Forest System lands for WGFC's winter elk management activities would not be permitted at Dell Creek and Forest Park feedgrounds. WGFC would remove the existing facilities and re-habilitate impacts at both locations. (2) Phase-Out Alternative: Use of National Forest System lands for WGFC's winter elk management activities would be permitted at Dell Creek and Forest Park feedgrounds for less than 20 years. The number of days elk would be fed would decrease over time. Upon expiration of the permit, use of National Forest System lands for WGFC's winter elk management activities would be terminated and WGFC would remove the existing facilities and re-habilitate impacts at both locations. (3) Emergency Feeding Only Alternative: Use of National Forest System lands for WGFC's winter elk management activities would be permitted at Dell Creek and Forest Park feedgrounds for emergency use only. Upon expiration of the permit, use of National Forest System lands for WGFC's winter elk management activities would be terminated and WGFC would remove the existing facilities and re-habilitate impacts at both locations. Alternatives will be developed based on comments received and issues identified.

Expected Impacts

The effect of the Forest Service authorizing the WGFC's occupancy of Dell Creek and Forest Park feedgrounds and use of associated facilities would be that the WGFC utilizes these feedgrounds to implement their elk management program. Under the WGFC's elk management program, supplemental winter feeding increases over-winter elk survival by maintaining body condition. Winter feeding of elk reduces transmission of diseases to livestock, such as brucellosis, by reducing commingling of wintering elk and livestock. The continuation of feedground operations may increase elk mortality by increasing the prevalence of chronic wasting disease in the elk herds that use the feedgrounds. Conversely, terminating elk winter feeding may reduce elk winter survival. A decrease in the health and population size of elk herds would negatively impact hunting and wildlife viewing opportunities.

Lead and Cooperating Agencies

Forest Service is the lead agency and Wyoming Game and Fish Department, Wyoming Department of Agriculture, and U.S. Geological Survey are cooperating agencies.

Responsible Official

The responsible official is the Forest Supervisor of the Bridger-Teton National Forest, Patricia O'Connor.

Scoping Comments and the Objection Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. In this process the Agency is requesting comments on potential alternatives and impacts, and identification of any relevant information, studies or analyses of any kind concerning impacts affecting the quality of the human environment.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Commenting during scoping and any other designated opportunity to comment provided by the Responsible Official will also establish standing to object once the notice of the final EIS and draft Record of Decision has been published in the newspaper of record. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however, they will not be used to establish standing for the objection process.

Permits Required

A Forest Service special use permit would be required to authorize WGFC's use of facilities at Dell Creek and Forest Park feedgrounds to conduct their elk winter feeding and related management activities.

Nature of Decision To Be Made

The Forest Service is to decide whether to reauthorize the WGFC long-term use of Dell Creek and Forest Park feedgrounds and associated facilities to conduct their elk management activities, and if so, under what conditions.

Dated: January 7, 2022.

Barnie Gyant,

Associate Deputy Chief, National Forest System.

[FR Doc. 2022–00700 Filed 1–13–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Office of Partnerships and Public Engagement

Notice of Request for Approval of an Information Collection; National Scholars Program; Withdrawal

AGENCY: Office of Partnerships and Public Engagement (OPPE), USDA.

ACTION: Notice; withdrawal.

SUMMARY: OPPE is withdrawing a Notice of the USDA/1890 National Scholars Program published in the **Federal Register** on January 3, 2022.

DATES: This withdrawal is effective January 10, 2022.

FOR FURTHER INFORMATION CONTACT: Kenya Nicholas, Office of Partnerships and Public Engagement, USDA/1890 National Scholars Program, 1400 Independence Avenue, Washington, DC 20250–3700; or call (202) 720–6350 or send a fax to: (202) 720–7704. You may also send an email to: *1890init@usda.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 3, 2022, withdraw FR Doc 2021–28389. We will submit an updated Notice regarding the USDA/1890 National Scholars Program at a later date.

Authority: 87 FR 68.

Dated: January 10, 2022.

Kenya Nicholas,

Deputy Director, Office of Partnerships and Public Engagement.

[FR Doc. 2022–00634 Filed 1–13–22; 8:45 am]

BILLING CODE 3412–88–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket Number: RBS–21–BUSINESS–0031]

Notice of Solicitation of Applications for the Rural Business Development Grant Program To Provide Technical Assistance for Rural Transportation Systems

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This notice is to invite applications for grants to provide Technical Assistance for passenger Rural Transportation (RT) systems under the Rural Business Development Grant (RBDG) program and the terms for such funding. Grant funds will provide Technical Assistance for RT systems including designated funds to provide Technical Assistance to RT systems operating within tribal lands of Federally Recognized Native American Tribes (FRNAT) (collectively ''Programs''). This notice is being issued in order to allow applicants sufficient time to leverage financing, prepare and submit their applications and give the Agency time to process applications within fiscal year (FY) 2022. Successful applications will be selected by the Agency for funding and subsequently awarded to the extent that funding may ultimately be made available through appropriations. An announcement on the website at: *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas* will identify the amount received in the appropriations. All applicants are responsible for any expenses incurred in developing their applications.

DATES: The deadline for completed applications to be received in the United States Department of Agriculture (USDA) Rural Development State Office is no later than 4:30 p.m. (local time) on April 14, 2022, to be eligible for FY 2022 grant funding. Applications received after the deadline will be ineligible for funding.

ADDRESSES: This funding announcement will also be announced on *www.Grants.gov.* Applications must be submitted to the USDA Rural Development State Office where the Project is located. A list of the USDA Rural Development State Office contacts can be found at: *http://www.rd.usda.gov/contact-us/state-offices.*

FOR FURTHER INFORMATION CONTACT: Cindy Mason, Business Loan and Grant Analyst, Specialty Programs Division at (202) 690–1433 or *cindy.mason@usda.gov,* Rural Business-Cooperative Service, USDA, 1400 Independence Avenue SW, Washington, DC 20250–3226. For further information in this notice, please contact the Rural Development office for the State in which the applicant is located. A list of Rural Development State Office contacts is provided at the following link: *http://www.rd.usda.gov/contact-us/state-offices.*

SUPPLEMENTARY INFORMATION:

Priority Language for Funding Opportunities

The Agency encourages applicants to consider projects that will advance the following key priorities (more details available at *https://www.rd.usda.gov/priority-points*):

- Assisting Rural communities recover economically from the impacts of the COVID–19 pandemic, particularly disadvantaged communities;
- Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects; and
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

Overview

Solicitation Opportunity Title: Rural Business Development Grants.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance Number: 10.351.

Dates: The deadline for completed applications must be received in the USDA Rural Development State Office no later than 4:30 p.m. (local time) on April 14, 2022, to be eligible for FY 2022 grant funding.

A. Program Description

1. *Purpose of the Program.* The purpose of this program is to improve the economic conditions of Rural Areas by providing technical assistance that will enhance the operation of rural transportation systems.

2. *Statutory Authority.* This program is authorized under section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)). Regulations are contained in 7 CFR part 4280, subpart E. The program is administered on behalf of Rural Business-Cooperative Service (RBCS) at the State level by the USDA Rural Development State Offices. Assistance provided to Rural Areas under the program has historically included the provision of on-site Technical Assistance to tribal, local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in Rural Areas; the development of training materials; and the provision of necessary training assistance to local officials and agencies in Rural Areas.

Awards under the RBDG passenger transportation program will be made on a competitive basis using specific selection criteria contained in 7 CFR part 4280, subpart E, and in accordance with section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)). Information required to be in the application package includes Standard Form (SF) 424, ''Application for Federal Assistance;'' environmental documentation in accordance with 7 CFR part 1970, ''Environmental Policies and Procedures;'' Scope of Work Narrative; Income Statement; Balance Sheet or Audit for previous 3 years; SF LLL, ''Disclosure of Lobbying Activities;'' RD 400–1, ''Equal Opportunity Agreement;'' RD 400–4,

''Assurance Agreement;'' and a letter providing Board authorization to obtain assistance. For the FRNAT grant, which must benefit FRNATs, at least 75 percent of the benefits of the Project must be received by members of FRNATs. The Project that scores the greatest number of points based on the RBDG selection criteria and the discretionary points will be selected for each grant.

For the funding for Technical Assistance for RT systems, applicants must be qualified national organizations with experience in providing Technical Assistance and training to rural communities nationwide for the purpose of improving passenger transportation services or facilities. To be considered ''national,'' RBCS requires a qualified organization to provide evidence that it can operate RT assistance programming nation-wide. An entity can qualify if they can work in partnership with other entities to fulfill the national requirement as long as the applicant will have ultimate control of the grant administration. For the funding for RT systems to FRNATs, an entity can qualify if they can work in partnership with other entities to support all federally recognized tribes in all States, as long as the applicant will have ultimate control of the grant administration. There is not a requirement to use the grant funds in a multi-State area. Grants will be made to qualified national organizations for the provision of Technical Assistance and training to Rural communities for the purpose of improving passenger transportation services or facilities.

3. *Definition of Terms.* The definitions applicable to this notice are published at 7 CFR 4280.403.

4. *Application Awards.* The Agency will review, evaluate, and score applications received in response to this notice based on the provisions in 7 CFR 4280, subpart E and as indicated in this notice. However, the Agency advises all interested parties that the applicant bears the burden in preparing and submitting a complete application in response to this notice.

B. Federal Award Information

Type of Award: Grants.

Fiscal Year Funds: FY 2022 (amount to be determined).

Available Funds: Anyone interested in submitting an application for funding under this program is encouraged to consult the Rural Development Web Newsroom website at: *http://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

Approximate Number of Awards: To be determined based on the number of qualified applications received.

Maximum Awards: The Agency anticipates funding of $500,000 for RT systems and $250,000 for FRNAT RT projects. The amounts will be determined by the specific funding provided for the program in the FY 2022 Appropriations Act. The Agency will publish any maximum award amount on its website at: *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

Award Date: Prior to September 30, 2022.

Performance Period: October 1, 2022, through September 30, 2023.

Renewal or Supplemental Awards: None.

C. Eligibility Information

1. *Eligible Applicants.*

To be considered eligible, an entity must be a qualified national organization serving Rural Areas as evidenced in its organizational documents and demonstrated experience, per 7 CFR part 4280, subpart E. Grants will be competitively awarded to qualified national organizations.

The Agency requires the following information to make an eligibility determination that an applicant is a national organization. These applications must include, but are not limited to, the following:

(a) An original and one copy of SF 424, ''Application for Federal Assistance (for non-construction);''

(b) Copies of applicant's organizational documents showing the applicant's legal existence and authority to perform the activities under the grant;

(c) A proposed scope of work, including a description of the proposed Project, details of the proposed activities to be accomplished and timeframes for completion of each task, the number of months for the duration of the Project, and the estimated time it will take from grant approval to the beginning of Project implementation;

(d) A written narrative that includes, at a minimum, the following items:

(1) An explanation of why the Project is needed, the benefits of the proposed Project, and how the Project meets the grant eligible purposes;

(2) Area to be served, identifying each governmental unit, *i.e.,* tribe, town, county, etc., to be affected by the Project;

(3) Description of how the Project will coordinate Economic Development activities with other Economic Development activities within the Project area;

(4) Businesses to be assisted, if appropriate, and economic development to be accomplished;

(5) An explanation of how the proposed Project will result in newly created, increased, or supported jobs in the area and the number of projected new and supported jobs within the next 3 years;

(6) A description of the applicant's demonstrated capability and experience in providing the proposed Project assistance, including experience of key staff members and persons who will be providing the proposed Project activities and managing the Project;

(7) The method and rationale used to select the areas and businesses that will receive the service;

(8) A brief description of how the work will be performed, including whether organizational staff or consultants or contractors will be used; and

(9) Other information the Agency may request to assist it in making a grant award determination.

(e) The latest 3 years of financial information to show the applicant's financial capacity to carry out the proposed work. If the applicant is less than 3 years old, at a minimum, the information should include all balance sheet(s), income statement(s), and cash flow statement(s). A current audited report is required if available;

(f) Documentation regarding the availability and amount of other funds to be used in conjunction with the funds from RBDG;

(g) A budget which includes salaries, fringe benefits, consultant costs, indirect costs, and other appropriate direct costs for the Project.

2. *Cost Sharing or Matching.* Matching funds are not required.

3. *Other.*

Applications will only be accepted from qualified national organizations to provide Technical Assistance for RT. There are no ''responsiveness'' or ''threshold'' eligibility criteria for these grants. There is no limit on the number of applications an applicant may submit under this announcement. None of the funds made available may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid

tax liability, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

None of the funds made available may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

4. *Completeness Eligibility.*

Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are missing required elements.

D. Application and Submission Information

1. *Address to Request Application Package.*

For further information, entities wishing to apply for assistance should contact the USDA Rural Development State Office provided in the **ADDRESSES** section of this notice to obtain copies of the application package.

Prior to official submission of grant applications, applicants may request technical assistance or other application guidance from the Agency, as long as such requests are made prior to March 7, 2022. Technical Assistance is not meant to be an analysis or assessment of the quality of the materials submitted, a substitute for Agency review of completed applications, nor a determination of eligibility, if such determination requires in-depth analysis. The Agency will not solicit or consider scoring or eligibility information that is submitted after the application deadline. The Agency reserves the right to contact applicants to seek clarification information on materials contained in the submitted application.

Applications must be submitted in paper format or electronic submission. If you want to submit an electronic application, follow the instructions for the RBDG funding announcement located at: *http://www.grants.gov.* Please review the *Grants.gov* website for instructions on the process of registering your organization as soon as possible to ensure you can meet the electronic application deadline. Applications submitted to a USDA Rural Development State Office must be received by the closing date and local time.

2. *Content and Form of Application Submission.*

You may submit your application in paper form or electronically through *Grants.gov*. Your application must contain all required information using only one of the submission methods. If you submit in paper form, any forms requiring signatures must include an original signature.

To apply electronically, you must follow the instructions for this funding announcement at: *http://www.grants.gov.* Please note that we cannot accept emailed or faxed applications.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Catalog of Federal Domestic Assistance number for this program.

When you enter the *Grants.gov* website, you will find information about applying electronically through the site, as well as the hours of operation.

To use *Grants.gov*, you must already have a Dun and Bradstreet Universal Numbering System (DUNS) number and you must also be registered and maintain registration in the System Awards Management (SAM). We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov*.

Documents submitted electronically through *Grants.gov* must include electronic signatures. Original signatures may be required if funds are awarded.

After applying electronically through *Grants.gov*, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

If you want to submit a paper application, send it to the State Office located in the State where the Project will primarily take place. You can find State Office contact information at: *http://www.rd.usda.gov/contact-us/state-offices.*

The organization submitting the application will be considered the lead entity. The program manager must be associated with the lead entity submitting the application.

An application must contain all of the required elements. Each application received in a USDA Rural Development State Office will be reviewed to determine if it is consistent with the eligible purposes contained in section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)). Each selection scoring criterion outlined in 7 CFR 4280.435 must be addressed in the application. Failure to address any of the criteria will result in a zero-point score for that criterion and will impact the overall evaluation of the application. Copies of 7 CFR part 4280, subpart E, are available on the Rural Development website at: *https://www.rd.usda.gov/page/regulations-and-guidance,* or will be provided to any interested applicant making a request to a USDA Rural Development State Office.

All Projects to receive Technical Assistance through these passenger transportation grant funds are to be identified when the applications are submitted to the USDA Rural Development State Office. Multiple Project applications must identify each individual Project, indicate the amount of funding requested for each individual Project, and address the criteria as stated above for each individual Project.

For multiple-Project applications, the average of the individual Project scores will be the score for that application.

The applicant documentation and forms needed for a complete application are located in the Program Description section of this notice, and 7 CFR part 4280, subpart E.

(a) There are no specific formats, specific limitations on number of pages, font size and type face, margins, paper size, number of copies, sequence or assembly requirements.

(b) The component pieces of this application should contain original signatures on the original application.

(c) Since these grants are for Technical Assistance for transportation purposes, no additional information requirements other than those described in this notice and 7 CFR part 4280, subpart E are required.

3. *Unique entity identifier and System for Award Management.*

All applicants must have a DUNS number which can be obtained at no cost via a toll-free request line at (866) 705–5711 or at: *http://fedgov.dnb.com/webform.* Each applicant (unless the applicant is an individual or Federal awarding agency that is excepted from the requirements under 2 CFR 25.110(b) or (c) or has an exception approved by the Federal awarding agency under 2 CFR 25.110(d)) is required to: (i) Be registered in SAMS before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan

under consideration by a Federal awarding agency. The Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

4. *Submission Dates and Times.*

(a) *Application Deadline Date:* Paper applications are due no later than 4:30 p.m. (local time) on April 14, 2022. *Electronic applications must be submitted via grants.gov no later than 11:59 p.m. eastern time on* April 14, 2022.

Explanation of Deadlines: Applications must be in the USDA Rural Development State Office or submitted in *grants.gov* by the deadline date and times as indicated above. If the due date falls on a Saturday, Sunday, or Federal holiday, the application is due the next business day.

(b) The deadline date means that the completed application package must be received in the USDA Rural Development State Office or in the *grants.gov* system by the deadline date established above. All application documents identified in this notice and in 7 CFR part 4280, subpart E, are required to be considered a complete application.

(c) If complete applications are not received by the deadline established above, the application will neither be reviewed nor considered under any circumstances.

(d) The Agency will determine the paper application receipt date based on the actual date postmarked.

(e) This notice is for RT Technical Assistance grants only and therefore, intergovernmental reviews are not required.

(f) These grants are for RT Technical Assistance grants only and no construction or equipment purchases are permitted. If the grantee has a previously approved indirect cost rate, it is permissible, otherwise, the applicant may elect to charge the 10 percent indirect cost permitted under 2 CFR 200.414(f) or request a determination of its Indirect Cost Rate. Due to the time required to evaluate Indirect Cost Rates, it is likely that all funds will be awarded by the time the Indirect Cost Rate is determined. No foreign travel is permitted. Pre-Federal award costs will only be permitted with prior written approval by the Agency.

(g) Applicants must submit applications in paper copy format or an electronic submission as previously indicated in the Application and Submission Information section of this notice. If the applicant wishes to hand deliver its application, the addresses for these deliveries can be located in the **ADDRESSES** section of this notice.

(h) If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

E. Application Review Information

1. *Criteria.*

All eligible and complete applications will be evaluated and scored based on the scoring criteria contained in 7 CFR 4280.435. The Agency will select grantees subject to the grantees' satisfactory submission of the additional items required by 7 CFR part 4280, Section 4280.427, and the USDA Rural Development Letter of Conditions. Failure to address any one of the criteria in 7 CFR 4280.427 by the application deadline will result in the application being determined ineligible, and the application will not be considered for funding. The amount of an RT grant may be adjusted, at the Agency's discretion, to enable the Agency to award RT grants to the applications with the highest priority scores in each category.

2. *Review and Selection Process.*

Rural Development State Offices will review applications to determine if they are eligible for assistance based on the application and project eligibility requirements contained in 7 CFR 4280.416 and 4280.417, respectively, and as stated in this notice. If determined eligible, your application will be submitted to the National Office. Funding of the projects is subject to the applicant's satisfactory submission of the additional items required by that subpart and the USDA Rural Development Letter of Conditions. The Agency reserves the right to award additional discretionary points under 7 CFR 4280.435(k). Discretionary points may only be assigned to initial grants.

Assignment of discretionary points must include a written justification. Permissible justifications include projects that meet special Secretary of Agriculture initiatives such as projects that assist communities recover economically from the impacts of the COVID–19 pandemic; ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects; and reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities. The website *https://www.rd.usda.gov/priority-points* has additional data on the Secretary of Agriculture initiatives.

The number of points to be awarded will be determined by the impact of the project on the stated initiative.

F. Federal Award Administration Information

1. *Federal Award Notices.*

Successful applicants will receive notification for funding from their USDA Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the grant award will be approved. Unsuccessful applications will receive notification by mail.

2. *Administrative and National Policy Requirements.*

All successful applicants will be notified by letter, which will include a Letter of Conditions, and a Letter of Intent to Meet Conditions. This letter is not an authorization to begin performance. If the applicant wishes to consider beginning performance prior to the grant being officially closed, all pre-award costs must be approved in writing and in advance by the Agency. The grant will be considered officially awarded when all conditions in the Letter of Conditions have been met and the Agency obligates the funding for the Project.

Additional requirements that apply to grantees selected for this program can be found in 7 CFR part 4280, subpart E; the Grants and Agreements regulations of the U.S. Department of Agriculture codified in 2 CFR Chapter IV, which incorporates the new Office of Management and Budget (OMB) regulations at 2 CFR part 200, and successor regulations. In addition, all recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation (see 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) reporting requirements (see 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)).

The following additional requirements apply to grantees selected for this program:

(a) Form RD 4280–2 ''Rural Business-Cooperative Service Financial Assistance Agreement.''

(b) Letter of Conditions.

(c) Form RD 1940–1, ''Request for Obligation of Funds.''

(d) Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(i) Form RD 400–4, ''Assurance Agreement.'' Each prospective recipient must sign Form RD 400–4 which assures USDA that the recipient is in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR part 15, and other Agency regulations. Form RD 400–4 also provides that no person will be discriminated against based on race, color, or national origin, in regard to any program or activity for which the recipient receives Federal financial assistance. The grant recipient must include the required nondiscrimination statements in any of their advertisements and brochures. Program participants will be required to collect and maintain data provided by recipients on race, sex, and national origin and ensure recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' (62 FR 58782), October 30, 1997. Data on recipients' sex will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

The applicant and the ultimate recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 regarding Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E.

(j) SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

(k) Form SF 270, ''Request for Advance or Reimbursement.''

3. *Reporting.*

(a) A Financial Status Report and a Project performance activity report will be required of all grantees on a quarterly basis until initial funds are expended and yearly thereafter, if applicable, based on the Federal fiscal year. The grantee will complete the Project within the total time available to it in accordance with the Scope of Work and any necessary modifications thereof prepared by the grantee and approved by the Agency. A final Project performance report will be required with the final Financial Status Report. The final report may serve as the last quarterly report. The final report must provide complete information regarding the jobs created and supported as a result of the grant if applicable. Grantees must continuously monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees must submit an original of each report to the Agency no later than 30 days after the end of the quarter. The Project performance reports must include, but not be limited to, the following:

(1) A comparison of actual accomplishments to the objectives established for that period;

(2) Problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall Project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular Project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation;

(3) Objectives and timetable established for the next reporting period;

(4) Any special reporting requirements, such as jobs supported and created, businesses assisted, or Economic Development which results in improvements in median household incomes, and any other specific requirements, should be placed in the reporting section in the Letter of Conditions; and

(5) Within 90 days after the conclusion of the Project, the grantee will provide a final Project evaluation report. The last quarterly payment will be withheld until the final report is received and approved by the Agency. Even though the grantee may request reimbursement on a monthly basis, the last 3 months of reimbursements will be withheld until a final Project, Project performance, and financial status report are received and approved by the Agency.

G. Federal Awarding Agency Contact(s)

For general questions about this announcement, please contact your USDA Rural Development State Office provided in the **ADDRESSES** section of this notice.

H. Civil Rights Requirements

All grants made under this notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A) and Section 504 of the Rehabilitation Act of 1973, Title VIII of the Civil Rights Act of 1968, Title IX, Executive Order 13166 (regarding Limited English Proficiency), Executive Order 11246 regarding Equal Employment Opportunity, and the Equal Credit Opportunity Act of 1974.

I. Other Information

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirement contained in this notice is approved by OMB under OMB Control Number 0570–0070.

Federal Funding Accountability and Transparency Act

All applicants, in accordance with 2 CFR part 25, must have a DUNS number, which can be obtained at no cost via a toll-free request line at (866) 705–5711, or online at: *http://fedgov.dnb.com/webform.* Similarly, all applicants must be registered in SAM prior to submitting an application. Applicants may register for the SAM at: *http://www.sam.gov/SAM.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

Nondiscrimination Statement

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

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at

https://www.ocio.usda.gov/document/ad-3027, from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

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

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

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

USDA is an equal opportunity provider, employer, and lender.

Karama Neal,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2022–00653 Filed 1–13–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Speedway Solar Project: Notice of Intent To Prepare an Environmental Impact Statement and Hold Public Scoping Meeting on February 2, 2022

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement and hold public scoping meeting.

SUMMARY: The Rural Utilities Service (RUS) announces its intent to prepare an Environmental Impact Statement (EIS) and to hold a virtual public scoping meeting in connection with possible impacts related to a project proposed by Speedway Solar LLC (Speedway Solar). The primary scope of the EIS is to evaluate the environmental impacts of and alternatives to Speedway Solar's application for financial assistance to develop the Speedway Solar Project (Project), a 199-megawatt (MW) solar array using photovoltaic (PV) modules on private, primarily agricultural lands in Shelby County, Indiana. RUS is considering funding this application, thereby making the proposed Project an undertaking subject to review under the National Historic Preservation Act (NHPA). RUS has determined that a loan for the Project would be a federal action and is, therefore, subject to National Environmental Policy Act (NEPA) review.

DATES: One virtual public scoping meeting webinar will be held on February 2, 2022, from 6:00 p.m. EST–8:00 p.m. EST via Zoom. The public scoping meeting will be conducted in a virtual format with RUS and Speedway Solar representatives. Attendees will be able to submit comments during the virtual public meeting orally or via the chat function. The public scoping meeting will be recorded and kept as part of the Project record. Equal weight will be given to oral and written (chat) comments. More information about the virtual public scoping meeting can be found at: *https://www.rd.usda.gov/resources/environmental-studies/impact-statements.*

Written requests to participate as a ''consulting party'' or to provide comments for consideration during the scoping process for the proposed Project must be received on or before February 14, 2022.

ADDRESSES: To request ''consulting party'' status, submit comments, or for further information, please contact: *SpeedwaySolarEIS@usda.gov.* Although electronic submittal is strongly encouraged, written comments may also be submitted by regular mail to United States Department of Agriculture, Attention: Peter Steinour, Mail Stop 1570, Rural Utilities Service, WEP/EES, 1400 Independence Ave. SW, Washington, DC 20250.

Project-related information will be available at RUS's and Speedway Solar's websites located at: *https://www.rd.usda.gov/resources/environmental-studies/impact-statements,* and *https://speedwaysolar.com/.* This includes the Alternative Evaluation and Site Selection Studies prepared for the project. Project information will also be available at the Shelby County Public Library Morristown Branch at 127 E Main St., Morristown, IN.

SUPPLEMENTARY INFORMATION: The RUS is the lead federal agency, as defined at 40 CFR 1508.1(o), for preparation of the EIS. With this notice, federal and state agencies and federally-recognized Tribes with jurisdiction or special expertise are invited to be cooperating agencies. Such agencies or tribes may make a request to RUS to be a cooperating agency by contacting the RUS contact provided in this notice. Designated cooperating agencies have certain responsibilities to support the NEPA and scoping process, as specified at 40 CFR 1501.8.

In addition, RUS invites any affected federal, state, and local agencies, Tribes, and other interested persons to comment on the scope, alternatives, and significant issues to be analyzed in depth in the EIS.

Public participation is an integral component of the environmental review process for federal actions. Public participation will be especially important during the scoping phase of the proposed Project. The RUS will be seeking information, comments, and assistance from federal, State, and local agencies, Tribes, and other individuals who may be interested in or affected by the proposed Project. This input will be used in preparing the Draft EIS. Comments submitted during the scoping process should be in writing. The comments should describe as clearly and completely as possible any issues, concerns, or input commenters may have so that they can be addressed appropriately in the EIS.

The RUS is considering funding this application, thereby making the proposed Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470(f), and its implementing regulation, ''Protection of Historic Properties'' (36 CFR part 800). Any party wishing to participate directly with RUS as a ''consulting party'' in Section 106 review may submit a written request to the RUS contact provided below. Pursuant to 36 CFR 800.3(f)(3), RUS will consider, and provide a timely response to, any and all requests for consulting party status.

The Project will consist of a 199-megawatt (MW) solar array using photovoltaic (PV) modules on private lands in Shelby County, Indiana. The Project consists of a 199–MW solar array that will utilize PV modules. The Project consists of two major components: PV solar arrays (the main Project footprint) and transmission interconnection facilities (a collector substation). The Project will be located entirely on privately owned farmland in a rural area in Shelby County, Indiana. The Application Area encompasses approximately 1,800 acres. Within the Application Area, construction will occur on an approximately 1,100-acre project area.

Speedway Solar entered into a power purchase agreement with Wabash Valley Power Alliance (WVPA) for the solar and energy storage project. WVPA's objective is to provide safe, adequate, and reliable power to its members at the lowest reasonable cost. The Project will allow the Applicant to provide the additional generation capacity needed by WVPA to achieve these goals and to serve electrical needs within the service territories of their member cooperatives.

Among the alternatives that RUS will address in the EIS is the No Action

alternative, under which the proposal will not be undertaken or if RUS did not fund the proposed Project, other sites evaluated by Speedway Solar, and any reasonable alternatives defined as a result of the scoping process. In the EIS, the effects of the proposal will be compared to the existing conditions in the affected area of the proposal. Public health and safety, environmental impacts (such as impacts to vegetation, soils/prime farmland, wildlife/endangered species, cultural resources, and land use), socio-economic, and engineering aspects of the proposal will also be considered in the EIS.

As part of its broad environmental review process, RUS must take into account the effect of the proposal on historic properties in accordance with Section 106 of the NHPA (Section 106) and its implementing regulation, ''Protection of Historic Properties'' (36 CFR 800). Pursuant to 36 CFR 800.2(d)(3), RUS is using its procedures for public involvement under NEPA to meet its responsibilities to solicit and consider the views of the public during NHPA Section 106 review. Accordingly, comments submitted in response to this Notice will inform RUS decision-making during NHPA Section 106 review.

In addition to compliance with Section 106, the Project will require evaluation under Section 404 of the Clean Water Act and will obtain required state, county, and local permits. The Project has received approval from the Shelby County Board of Zoning Appeals.

From information provided in the studies mentioned above, and using input provided by government agencies, tribes, and the public, RUS will prepare a Draft EIS. The Draft EIS will be filed with the U.S. Environmental Protection Agency (USEPA) and will be available for public comment by Spring 2022. At that time, RUS and USEPA will publish a notice of the availability of the Draft EIS and notice of receipt, respectively, in the **Federal Register**. In addition, Speedway Solar will publish notices in local newspapers and any online local news sources. The comment period will be 45 days from the date the EPA publishes its **Federal Register** notice announcing receipt of the Draft EIS.

To assist the involved federal agencies in identifying and considering issues and concerns on the proposal, comments on the Draft EIS should be as specific as possible. It is also helpful if the comments refer to the specific pages or chapters of the Draft EIS. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the CEQ's regulations at 40 CFR 1503.3 in addressing these points. After the comment period ends on the Draft EIS, the comments will be analyzed, considered, and responded to by the agencies involved in preparing the Final EIS.

The public will again have the opportunity to review and comment on the Final EIS. Upon completion of a 30-day public comment period, the RUS will document its decision regarding the proposed Project and reasons for the decision in a Record of Decision. A public notice announcing the availability of the Record of Decision will be published in the **Federal Register** and local newspapers.

Any final action by RUS related to the proposal will be subject to, and contingent upon, compliance with all relevant executive orders and federal, state, and local environmental laws and regulations in addition to the completion of the environmental review requirements as prescribed in 7 CFR 1970, Environmental Policies and Procedures.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service, U.S. Department of Agriculture.

[FR Doc. 2022–00688 Filed 1–13–22; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Virginia Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Virginia Advisory Committee (Committee) will hold a web meeting via WebEx on Friday, February 11, 2022, at 2:00 p.m. Eastern Time. The purpose of the meeting is to continue reviewing testimony and discussing potential speakers for the next briefing on police accountability in the state.

DATES: The meeting will be held on: Friday, February 11, 2022, at 2:00 p.m. Eastern Time.

Online Registration: https://bit.ly/3zyzYdG.

Join by Phone: 800–360–9505 USA Toll Free; Access code: 2762 877 8065.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individual who is deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Melissa Wojnaroski at *mwojnaroski@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Virginia Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome & Roll Call

II. SAC Discussion: Civil Rights and Police Accountability in Virginia

III. Public Comments

IV. Adjournment

Dated: January 11, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–00665 Filed 1–13–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–66–2021]

Foreign-Trade Zone (FTZ) 84—Houston, Texas; Authorization of Production Activity; Mitsubishi Logisnext Americas (Houston) Inc. (Forklifts/Work Trucks and Related Subassemblies/Kits); Houston, Texas

On September 10, 2021, Mitsubishi Logisnext Americas (Houston) Inc., submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 84, in Houston, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 53945, September 29, 2021). On January 10, 2022, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: January 10, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–00632 Filed 1–13–22; 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; Offsets in Military Exports

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 March 15, 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 0694–0084 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

This collection of information is required by the Defense Production Act (DPA). The DPA requires U.S. firms to furnish information to the Department of Commerce regarding offset agreements exceeding $5,000,000 in value associated with sales of weapon systems or defense-related items to foreign countries or foreign firms. Offsets are industrial or commercial compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services as defined by the Arms Export Control Act and the International Traffic in Arms Regulations. Such offsets are required by most major trading partners when purchasing U.S. military equipment or defense related items.

II. Method of Collection

Electronic or on paper.

III. Data

OMB Control Number: 0694–0084.

Form Number(s): N/A.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Time per Response: 12 hours.

Estimated Total Annual Burden Hours: 360.

Estimated Total Annual Cost to Public: 9,000.

Respondent's Obligation: Mandatory.

Legal Authority: Defense Production Act of 1950, Section 309.

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. 2022–00727 Filed 1–13–22; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Designation of the Connecticut National Estuarine Research Reserve

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of designation; notice of availability.

SUMMARY: Notice is hereby given that, pursuant to the Coastal Zone Management Act (CZMA), the National Oceanic and Atmospheric Administration (NOAA) Office for Coastal Management has designated certain Connecticut state-owned lands and portions of public trust waters of

the Long Island Sound, Fishers Island Sound, Connecticut River, and Thames River as the Connecticut National Estuarine Research Reserve (Connecticut Reserve). On January 11, 2022, the Under Secretary of Commerce for Oceans and Atmosphere, Dr. Richard W. Spinrad, signed a Record of Decision pursuant to the National Environmental Policy Act and the findings of designation for the Connecticut Reserve pursuant to Section 315 of the CZMA and its implementing regulations. A copy of the Record of Decision and the findings of designation are available for public review from NOAA's Office for Coastal Management at *coast.noaa.gov/czm/compliance.* Additionally, NOAA hereby provides notice of the results of the consistency determination for the designation of the Connecticut Reserve.

FOR FURTHER INFORMATION CONTACT: Erica Seiden, Office for Coastal Management, National Ocean Service, NOAA, 1305 East-West Highway, N/OCM, Silver Spring, Maryland 20910; Phone: (202) 607–5232; or Email: *erica.seiden@noaa.gov.*

SUPPLEMENTARY INFORMATION: The National Estuarine Research Reserve System (reserve system) is a federal-state partnership administered by NOAA. The reserve system protects more than 1.3 million acres of estuarine habitat for long-term research, monitoring, education, and stewardship throughout the coastal United States. Established by the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*), each reserve is managed by a lead state agency or university, with input from local partners. NOAA provides funding and national programmatic guidance to the reserve system.

NOAA received the State of Connecticut's nomination of the proposed Connecticut Reserve site on January 3, 2019. NOAA evaluated the nomination package and found that the proposed site met the reserve system requirements for designation. (See 16 U.S.C. 1461(b).) Accordingly, NOAA informed the State of Connecticut on September 27, 2019, that it was accepting the nomination and that the next step would be to prepare a Draft Environmental Impact Statement and Draft Management Plan. (See 15 CFR 921.13.) On June 1, 2020, NOAA issued a notice of intent to prepare a Draft Environmental Impact Statement and Draft Management Plan for the proposed Connecticut Reserve (85 FR 33123). On July 17, 2020, NOAA issued a notice of a public scoping meeting to solicit input on the Draft Environmental Impact statement (85 FR 43543). On September 3, 2021, NOAA issued notice of public hearings and a 45-day public comment period for the Draft Environmental Impact Statement and Draft Management Plan for the proposed designation of the Connecticut Reserve (86 FR 49519). NOAA has included responses to the relevant written and oral comments it received on the adequacy of the draft environmental impact statement and draft management plan in Appendix B of the Final Environmental Impact Statement. The Final Environmental Impact Statement and Final Management Plan for the proposed Connecticut Reserve were published on December 3, 2021 (86 FR 68661). For more information about the Connecticut Reserve, including the reserve's Final Management Plan, see the reserve's web page: *coast.noaa.gov/nerrs/reserves/connecticut.html.*

The implementing regulations (40 CFR parts 1500–1508) for the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), require agencies to publish a public Record of Decision identifying alternatives considered by the agencies in reaching their decision and specifying the environmentally preferable alternative (40 CFR 1505.2). Furthermore, pursuant to the CZMA's implementing regulations for the reserve system, NOAA is required to provide notice in the **Federal Register** of the results of the consistency determination for the proposed designation of a National Estuarine Research Reserve in states with federally-approved coastal zone management programs (15 CFR 921.30).

Pursuant to these requirements, NOAA has published a Record of Decision in accordance with the National Environmental Policy Act, which can be found at *coast.noaa.gov/czm/compliance.* Furthermore, NOAA hereby provides notice of the results of the consistency determination for the Connecticut Reserve: NOAA submitted the consistency determination to the State of Connecticut on September 8, 2021, in accordance with the requirements of Section 307 of the Coastal Zone Management Act (16 U.S.C. 1456), and the State of Connecticut concurred on October 27, 2021.

For more detailed information on the designation process, see the Connecticut Department of Energy and Environmental Protection's Connecticut National Estuarine Research Reserve website: *portal.ct.gov/DEEP/Coastal-Resources/NERR/NERR-Home-Page.*

Authority: 16 U.S.C. 1451 *et seq.;* 42 U.S.C. 4321 *et seq.*

Jeffrey L. Payne,

Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–00734 Filed 1–13–22; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB708]

Whaling Provisions; Aboriginal Subsistence Whaling Quotas

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

ACTION: Notice; notification of quota for bowhead whales.

SUMMARY: NMFS notifies the public of the aboriginal subsistence whaling quota for bowhead whales that it has assigned to the Alaska Eskimo Whaling Commission (AEWC), and of limitations on the use of the quota deriving from regulations of the International Whaling Commission (IWC). For 2022, the quota is 93 bowhead whales struck. This quota and other applicable limitations govern the harvest of bowhead whales by members of the AEWC.

DATES: Applicable January 14, 2022.

ADDRESSES: Office of International Affairs and Seafood Inspection, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Mi Ae Kim, (301) 427–8365.

SUPPLEMENTARY INFORMATION: Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (WCA) (16 U.S.C. 916 *et seq.*). Under the WCA, IWC regulations shall generally become effective with respect to all persons and vessels subject to the jurisdiction of the United States, within 90 days of notification from the IWC Secretariat of an amendment to the IWC Schedule (16 U.S.C. 916k). Regulations that implement the WCA, found at 50 CFR 230.6, require the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 67th Meeting of the IWC, the Commission set catch limits for aboriginal subsistence use of bowhead

whales from the Bering-Chukchi-Beaufort Seas stock. The bowhead and other aboriginal subsistence whaling catch limits were based on a joint request by Denmark on behalf of Greenland, the Russian Federation, St. Vincent and the Grenadines, and the United States, accompanied by documentation concerning the needs of the Native groups.

The IWC set a seven-year block catch limit of 392 bowhead whales landed. For each of the years 2019 through 2025, the number of bowhead whales struck may not exceed 67, with unused strikes from the three prior quota blocks carried forward and added to the annual strike quota of subsequent years, provided that no more than 50 percent of the annual strike limit is added to the strike quota for any one year. At the end of the 2021 harvest, there were 33 unused strikes available for carry-forward, so the combined strike quota set by the IWC for 2022 is 100 (67 + 33).

An arrangement between the United States and the Russian Federation ensures that the total quota of bowhead whales landed and struck in 2022 will not exceed the limits set by the IWC. Under this arrangement, the Russian natives may use no more than seven strikes, and the Alaska natives may use no more than 93 strikes.

Through its cooperative agreement with the AEWC, NOAA has assigned 93 strikes to the Alaska Eskimo Whaling Commission. The AEWC will in turn allocate these strikes among the 11 villages whose cultural and subsistence needs have been documented, and will ensure that its hunters use no more than 93 strikes.

At its 67th Meeting, the IWC also provided for automatic renewal of aboriginal subsistence whaling catch limits under certain circumstances. Commencing in 2026, bowhead whale catch limits shall be extended every six years provided: (a) The IWC Scientific Committee advises in 2024, and every six years thereafter, that such limits will not harm the stock; (b) the Commission does not receive a request from the United States or the Russian Federation for a change in the bowhead whale catch limits based on need; and (c) the Commission determines that the United States and the Russian Federation have complied with the IWC's approved timeline and that the information provided represents a status quo continuation of the hunts.

Other Limitations

The IWC regulations, as well as the NOAA regulation at 50 CFR 230.4(c), forbid the taking of calves or any whale accompanied by a calf.

NOAA regulations (at 50 CFR 230.4) contain a number of other prohibitions relating to aboriginal subsistence whaling, some of which are summarized here:

- Only licensed whaling captains or crew under the control of those captains may engage in whaling.
- Captains and crew must follow the provisions of the relevant cooperative agreement between NOAA and a Native American whaling organization.
- The aboriginal hunters must have adequate crew, supplies, and equipment to engage in an efficient operation.
- Crew may not receive money for participating in the hunt.
- No person may sell or offer for sale whale products from whales taken in the hunt, except for authentic articles of Native American handicrafts.
- Captains may not continue to whale after the relevant quota is taken, after the season has been closed, or if their licenses have been suspended. They may not engage in whaling in a wasteful manner.

Dated: January 10, 2022.

Alexa Cole,

Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service.

[FR Doc. 2022–00641 Filed 1–13–22; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* February 13, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 8/6/2021, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are added to the Procurement List:

Service(s)

Service Type: Secure document destruction
Mandatory for: Department of Health and Human Services, Albuquerque Indian Health Service, Santa Fe Service Unit, Santa Fe, NM
Designated Source of Supply: Adelante Development Center, Inc., Albuquerque, NM
Contracting Activity: INDIAN HEALTH SERVICE, ALBUQUERQUE AREA INDIAN HEALTH SVC

Deletions

On 9/24/2021, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is

published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 6545–01–539–2734—Pouch, First Aid Kit, USMC
Designated Source of Supply: Chautauqua County Chapter, NYSARC, Jamestown, NY
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA; COMMANDER, QUANTICO, VA

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2022–00706 Filed 1–13–22; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to the Procurement List.

SUMMARY: The Committee is proposing to add product(s) and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: February 13, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) and service(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. The following product(s) and service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):
MR 16550—Automatic Umbrella
MR 16551—Oversize Automatic Umbrella
MR 16552—Family Golf Umbrella
MR 16553—Children's Umbrella
MR 10813—Prep Bowl, 3 Piece, Includes Shipper 20813
MR 10817—Worklight, Includes Shipper 20817
MR 10820—Mushroom Saver, Includes Shipper 20820
MR 10822—Popcorn Saver, Includes Shipper 20822
MR 10823—Popcorn Saver, Includes Shipper 20822
MR 10818—Pig Out Car Go Container, Includes Shipper 20818
MR 10829—Container, Grapes To Go, Includes Shipper 20829
MR 10828—Container, Olive Keeper, Includes Shipper 20828
Designated Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Military Resale-Defense Commissary Agency
Distribution: C-List

Service(s)

Service Type: Custodial Service
Mandatory for: Federal Aviation Administration, Wilkes-Barre/Scranton International Airport Air Traffic Control Tower and Base Building, Dupont, PA
Designated Source of Supply: Allied Health Care Services, Taylor, PA
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–00703 Filed 1–13–22; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, January 12, 2022; 10:00 a.m.

PLACE: This meeting will be conducted by remote means.

STATUS: Commission Meeting—Closed to the Public.

MATTERS TO BE CONSIDERED: Briefing Matter.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Secretary, Division of the Secretariat, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, (301) 504–7479 (Office) or 240–863–8938 (cell).

* The Commission unanimously determined by recorded vote to close the meeting and that agency business requires calling the meeting without seven calendar days advance public notice.

Dated: January 11, 2022.

Alberta E. Mills,

Secretary.

[FR Doc. 2022–00772 Filed 1–12–22; 11:15 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, January 19, 2022, 10:00–11:00 a.m.

PLACE: This meeting will be held remotely.

STATUS: Commission Meeting—Open to the Public.

MATTERS TO BE CONSIDERED: Decisional Matter:

Proposed Rule: Safety Standard for Clothing Storage Units

All attendees and participants should pre-register for the Commission meeting (Webinar). To pre-register for the Webinar, please visit *https://attendee.gotowebinar.com/register/3131074185193080847* and fill in the information. After registering you will receive a confirmation email containing information about joining the webinar.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary,

U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: January 11, 2022.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2022–00771 Filed 1–12–22; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement for the Foreign Military Sales Pilot Training Center Beddown at Ebbing Air National Guard Base, Arkansas or Selfridge Air National Guard Base, Michigan

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of Intent.

SUMMARY: The Department of the Air Force (Air Force) is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS) for the Foreign Military Sales (FMS) Pilot Training Center (PTC) beddown at a single Continental United Sates (CONUS) location at either Ebbing Air National Guard (ANG) Base, Arkansas or Selfridge ANG Base, Michigan. The EIS will assess the potential environmental consequences resulting from construction or renovation of facilities and aircraft operation of the proposal for the permanent beddown of the FMS PTC, encompassing up to 16 F–16 aircraft and 36 F–35 aircraft.

DATES: A public scoping period of 30-days will take place starting from the date of this NOI publication in the **Federal Register**. Comments will be accepted at any time during the environmental impact analysis process; however, to ensure the Air Force has sufficient time to consider public scoping comments during the preparation of the Draft EIS, please submit comments within the 30-day period; by February 14, 2022, to the website or mailed to one of the addresses listed below.

The Air Force plans to hold two virtual scoping meetings to solicit comments on potential alternatives and impacts and identification of any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment regarding the Proposed Action. The scoping meetings will be held on the dates and times below:

- Tuesday, February 1, 2022: 6 p.m.–8 p.m. CST
- Thursday, February 3, 2022: 6 p.m.–8 p.m. CST

To register to attend a virtual public scoping meeting and sign-up to provide a verbal comment, visit *www.FMSPTCEIS.com.* Meeting links and instructions will be distributed after registering and prior to all virtual public scoping meetings. All public scoping meetings can be accessed by phone at 1–877–853–5247; Meeting ID: 814 7750 7399; Meeting Password: 36126569.

Major milestone dates, are as follows:

- Draft EIS and Notice of Availability (NOA) publication, Fall 2022
- Draft EIS Public Comment Period and Hearing, Fall 2022
- Final EIS and NOA publication, Winter 2022/2023
- Record of Decision signature, Spring 2023

ADDRESSES: Additional information on the FMS PTC EIS environmental impact analysis process can be found on the project website at *www.FMSPTCEIS.com.* The project website can also be used to submit inquiries, comments, and requests for printed or digital copies of the scoping material or to Mr. David Martin at (210) 925–2741 or directed to: U.S. Post Office Deliveries: FMS PTC EIS Project Manager, AFCEC/CZN, 2261 Hughes Avenue, Suite 155, JBSA Lackland, TX 78236 9853. FedEx & UPS Deliveries: FMS PTC EIS Project Manager, AFCEC/CZN, 3515 S General McMullen, Suite 155, San Antonio, TX 78226–2018.

SUPPLEMENTARY INFORMATION: The Department of the Air Force proposes to beddown the FMS PTC, comprised of up to 16 F–16 aircraft of the Republic of Singapore Air Force (RSAF), and up to 36 F–35 FMS aircraft. The FMS PTC mission will operate under the direction of the Air Force Air Education and Training Command (AETC).

The purpose of the Proposed Action is to establish a permanent FMS PTC, initially providing beddown of up to 36 F–35 aircraft, at a single location within CONUS. The Proposed Action is needed to provide a centralized location for training and pilot production associated with Foreign Military Sales. Multiple nations have agreements with the Air Force to purchase F–35 aircraft. This drives the need for a location suitable for initial F–35 training before returning to their home country. The Republic of Singapore is among the nations purchasing F–35s and plans to keep some of their aircraft in the U.S. for an indefinite period of time. Additionally, the Republic of Singapore would relocate 16 F–16s from Luke AFB, Arizona, to the FMS PTC location.

The EIS will analyze Ebbing and Selfridge ANG Bases as alternatives for the implementing the Proposed Action described above, as well as a No Action Alternative. The alternatives were developed to minimize adverse mission impact, maximize facility reuse, minimize cost, and reduce overhead, as well as leverage the strengths of each base to optimize the FMS PTC strategy. The potential impacts of the Proposed Action and Alternatives (including No Action Alternative) that the EIS will examine include impacts to land use, airspace, safety, noise, hazardous materials and solid waste, physical resources (including earth and water resources), air quality, transportation, cultural resources, biological resources, socioeconomics, and environmental justice resulting from construction and renovation at the installation and aircraft operation. The Air Force is preparing this EIS in accordance with the National Environmental Policy Act (NEPA) of 1969; 40 Code of Federal Regulations (CFR), Parts 1500–1508, the Council on Environmental Quality (CEQ) regulations implementing NEPA; and the Air Force's Environmental Impact Analysis Process (EIAP) as codified in 32 CFR part 989.

Scoping and Agency Coordination: The scoping process will be used to involve the public early in the planning and development of the EIS, to help identify issues to be addressed in the environmental analysis. To effectively define the full range of issues and concerns to be evaluated in the EIS, the Air Force is soliciting scoping comments from interested local, state, and federal agencies and interested members of the public. The Federal Aviation Administration has been requested to be a Cooperating Agency for this action.

Due to the evolving nature of the current COVID crisis, the Air Force will hold two virtual public scoping meetings to inform the public and solicit comments and concerns about the proposal. Scoping meetings will be held online via *www.FMSPTCEIS.com.* Local notices identifying scheduled dates, and information for accessing each meeting, will be published a minimum of fifteen (15) days prior to each meeting.

Adriane S. Paris,

Air Force Federal Register Liaison Officer.

[FR Doc. 2022–00695 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2021–HQ–0014]

Submission for OMB Review; Comment Request

AGENCY: Department of the Army, 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 February 14, 2022.

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, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exchange Customer Satisfaction Survey; OMB Control Number 0702–0130.

Type of Request: Revision.

Number of Respondents: 20,000.

Responses per Respondent: 1.

Annual Responses: 20,000.

Average Burden per Response: 2 minutes.

Annual Burden Hours: 666.67.

Needs and Uses: The information collection requirement is necessary to provide the Exchange with holistic views of customers' shopping experiences. The survey aids the Exchange's marketing directorate to address the effectiveness of providing goods and services in applicable service availability meeting the patron's wants and desires.

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: January 11, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–00714 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee (DoDWC); Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of closed Federal advisory committee meetings.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meetings of the DoDWC will take place.

DATES:

Tuesday, January 25, 2022 from 10:00 a.m. to 11:00 a.m. and will be closed to the public.

Tuesday, February 8, 2022 from 10:00 a.m. to 11:00 a.m. and will be closed to the public.

Tuesday, February 22, 2022 from 10:00 a.m. to 11:00 a.m. and will be closed to the public.

Tuesday, March 8, 2022 from 10:00 a.m. to 12:00 p.m. and will be closed to the public.

Tuesday, March 22, 2022 from 10:00 a.m. to 12:00 p.m. and will be closed to the public.

Tuesday, April 5, 2022 from 10:00 a.m. to 12:00 p.m. and will be closed to the public.

Tuesday, April 19, 2022 from 10:00 a.m. to 1:00 p.m. and will be closed to the public.

ADDRESSES: The closed meetings will be held by teleconference.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Fendt, (571) 372–1618 (voice), *karl.h.fendt.civ@mail.mil* (email), 4800 Mark Center Drive, Suite 05G21, Alexandria, Virginia 22350 (mailing address). Any agenda updates can be found at the DoDWC's official website: *https://wageandsalary.dcpas.osd.mil/BWN/DODWC/.*

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer, the DoDWC was unable to provide public notification required by 41 CFR 102–3.450(a) concerning its meeting of January 25, 2022 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement. These meetings are being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C., appendix), the Government in the Sunshine Act (5 U.S.C. 552b), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of these meetings is to provide independent advice and recommendations on matters relating to the conduct of wage surveys and the establishment of wage schedules for all appropriated fund and non-appropriated fund areas of blue-collar employees within the Department of Defense.

Agendas

January 25, 2022

Opening Remarks.

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.

2. Survey Specifications for the Tampa-St. Petersburg, Florida wage area (AC–035).

3. Survey Specifications for the Lake Charles-Alexandria, Louisiana wage area (AC–060).

4. Survey Specifications for the El Paso, Texas wage area (AC–132).

5. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks.

February 8, 2022

Opening Remarks.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Survey Specifications for the Pennington, South Dakota wage area (AC–086).
3. Survey Specifications for the Nueces, Texas wage area (AC–115).
4. Survey Specifications for the Bexar, Texas wage area (AC–117).
5. Survey Specifications for the Anchorage, Alaska wage area (AC–118).
6. Survey Specifications for the Kitsap, Washington wage area (AC–142).
7. Survey Specifications for the Dallas, Texas wage area (AC–152).
8. Survey Specifications for the Tarrant, Texas wage area (AC–156).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

9. Survey Specifications for the Shreveport, Louisiana wage area (AC–062).
10. Survey Specifications for the Central North Carolina wage area (AC–099).
11. Survey Specifications for the Norfolk-Portsmouth-Newport News-Hampton, Virginia wage area (AC–140).
12. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks.

February 22, 2022

Opening Remarks.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Wage Schedule (Full Scale) for the Washoe-Churchill, Nevada wage area (AC–011).
3. Wage Schedule (Full Scale) for the Orange, Florida wage area (AC–062).
4. Wage Schedule (Full Scale) for the Bay, Florida wage area (AC–063).
5. Wage Schedule (Full Scale) for the Escambia, Florida wage area (AC–064).
6. Wage Schedule (Full Scale) for the Okaloosa, Florida wage area (AC–065).
7. Wage Schedule (Full Scale) for the Clark, Nevada wage area (AC–140).
8. Wage Schedule (Wage Change) for the Brevard, Nevada wage area (AC–061).
9. Wage Schedule (Wage Change) for the Hillsborough, Florida wage area (AC–119).
10. Wage Schedule (Wage Change) for the Miami-Dade, Florida wage area (AC–158).
11. Wage Schedule (Wage Change) for the Duval, Florida wage area (AC–159).
12. Wage Schedule (Wage Change) for the Monroe, Florida wage area (AC–160).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

13. Survey Specifications for the Augusta, Maine wage area (AC–063).
14. Survey Specifications for the Columbia, South Carolina wage area (AC–120).
15. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks.

March 8, 2022

Opening Remarks.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Survey Specifications for the Arapahoe-Denver, Colorado wage area (AC–084).
3. Survey Specifications for the El Paso, Colorado wage area (AC–085).
4. Survey Specifications for the Laramie, Wyoming wage area (AC–087).
5. Survey Specifications for the New London, Connecticut wage area (AC–136).
6. Survey Specifications for the Snohomish, Washington wage area (AC–141).
7. Survey Specifications for the Pierce, Washington wage area (AC–143).
8. Survey Specifications for the Newport, Rhode Island wage area (AC–167).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

9. Wage Schedule (Full Scale) for the Birmingham, Alabama wage area (AC–002).
10. Wage Schedule (Full Scale) for the Southern Colorado wage area (AC–023).
11. Wage Schedule (Full Scale) for the Hagerstown-Martinsburg-Chambersburg, Maryland wage area (AC–067).
12. Wage Schedule (Full Scale) for the Dayton, Ohio wage area (AC–107).
13. Wage Schedule (Full Scale) for the Harrisburg, Pennsylvania wage area (AC–114).
14. Wage Schedule (Full Scale) for the Wyoming wage area (AC–150).
15. Wage Schedule (Wage Change) for the Detroit, Michigan wage area (AC–070).
16. Wage Schedule (Wage Change) for the Columbus, Ohio wage area (AC–106).
17. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks.

March 22, 2022

Opening Remarks.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous agenda.
2. Wage Schedule (Full Scale) for the Onslow, North Carolina wage area (AC–097).
3. Wage Schedule (Full Scale) for the Shelby, Tennessee wage area (AC–098).
4. Wage Schedule (Full Scale) for the Christian, Kentucky/Montgomery, Tennessee wage area (AC–099).
5. Wage Schedule (Full Scale) for the Charleston, South Carolina wage area (AC–120).
6. Wage Schedule (Full Scale) for the San Juan-Guaynabo, Puerto Rico wage area (AC–155).
7. Wage Schedule (Wage Change) for the Sacramento, California wage area (AC–002).
8. Wage Schedule (Wage Change) for the San Joaquin, California wage area (AC–008).
9. Wage Schedule (Wage Change) for the Bernalillo, New Mexico wage area (AC–019).
10. Wage Schedule (Wage Change) for the Dona Ana, New Mexico wage area (AC–021).
11. Wage Schedule (Wage Change) for the El Paso, Texas wage area (AC–023).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

12. Wage Schedule (Full Scale) for the New York, New York wage area (AC–094).
13. Wage Schedule (Wage Change) for the Denver, Colorado wage area (AC–022).
14. Wage Schedule (Wage Change) for the Jacksonville, Florida wage area (AC–030).
15. Wage Schedule (Wage Change) for the Miami, Florida wage area (AC–031).
16. Wage Schedule (Wage Change) for the Southeastern North Carolina wage area (AC–101).
17. Wage Schedule (Wage Change) for the Cincinnati, Ohio wage area (AC–104).
18. Wage Schedule (Wage Change) for the Narragansett Bay, Rhode Island wage area (AC–118).
19. Wage Schedule (Wage Change) for the Dallas-Ft. Worth, Texas wage area (AC–131).
20. Survey Specifications for the Hawaii wage area (AC–044).

21. Survey Specifications for the Central & Western Massachusetts wage area (AC–069).
22. Survey Specifications for the Southwestern Wisconsin wage area (AC–149).
23. Special Pay—Narragansett Bay, Rhode Island Special Rates.
24. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.
Closing Remarks.

April 5, 2022

Opening Remarks.
Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:
1. Any items needing further clarification or action from the previous agenda.
2. Survey Specifications for the Frederick, Maryland wage area (AC–088).
3. Survey Specifications for the Washington, District of Columbia wage area (AC–124).
4. Survey Specifications for the Alexandria-Arlington-Fairfax, Virginia wage area (AC–125).
5. Survey Specifications for the Prince William, Virginia wage area (AC–126).
6. Survey Specifications for the Prince George's-Montgomery, Maryland wage area (AC–127).
7. Survey Specifications for the Charles-St. Mary's, Maryland wage area (AC–128).
8. Survey Specifications for the Anne Arundel, Maryland wage area (AC–147).
Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:
9. Wage Schedule (Full Scale) for the Salinas-Monterey, California wage area (AC–015).
10. Wage Schedule (Wage Change) for the Sacramento, California wage area (AC–014).
11. Wage Schedule (Wage Change) for the Stockton, California wage area (AC–020).
12. Wage Schedule (Wage Change) for the Meridian, Mississippi wage area (AC–079).
13. Wage Schedule (Wage Change) for the Eastern Tennessee wage area (AC–123).
14. Survey Specifications for the Central & Northern Maine wage area (AC–064).
15. Survey Specifications for the Asheville, North Carolina wage area (AC–098).
16. Survey Specifications for the Southwestern Oregon wage area (AC–113).
17. Survey Specifications for the Austin, Texas wage area (AC–129).
18. Survey Specifications for the Corpus Christi, Texas wage area (AC–130).
19. Special Pay—Southeast Power Rate Schedule.
20. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.
Closing Remarks.

April 19, 2022

Opening Remarks.
Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:
1. Any items needing further clarification or action from the previous agenda.
2. Wage Schedule (Full Scale) for the Oklahoma, Oklahoma wage area (AC–052).
3. Wage Schedule (Full Scale) for the Harrison, Mississippi wage area (AC–070).
4. Wage Schedule (Full Scale) for the Hardin-Jefferson, Kentucky wage area (AC–096).
5. Wage Schedule (Full Scale) for the Wayne, North Carolina wage area (AC–107).
6. Wage Schedule (Full Scale) for the Cumberland, North Carolina wage area (AC–108).
7. Wage Schedule (Full Scale) for the Richland, South Carolina wage area (AC–110).
8. Wage Schedule (Full Scale) for the Wichita, Texas wage area (AC–122).
9. Wage Schedule (Full Scale) for the Comanche, Oklahoma wage area (AC–123).
10. Wage Schedule (Full Scale) for the Craven, North Carolina wage area (AC–164).
11. Wage Schedule (Wage Change) for the Lauderdale, Mississippi wage area (AC–001).
12. Wage Schedule (Wage Change) for the Lowndes, Mississippi wage area (AC–004).
13. Wage Schedule (Wage Change) for the Rapides, Mississippi wage area (AC–024).
14. Wage Schedule (Wage Change) for the Caddo-Bossier, Louisiana wage area (AC–025).
15. Wage Schedule (Wage Change) for the Chatham, Georgia wage area (AC–037).
16. Wage Schedule (Wage Change) for the Dougherty, Georgia wage area (AC–046).
17. Wage Schedule (Wage Change) for the Lowndes, Georgia wage area (AC–047).
Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:
18. Wage Schedule (Full Scale) for the Lexington, Kentucky wage area (AC–058).
19. Wage Schedule (Full Scale) for the Northern Mississippi wage area (AC–077).
20. Wage Schedule (Full Scale) for the Rochester, New York wage area (AC–096).
21. Wage Schedule (Full Scale) for the Memphis, Tennessee wage area (AC–124).
22. Wage Schedule (Full Scale) for the Nashville, Tennessee wage area (AC–125).
23. Wage Schedule (Wage Change) for the Fresno, California wage area (AC–012).
24. Wage Schedule (Wage Change) for the Louisville, Kentucky wage area (AC–059).
25. Wage Schedule (Wage Change) for the Jackson, Mississippi wage area (AC–078).
26. Survey Specifications for the Alaska wage area (AC–007).
27. Survey Specifications for the Montana wage area (AC–083).
28. Survey Specifications for the Charleston, South Carolina wage area (AC–119).
29. Special Pay—Northern Mississippi Special Rates.
30. Special Pay—Fresno, California Special Rates.
31. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.
Closing Remarks.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b(c)(4), the DoD has determined that the meetings shall be closed to the public. The Under Secretary of Defense for Personnel and Readiness, in consultation with the Department of Defense Office of General Counsel, has determined in writing that each of these meetings may disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Written Statements: Pursuant to section 10(a)(3) of the Federal Advisory Committee Act and 41 CFR 102–3.140, interested persons may submit written statements to the Designated Federal Officer for the DoDWC at any time. Written statements should be submitted to the Designated Federal Officer at the email or mailing address listed above in **FOR FURTHER INFORMATION CONTACT**. If statements pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the

DoDWC until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice.

Dated: January 11, 2022.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–00687 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0102]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), 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 February 14, 2022.

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, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Office of Local Defense Community Cooperation Military Installation Sustainability Program of Assistance Grant Proposals; OMB Control Number 0704–MISP.

Type of Request: New collection.

Number of Respondents: 12.

Responses per Respondent: 1.

Annual Responses: 12.

Average Burden per Response: 40 hours.

Annual Burden Hours: 480.

Needs and Uses: This information collection facilitates the awarding of grants under the Office of Local Defense Community Cooperation (OLDCC) Military Installation Resilience Program of Assistance. OLDCC, in coordination with the other Federal Agencies, delivers a program of technical and financial assistance to enable states and communities to plan and carry out civilian responses to workforce, business, and community needs arising from Defense actions; cooperate with their military installations and leverage public and private capabilities to deliver public infrastructure and services to enhance the military mission, achieve facility and infrastructure savings as well as reduced operating costs; and increase military, civilian, and industrial readiness and resiliency, and support military families. Respondents will be states, United States territories, counties, municipalities, other political subdivisions of a state, special purpose units of a state or local government, other instrumentalities of a state or local government, and tribal nations supporting a military installation or the defense industrial base. Grant proposal packages for the Military Installation Sustainability Program of Assistance will be prepared in accordance to the Federal Funding Opportunity Announcement posted in the **Federal Register**.

Affected Public: State, Local, or Tribal Government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 11, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–00708 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0105]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), 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 February 14, 2022.

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, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Experiences, Risk and Protective Factors, and Adolescent Health and Well-Being Survey; OMB Control Number 0704–AWBS.

Type of Request: Regular.

Number of Respondents: 8,960.

Responses per Respondent: 1.

Annual Responses: 8,960.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 4,480 hours.

Needs and Uses: This study is designed to assess the direct and indirect association of military experiences with adolescents' psychosocial adjustment and physical health, academic achievement, educational/military career aspirations, and to identify risk and protective factors that may promote or inhibit positive outcomes among military-

connected adolescents and their families. The primary objective of this research project is to study the impact of military service on the adolescent children of service members and veterans enrolled in the Millennium Cohort Study. DoD policy makers and researchers will use findings from analyses of collected survey data to inform prevention and treatment strategies to improve the well-being of military-connected youth and their families.

Affected Public: Individuals or households.

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: January 11, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–00710 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0090]

Submission for OMB Review; Comment Request

AGENCY: Defense Counterintelligence and Security Agency (DCSA), 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 February 14, 2022.

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, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Certificate Pertaining to Foreign Interests; SF 328; OMB Control Number 0704–0579.

Type of Request: Revision.

Number of Respondents: 2,650.

Responses per Respondent: 1.

Annual Responses: 2,650.

Average Burden per Response: 70 minutes.

Annual Burden Hours: 3,092.

Needs and Uses: The information collected by the Standard Form 328 is necessary for the DCSA Facility Clearance Branch to make eligibility determinations for access to classified information and/or issue Facility Security Clearances under the National Industrial Security Program (NISP) and the Defense Enhanced Security Program (DESP). Respondents are contractors, licensees, and grantee business entities performing on contracts involving access to classified information.

Affected Public: Business or other for-profit; Not-for-profit institutions.

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: January 11, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–00711 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0097]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), 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 February 14, 2022.

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, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: National Language Service Corps Application and Assessment; DD Form 2932, DD Form 2933, DD Form 2934; OMB Control Number 0704–0449.

Type of Request: Regular.

Number of Respondents: 1,700.

Responses per Respondent: 3.

Annual Responses: 5,100.

Average Burden per Response: 12 minutes.

Annual Burden Hours: 1,020 hours.

Needs and Uses: The National Language Service Corps (NLSC) recruits from the general public and enrolls individuals who would like to volunteer

their language skills. The NLSC identifies U.S. citizens who can provide high levels of proficiency in foreign languages and cultural expertise critical to national security for short-term temporary assignments when other resources are not available. The NLSC will fill gaps between requirements of DoD or other departments or agencies of the United States and available language skills where government employees are required or desired. The NLSC will reach out to U.S. citizens (age 18 or over) who can read, listen, speak, and write in English and read, listen, write and speak at least one other specified language, generally at or above skill level 3 as described by the proficiency guidelines of the Federal Interagency Language Roundtable (ILR). The DoD and the Intelligence Community agencies use these guidelines as the basis for language skill requirements identification, position descriptions, readiness indices and language bonus pay systems. Therefore, the ILR proficiency guidelines represent a common metric used by U.S. Government agencies as a basis for policy, planning and human capital decisions in operational, mission critical areas where language is required.

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: January 11, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2022–00715 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0113]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), 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 February 14, 2022.

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, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Status of the Forces Survey of Reserve Component Members; OMB Control Number 0704–0616.

Type of Request: Regular.

Number of Respondents: 16,515.

Responses per Respondent: 1.

Annual Responses: 16,515.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 5,505 hours.

Needs and Uses: The Status of Forces Reserve Survey (SOFS–R) is a DoD-wide survey of Reserve and National Guard used in evaluating existing policies and programs, establishing baseline measures before implementing new policies and programs, and monitoring the progress of policies/programs that make a difference in the lives of Reserve component members and their families. The survey assesses topics such as financial well-being, reintegration programs following activation/deployment, outreach to civilian employers, employer support, family support programs, and benefits (*i.e.* education, commissary/exchange, health care), and suicide awareness. Data is aggregated by appropriate demographics, including Service, paygrade, gender, race/ethnicity, activation status, and other indicators. In order to be able to meet reporting requirements for DoD leadership, the Military Services, and Congress, the survey needs to be completed annually. As required by the National Defense Authorization Act, the results of this survey are used by each of the Service Secretaries to evaluate and update training. In addition, The Under Secretary of Defense for Personnel and Readiness uses the SOFS–R to suggest changes to services supporting Reserve component members' ability to return to their families and their civilian jobs following activation/deployment as well as addressing retention, health care, and family life issues.

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: January 11, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–00707 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0114]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), 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 February 14, 2022.

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, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: On-Site Installation Evaluations; OMB Control Number 0704–0610.

Type of Request: Revision

Number of Respondents: 4,100.

Responses per Respondent: 1.

Annual Responses: 4,100.

Average Burden per Response: 43 minutes.

Annual Burden Hours: 2,938 hours.

Needs and Uses: These information collections continue to support a high-visibility requirement directed in Secretary of Defense Memorandum, ''Immediate Actions to Counter Sexual Assault and Harassment and the Establishment of a 90-Day Independent Review Commission on Sexual Assault in the Military,'' February 26, 2021. Immediate Action 2 directs the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) to develop a plan of action and milestones to conduct high risk installation evaluations. Memorandum ''Plan of Action and Milestones for High Risk Installation Evaluations,'' March 30, 2021 USD(P&R) approved the plan of action and milestones. The end result of the data collection will be a series of ratings for each installation to characterize the maturity of prevention at each installation (*i.e.,* how consistently prevention is prioritized, how consistently people are prepared to conduct needed prevention, and how consistently prevention is done well).

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: January 11, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–00709 Filed 1–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

National Petroleum Council

AGENCY: Office of Fossil Energy and Carbon Management, Department of Energy.

ACTION: Notice of renewal.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C., app. 2, and title 41, Code of Federal Regulations, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the National Petroleum Council has been renewed for a two-year period.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Johnson at (202) 586–6458; email: *Nancy.johnson@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Council will continue to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas, and the oil and natural gas industries. The Secretary of Energy has determined that renewal of the National Petroleum Council is essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed by law upon the Department of Energy. The Council will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, the General Services Administration Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those Acts.

Signing Authority

This document of the Department of Energy was signed on January 7, 2022, by Miles Fernandez, Acting Committee Management Officer, 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 January 11, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–00669 Filed 1–13–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–494]

Application To Export Electric Energy; Tidal Energy Marketing (U.S.) L.L.C.

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Tidal Energy Marketing (U.S.) L.L.C. (Applicant or Tidal U.S.) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before February 14, 2022.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

FOR FURTHER INFORMATION CONTACT: Matt Aronoff, 202–586–5863, *matthew.aronoff@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On December 28, 2021, Tidal U.S. filed an application with DOE (Application or App.) to ''transmit and export electricity from the United States to Canada for a period of ten years or such period as the Department may authorize for similarly situated power marketers.'' App. at 1. Tidal U.S. states that it ''is a Delaware limited liability company with its principal place of business in Houston, Texas.'' *Id.* at 2. Tidal U.S. adds that it ''is an indirect, wholly-owned subsidiary of Enbridge, Inc. ('Enbridge'), a publicly-traded corporation based in Calgary, Alberta, Canada.'' *Id.* Tidal U.S. represents that it ''does not own or control electric generation or transmission facilities and does not have a franchised electric power area within the United States or Canada.'' *Id.*

Tidal U.S. further claims that it would ''purchase the power it plans to export voluntarily from electric utilities, wholesale generators, power marketers and other parties and thus such power will be surplus to the needs of the selling parties.'' App. at 4–5. Tidal U.S. contends that its proposed exports would ''not impair or tend to impede the sufficiency of electric power supplies in the United States or the regional coordination of electric utility planning or operation.'' *Id.* at 5.

The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Tidal U.S.'s application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–494. Additional copies are to be provided directly to Mollie Ronemous, 5400 Westheimer Court, Houston, TX 77056, *mollie.ronemous@enbridge.com;* Catherine M. Krupka, 700 Sixth Street NW, Suite 700, Washington, DC 20001, *catherinekrupka@eversheds-sutherland.com;* and Allison E. Speaker, 700 Sixth Street NW, Suite 700, Washington, DC 20001, *allisonspeaker@eversheds-sutherland.com.*

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of the Application will be made available, upon request, by accessing the program website at *https://energy.gov/node/11845,* or by emailing Matt Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on January 10, 2022.

Christopher Lawrence,

Management and Program Analyst, Electricity Delivery Division, Office of Electricity.

[FR Doc. 2022–00671 Filed 1–13–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12721–022]

Pepperell Hydro Company, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Non-capacity amendment of license.

b. *Project No.:* 12721–022.

c. *Date Filed:* November 9, 2021.

d. *Applicant:* Pepperell Hydro Company, LLC.

e. *Name of Project:* Pepperell Hydroelectric Project.

f. *Location:* The project is located on Nashua River in Middlesex County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mathew Nini, Licensing and Compliance Manager, Pepperell Hydro Company, LLC c/o Eagle Creek Renewable Energy, LLC, Morristown, NJ 07960, (973) 998–8171, *Mathew.nini@eaglecreekre.com.*

i. *FERC Contact:* Korede Olagbegi, (202) 502–6268, *Korede.Olagbegi@ferc.gov*

j. *Deadline for filing comments, motions to intervene, and protests:* February 9, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/doc-sfiling/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may send a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–12721–022. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The applicant proposes to delete Article 301 from its license, which authorizes

construction and specifies the timeline for completion of a 67.5-kilowatt turbine-generator unit. The previous owner of Pepperell Hydro Company, LLC proposed to install the unit to generate electricity with the water provided as a minimum flow to the project's bypassed reach. To date, a concrete pad for the proposed minimum flow turbine and a concrete abutment at the dam to house the minimum flow intake have been constructed, however, the minimum flow turbine itself and other appurtenant structures have not been constructed. The applicant proposes to no longer install the minimum flow turbine-generator unit. As a result of the proposed deletion of the unit, the applicant indicates that minor design modifications to the partially completed downstream fishway and to the methods for providing minimum flows downstream of the dam will be necessary. These modifications are addressed in the amendment application, which includes proposed amendments to the Operations and Flow Monitoring Plan that detail flow through the downstream fishway. The applicant does not propose any other changes to the operation of the Pepperell Project.

l. *Locations of the Applications:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions to Intervene, or Protests:* Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''MOTION TO INTERVENE'', or ''PROTEST'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: January 10, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–00691 Filed 1–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–784–000]

CPV Maple Hill Solar, 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 CPV Maple Hill Solar, 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 January 31, 2022.

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 TTY, (202) 502–8659.

Dated: January 10, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–00682 Filed 1–13–22; 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: RP22–478–000.

Applicants: Guardian Pipeline, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Pal Agreement—Koch January 2022 to be effective 1/8/2022.

Filed Date: 1/7/22.

Accession Number: 20220107–5174.

Comment Date: 5 pm ET 1/19/22.

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 by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 10, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–00683 Filed 1–13–22; 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 electric rate filings:

Docket Numbers: ER12–1400–008; ER11–46–016; ER11–47–013; ER12–1540–011; ER21–136–002; ER17–1932–005; ER17–1931–005; ER17–1930–005; ER16–323–010; ER14–868–002; ER14–594–015; ER13–1896–017; ER12–2343–011; ER12–1544–011; ER12–1542–011; ER12–1541–011.

Applicants: Kentucky Power Company, Kingsport Power Company, Wheeling Power Company, AEP Energy, Inc., AEP Generation Resources Inc., Ohio Power Company, AEP Retail Energy Partners, Ohio Valley Electric Corporation, Public Service Company of Oklahoma, AEP Texas Inc., Southwestern Electric Power Company, Flat Ridge 3 Wind Energy, LLC, Indiana Michigan Power Company, Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Kingsport Power Company, Columbus Southern Power Company, Kentucky Power Company, Wheeling Power Company, AEP ENERGY PARTNERS, INC, Flat Ridge 2 Wind Energy LLC.

Description: Supplement to June 30, 2021 Triennial Market Power Analysis for Southwest Power Pool, Inc. Region of AEP Energy Partners, Inc., et al.

Filed Date: 1/7/22.

Accession Number: 20220107–5125.

Comment Date: 5 p.m. ET 1/28/22.

Docket Numbers: ER20–1742–003.

Applicants: San Diego Gas & Electric Company.

Description: Compliance filing: Order No. 864 Compliance Filing to be effective 1/27/2020.

Filed Date: 1/10/22.

Accession Number: 20220110–5126.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–452–001.

Applicants: Wheeling Power Company.

Description: Tariff Amendment: Amend Filing: New Mitchell Plant Agreements: Ownership; O&M to be effective 3/18/2022.

Filed Date: 1/10/22.

Accession Number: 20220110–5140.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–453–001.

Applicants: Kentucky Power Company.

Description: Tariff Amendment: Amend Concurrence Filing: New Mitchell Plant Agreements: Ownership; O&M to be effective 1/19/2022.

Filed Date: 1/10/22.

Accession Number: 20220110–5159.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–793–000.

Applicants: Arlington Solar, LLC.

Description: Baseline eTariff Filing: Arlington Solar, LLC SFA with Arlington Solar II and Arlington Solar III to be effective 1/11/2022.

Filed Date: 1/10/22.

Accession Number: 20220110–5077.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–794–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: First Revised ISA No. 5859; Queue No. AD1–081 to be effective 12/10/2021.

Filed Date: 1/10/22.

Accession Number: 20220110–5080.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–795–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: Joint 205: SGIA among NYISO, NMPC, Bakerstand Amended Restated SA2572 to be effective 12/29/2021.

Filed Date: 1/10/22.

Accession Number: 20220110–5086.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–796–000.

Applicants: Nevada Power Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 30 2nd Amended TFA PacifiCorp to be effective 3/12/2022.

Filed Date: 1/10/22.

Accession Number: 20220110–5088.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–797–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Auction Revenue Rights and Financial Transmission Rights Tariff and OA Revisions to be effective 3/11/2022.

Filed Date: 1/10/22.

Accession Number: 20220110–5111.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–798–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Calpine NITSA Rev 15 to be effective 1/1/2022.

Filed Date: 1/10/22.

Accession Number: 20220110–5139.

Comment Date: 5 p.m. ET 1/31/22.

Docket Numbers: ER22–799–000.

Applicants: Lancaster Area Battery Storage, LLC.

Description: Baseline eTariff Filing: Lancaster Area Battery Storage, LLC MBR Tariff to be effective 1/11/2022.

Filed Date: 1/10/22.

Accession Number: 20220110–5157.

Comment Date: 5 p.m. ET 1/31/22.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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: January 10, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–00680 Filed 1–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC22–28–000]

Notice of Filing; Virginia Electric and Power Company, d/b/a Dominion Energy Virginia

Take notice that on December 30, 2021, Virginia Electric and Power Company d/b/a Dominion Energy Virginia (DEV) submitted a request for approval to use Account 182.2,Unrecovered Plant and Regulatory Study Costs, of the Federal Energy Regulatory Commission's (Commission) Uniform System of Accounts for its (i) unrecovered 2019 plant retirement costs and (ii) remaining unrecovered plant balances related to certain early generating plant retirements announced in 2020, upon retirement in 2023, and a waiver to record the subsequent amortization to Account 403, Depreciation Expense, over the respective state jurisdictions' recovery period.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* 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.

Comment Date: 5:00 p.m. Eastern Time on January 27, 2022.

Dated: January 10, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–00681 Filed 1–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2544–052]

Hydro Technology Systems, Inc.; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Minor License.

b. *Project No.:* 2544–052.

c. *Date Filed:* December 27, 2021.

d. *Applicant:* Hydro Technology Systems, Inc. (HTS).

e. *Name of Project:* Meyers Falls Hydroelectric Project.

f. *Location:* The existing project is located on the Colville River near the city of Kettle Falls, Stevens County, Washington. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Benjamin Hendrickson, President, Hydro Technology Systems, Inc., 897 Greenwood Loop Rd., P.O. Box 245, Kettle Falls, WA 99141; Telephone (509) 933–7629.

i. *FERC Contact:* Maryam Zavareh, (202) 502–8474 or *maryam.zavareh@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* February 25, 2022. The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The existing Meyers Falls Project consists of a 10-acre impoundment at normal maximum elevation of 1,515.4 feet above mean sea level (msl); a 306-foot-long, 24.5-foot-long concrete dam with a spillway section in the middle containing five spillway bays, each 18 feet, 10 inches wide with 2-foot-high wooden flashboards on top; a fish bypass on the right side of the spillway; a 360-foot-long, 20-foot-deep intake channel; a 323-foot-long, 4-foot-diameter, concrete penstock; a 31.5-foot-wide, 55.5-foot-long, 15.5-foot-high steel reinforced concrete powerhouse containing two generating units with a total installed capacity of 1.2 megawatts; a 3,500-foot-long, 3.8-kilovolt transmission line; and appurtenant facilities. The project generates an annual average of 7,883 megawatt-hours.

HTS proposes to continue to operate the project in a run-of-river mode. The project operates within a flow range of

22 cubic feet per second (cfs) (minimum hydraulic capacity of the turbine) and 140 cfs (maximum hydraulic capacity of the turbine).

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) 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 (P–2544). A copy of the application is typically available to be viewed at the Commission in the Public Reference Room. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19) issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects.

For assistance, contact FERC Online Support.

p. *Procedural Schedule:*

The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary).	January 2022.
Issue Scoping Document 1 for comments.	May 2022.
Comments on Scoping Document 1 Due.	July 2022.
Issue Scoping Document 2.	August 2022.
Issue Notice of Ready for Environmental Analysis.	August 2022.

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: January 10, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–00690 Filed 1–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Intent To Revise Power Marketing Policy Georgia-Alabama-South Carolina System of Projects

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of intention to begin a public process.

SUMMARY: Pursuant to its Procedure for Public Participation in the Formulation of Marketing Policy, published in the **Federal Register** of July 6, 1978, Southeastern Power Administration (Southeastern) intends to revise the Georgia-Alabama-South Carolina System of Projects marketing policy by including provisions regarding renewable energy certificates (RECs). The current power marketing policy was published on December 28, 1994, for the Georgia-Alabama-South Carolina System, and is reflected in contracts for the sale of system power, which are maintained in the Southeastern headquarters office. Southeastern solicits written comments and proposals in formulating the proposed marketing policy revision.

DATES: Comments and proposals must be submitted on or before March 15, 2022.

ADDRESSES: Written comments or proposals should be submitted to Virgil G. Hobbs III, Administrator & Chief Executive, Southeastern Power Administration, 1166 Athens Tech Road, Elberton, GA 30635–6711, (706) 213–3800, *Comments@sepa.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon IV, General Counsel, (706) 213–3800, *Comments@sepa.doe.gov.*

SUPPLEMENTARY INFORMATION: A ''Final Power Marketing Policy Georgia-Alabama-South Carolina System of Projects'' was developed and published in the **Federal Register** on December 28, 1994, 59 FR 66957, by Southeastern. The policy establishes the marketing area for system power and addresses the utilization of area utility systems for essential purposes. The policy also addresses wholesale rates, resale rates, and conservation measures, but does not address RECs.

Under section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), Southeastern is responsible for the transmission and disposition of electric power and energy from reservoir projects operated by the Department of the Army. Furthermore, Southeastern must transmit and dispose of such power and energy in such manner as to encourage the most widespread use at the lowest possible rates to consumers consistent with sound business principles. Rate schedules are drawn having regard to the recovery of the cost of producing and transmitting such electric energy.

The Georgia-Alabama-South Carolina System consists of ten projects: Allatoona, Buford, Carters, Hartwell, J.S. Thurmond, Millers Ferry, R.B. Russell, R.F. Henry, West Point, and W.F. George. The power from the projects currently is marketed to Preference Customers located in the service areas of Southern Company, PowerSouth Energy Cooperative, Duke Energy Carolinas, Santee Cooper, and Dominion Energy South Carolina.

Southeastern has been using the Generation Attribute Tracking System (GATS) provided through PJM Environmental Information Services, Inc., for the Kerr-Philpott System of Projects. The attributes are unbundled from the megawatt-hour of energy produced and recorded onto a certificate. These certificates may be used by electricity suppliers and other energy market participants to comply with relevant state policies and regulatory programs and to support voluntary ''green'' electricity markets. Southeastern is considering using the similar M–RETS® product or another product for distributing certificates to current Preference Customers with allocations of power from the Georgia-Alabama-South Carolina System.

The REC tracking system Southeastern selects should be capable of tracking environmental attributes used for voluntary claims in all states, provinces, and territories in North America.

Upon formulating a proposed revision to the Georgia-Alabama-South Carolina System marketing policy to address RECs, Southeastern will publish the proposal in the **Federal Register** and begin a sixty-day comment period pursuant to its Procedures for Public Participation in the Formulation of Marketing Policy.

Signing Authority

This document of the Department of Energy was signed on January 4, 2022, by Virgil G. Hobbs III, Administrator & Chief Executive for Southeastern Power Administration, 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 January 11, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–00668 Filed 1–13–22; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9060–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed January 3, 2022 10 a.m. EST

Through January 10, 2022 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20220004, Final, APHIS, OR, ADOPTION—Final Bighorn Sheep Management Plan Environmental Impact Statement, Contact: Kevin Christensen 503–820–2751.

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has adopted the U.S. Fish and Wildlife Service (USFWS) Final EIS No. 20210178, filed 11/23/2021 with the Environmental Protection Agency. The APHIS was a cooperating agency on this project. Therefore, republication of the document is not necessary under Section 1506.3(b)(2) of the CEQ regulations.

EIS No. 20220005, Draft, DOE, NAT, Proposed Energy Conservation Standards for Manufactured Housing, Comment Period Ends: 02/28/2022, Contact: Roak Parker 240–562–1645.

EIS No. 20220007, Final, USACE, LA, Upper Barataria Basin Louisiana Study, Review Period Ends: 02/14/2022, Contact: Patricia Naquin 504–862–1544.

Dated: January 12, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2022–00798 Filed 1–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0146; FRL–8682–06–OCSPP]

Certain New Chemicals or Significant New Uses; Statements of Findings for September 2021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Toxic Substances Control Act (TSCA) requires EPA to publish in the **Federal Register** a statement of its findings after its review of certain TSCA notices when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to premanufacture notices (PMNs), microbial commercial activity notices (MCANs), and significant new use notices (SNUNs) submitted to EPA under TSCA. This document presents statements of findings made by EPA on such submissions during the period from September 1, 2021 to September 30, 2021.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Rebecca Edelstein, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–564–1667; email address: *Edelstein.rebecca@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the PMNs addressed in this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0146, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

II. What action is the Agency taking?

This document lists the statements of findings made by EPA after review of notices submitted under TSCA section 5(a) that certain new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment. This document presents statements of findings made by EPA during the period from September 1, 2021 to September 30, 2021.

III. What is the Agency's authority for taking this action?

TSCA section 5(a)(3) requires EPA to review a TSCA section 5(a) notice and make one of the following specific findings:

- The chemical substance or significant new use presents an unreasonable risk of injury to health or the environment;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance or significant new use;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects and the chemical substance or significant new use may present an unreasonable risk of injury to health or the environment;
- The chemical substance is or will be produced in substantial quantities, and such substance either enters or may

reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance; or

• The chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment.

Unreasonable risk findings must be made without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant under the conditions of use. The term ''conditions of use'' is defined in TSCA section 3 to mean ''the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.''

EPA is required under TSCA section 5(g) to publish in the **Federal Register** a statement of its findings after its review of a TSCA section 5(a) notice when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to PMNs, MCANs, and SNUNs submitted to EPA under TSCA section 5.

Anyone who plans to manufacture (which includes import) a new chemical substance for a non-exempt commercial purpose and any manufacturer or processor wishing to engage in a use of a chemical substance designated by EPA as a significant new use must submit a notice to EPA at least 90 days before commencing manufacture of the new chemical substance or before engaging in the significant new use.

The submitter of a notice to EPA for which EPA has made a finding of ''not likely to present an unreasonable risk of injury to health or the environment'' may commence manufacture of the chemical substance or manufacture or processing for the significant new use notwithstanding any remaining portion of the applicable review period.

IV. Statements of Administrator Findings Under TSCA Section 5(a)(3)(C)

In this unit, EPA provides the following information (to the extent that such information is not claimed as Confidential Business Information (CBI)) on the PMNs, MCANs and SNUNs for which, during this period, EPA has made findings under TSCA section 5(a)(3)(C) that the new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment:

• EPA case number assigned to the TSCA section 5(a) notice.

• Chemical identity (generic name if the specific name is claimed as CBI).

• Website link to EPA's decision document describing the basis of the ''not likely to present an unreasonable risk'' finding made by EPA under TSCA section 5(a)(3)(C).

EPA case No.	Chemical identity	Website link
J–21–0011	Saccharomyces cerevisiae fermenting C5 sugars, modified (Generic Name).	*https://www.epa.gov/system/files/documents/2021-10/j-21-0011_determination_non-cbi_final.pdf.*
P–21–0087	Syrups, hydrolyzed starch, dehydrated, polymers with methacrylic acid and alkenenylbenzene (Generic Name).	*https://www.epa.gov/system/files/documents/2021-11/p-21-0087_determination_non-cbi_final.pdf.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: January 5, 2022.

Madison Le,

Director, New Chemicals Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2022–00643 Filed 1–13–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0537; FR ID 66902]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before March 15, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0537.

Title: Sections 13.9(c), 13.13(c), 13.17(b), 13.211(e) and 13.217, Commercial Operator License Examination Managers (COLEM) Records.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 659 respondents; 659 responses.

Estimated Time per Response: .44 hours to 30 hours.

Frequency of Response: Recordkeeping requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154 and 303 of the Communications Act of 1934.

Total Annual Burden: 14,796 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for a three year extension. The rule sections approved under this collections are 47 CFR 13.9, 13.13, 13.17 13.211 and 13.217. If the information collection requirements were not kept or fulfilled it is conceivable that examinees could be overcharged and that fraud and deceit could be used for unjust enrichment of the examiners.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–00661 Filed 1–13–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1222; FR ID 66690]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 15, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1222.

Title: Inmate Calling Services (ICS) Provider Annual Reporting, Certification, Consumer Disclosure, and Waiver Request Requirements.

Form Number(s): FCC Form 2301(a) and FCC Form 2301(b).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 20 respondents; 23 responses.

Estimated Time per Response: 5 hours–120 hours.

Frequency of Response: Annual reporting and certification requirements, third party disclosure and waiver request requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in sections 1, 4(i)–4(j), 201(b), 218, 220, 225, 255, 276, 403, and 617 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 201(b), 218, 220, 225, 255, 276, 403 and 617.

Total Annual Burden: 3,740 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Protective Order in the Commission's inmate calling services (ICS) proceeding, WC Docket 12–375, 28 FCC Rcd 16954 (WCB 2013), provides confidential treatment for the proprietary information submitted by (ICS providers in response to the Commission's directives. The Commission will treat as presumptively confidential any particular information identified as confidential by the provider in accordance with the Freedom of Information Act and Commission rules. Each confidential document should be stamped and submitted to the Secretary's Office with an accompanying cover letter, as specified by the Protective Order.

Needs and Uses: Section 201 of the Communications Act of 1934, as amended (Act), 47 U.S.C 201, requires that ICS providers' interstate and international rates and practices be just and reasonable. Section 276 of the Act, 47 U.S.C. 276, requires that payphone service providers (including ICS providers), be fairly compensated for completed calls.

In 2015, the Commission released the Second Report and Order and Third Notice of Further Proposed Rulemaking, WC Docket No. 12–375, 30 FCC Rcd 12763 (*2015 ICS Order*), in which the Commission required that ICS providers file Annual Reports providing data and other information on their ICS operations, as well as Annual Certifications that reported data are complete and accurate and comply with the Commission's ICS rules. Pursuant to the authority delegated it by the Commission in the *2015 ICS Order,* the Wireline Competition Bureau (Bureau) created standardized reporting templates (FCC Form No. 2301(a)) and a related certification of accuracy (FCC Form No. 2301(b)), as well as instructions to guide providers through the reporting process. The instructions explain the reporting and certification requirements and reduce the burden of the data collection. (ICS Annual Reporting Form (2017–2019), available at *https://www.fcc.gov/general/ics-data-collections*; ICS Annual Reporting Certification Form, available at *https://www.fcc.gov/general/ics-data-collections*).

In 2021, the Commission released the Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking WC Docket No. 12–375, 36 FCC Rcd (2021) (*2021 ICS Order*), which continued the Commission's reform of its ICS rules. The Commission revised its rules by adopting, among other things, lower interim rate caps for interstate calls, new interim rate caps for international calls, and a new rate cap structure that requires ICS providers to differentiate between legally mandated and contractually required site commissions.

On December 15, 2021, the Bureau issued a Public Notice seeking comment on its proposed revisions to the instructions and templates for the Annual Reports and Certifications submitted by ICS providers. The Bureau proposed to revise the instructions and templates for the Annual Reports, Certifications, and Instructions to be consistent with the Commission's rules and to reflect improvements based on

the Bureau's experience reviewing prior Annual Reports. Notice of this document was published in the **Federal Register** on January 4, 2022 (87 FR 212). The Bureau will consider comments submitted in response to the Public Notice in addition to comments submitted in response to this 60-Day Notice in finalizing this information collection prior to submitting the documents to the Office of Management and Budget.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–00660 Filed 1–13–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0349; FR ID 66844]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 15, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0349.

Title: Equal Employment Opportunity (''EEO'') Policy, 47 CFR Sections 73.2080, 76.73, 76.75, 76.79 and 76.1702.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions.

Number of Respondents and Responses: 20,657 respondents, 20,657 responses.

Estimated Time per Response: 42 hours.

Frequency of Response: Recordkeeping requirement; annual reporting; five and 8 year reporting requirements and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Section 154(i) and 303 of the Communications Act of 1934, as amended, and Section 634 of the Cable Communications Policy Act of 1984.

Total Annual Burden: 867,594 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information collection requirements approved under this collection are as follows: 47 CFR 73.2080 provides that equal opportunity in employment shall be afforded by all broadcast stations to all qualified persons and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin or sex. Section 73.2080 requires that each broadcast station employment unit with 5 or more full-time employees shall establish, maintain and carry out a program to assure equal opportunity in every aspect of a broadcast station's policy and practice. These same requirements also apply to Satellite Digital Audio Radio Service (''SDARS'') licensees. In 1997, the Commission determined that SDARS licensees must comply with the Commission's EEO requirements. *See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band,* 12 FCC Rcd 5754, 5791, ¶ 91 (1997) (''*1997 SDARS Order*''), FCC 97–70. In 2008, the Commission clarified that SDARS licensees must comply with the Commission's EEO broadcast rules and policies, including the same recruitment, outreach, public file, website posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, consistent with 47 CFR 73.2080, as well as any other Commission EEO policies. *See Applications for Consent to the Transfer of Control of Licenses, SM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee,* 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008).

47 CFR 76.73 provides that equal opportunity in employment shall be afforded by all multichannel video program distributors (''MVPD'') to all qualified persons and no person shall be discriminated against in employment by such entities because of race, color, religion, national origin, age or sex.

Section 76.75 requires that each MVPD employment unit employing six or more full-time employees shall establish, maintain and carry out a program to assure equal opportunity in every aspect of a cable entity's policy and practice.

Section 76.79 requires that every MVPD employment unit employing six or more full-time employees maintain, for public inspection, a file containing copies of all annual employment reports and related documents.

Section 76.1702 requires that every MVPD employment unit employing six or more full-time employees place certain information concerning its EEO program in its public inspection file.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–00659 Filed 1–13–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0984 and OMB 3060–1190; FR ID 66889]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before March 15, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0984.

Title: 90.175(b)(1), Frequency Coordinator Requirements, Industrial/Business Pool frequencies.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, and State, local, or tribal government.

Number of Respondents and Responses: 2,700 respondents; 2,700 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: One-time reporting requirement, and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 301, 302(a), 303(g), 303(r), 309, 332(c)(7), 336 and 337.

Total Annual Burden: 2,700 hours.

Total Annual Cost: No cost.

Needs and Uses: Section 90.175 requires third party disclosures by applicants proposing to operate a land mobile radio station. If they are requesting a frequency that formerly was coordinated exclusively by one industry-specific frequency coordinator, they are required to obtain written concurrence of that frequency coordinator.

On August 18, 2016, the Commission adopted a Notice of Proposed Rulemaking, FCC 16–110, in WP Docket No. 16–261, RM–11719 and RM–11722 (2016 Notice of Proposed Rulemaking), which proposed to amend Part 90 of the Commission's Rules to expand access to private land mobile radio (PLMR) spectrum. Among the many actions taken in the 2016 Spectrum Access NPRM, the Commission proposed to make certain frequencies that are designated for central station alarm operations available for other PLMR uses.

Specifically, the Commission proposed to modify section 95.35(c)(63) to remove the use limitation in the urbanized areas where the frequencies designated for alarm use in urban areas are not in use. The Commission tentatively concluded that it would be in the public interest to make these frequencies available for other PLMR operations in those areas and sought comment on this proposal, including its costs and benefits. The Commission also sought comment on other ways to expand PLMR users' access to frequencies that are designated, but no longer needed, for central station commercial protection services, including by making available channels in urbanized areas where some of the urban frequencies are in use, including: Related costs and benefits associated with such proposals; current and expected future need for central station commercial protection service channels in the 460–470 MHz band; and how to protect incumbent central station commercial protection service operations from harmful interference if eliminating the use restriction on any frequency in any area where it currently is in use.

On October 22, 2018, the Commission issued a Report and Order and Order, FCC 18–143, in WP Docket No. 15–32, RM–11572, WP Docket No. 16–261, RM–11719 and RM–11722 (800/PLMR Access Order), in which it revised certain rules to require applicants for channels currently designated for central station alarm use to obtain the concurrence of the central station alarm frequency coordinator in order to use the channels for uses other than central station alarm operations. This requirement is similar to existing requirements pertaining to certain other channels. The Report and Order and Order did not revise any of the information collection requirements that are contained in this collection but rather added additional frequencies to the list. Therefore, this essentially is adding an additional 200 respondents to this collection.

OMB Control Number: 3060–1190.

Title: Section 87.287(b), Aeronautical Advisory Stations (Unicoms)—''Squitters.''

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not for profit institutions and state, local or tribal government.

Number of Respondents and Responses: 200 respondents; 200 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On-occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 85 hours.

Annual Cost Burden: $28,750.

Obligation to Respond: Require to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309 of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained under Section 87.287(b) require that before submitting an application for an aircraft data link land test station, an

applicant must obtain written permission from the licensee of the aeronautical enroute stations serving the areas in which the aircraft data link land test station will operate on a co-channel basis. The Commission may request an applicant to provide documentation as to this fact.

The written permissions will aid the Commission in ensuring that licensees are complying with its policies and rules, while allowing the owners of antenna structures and other aviation obstacles to use Audio Visual Warning Systems (AVWS) stations, thereby helping aircraft avoid potential collisions and enhancing aviation safety, without causing harmful interference to other communications.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–00666 Filed 1–13–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0394; FR ID 66992]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before March 15, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0394.

Title: Section 1.420, Additional Procedures in Proceedings for Amendment of FM, TV or Air-Ground Table of Allotments.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 30 respondents; 30 responses.

Estimated Time per Response: 0.33 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 10 hours.

Total Annual Cost: $13,500.

Needs and Uses: The information collection requirements contained in 47 CFR 1.420(j) require a petitioner seeking to withdraw or dismiss its expression of interest in allotment proceedings to file a request for approval. This request would include a copy of any related written agreement and an affidavit certifying that neither the party withdrawing its interest nor its principals has received any consideration in excess of legitimate and prudent expenses in exchange for dismissing/withdrawing its petition, the exact nature and amount of consideration received or promised, an itemization of the expenses for which it is seeking reimbursement, and the terms of any oral agreement. Each remaining party to any written or oral agreement must submit an affidavit within five (5) days of petitioner's request for approval stating that it has paid no consideration to the petitioner in excess of the petitioner's legitimate and prudent expenses and provide the terms of any oral agreement relating to the dismissal or withdrawal of the expression of interest.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–00664 Filed 1–13–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than February 14, 2022.

A. *Federal Reserve Bank of Minneapolis*

(Chris P. Wangen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Alerus Financial Corporation, Grand Forks, North Dakota*; to merge with MPB BHC, Inc., and thereby indirectly acquire Metro Phoenix Bank, both of Phoenix, Arizona.

Board of Governors of the Federal Reserve System, January 11, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–00696 Filed 1–13–22; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Expired Listing for Emergency Medical Error Reduction Group PSO

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule) authorizes AHRQ, on behalf of the Secretary of HHS, to list as a patient safety organization (PSO) an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act) and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. The listing for Emergency Medical Error Reduction Group PSO, PSO number P0133, has expired and AHRQ has delisted the PSO accordingly.

DATES: The delisting was effective at 12:00 Midnight ET (2400) on November 27, 2021.

ADDRESSES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. Both directories can be accessed electronically at the following HHS website: *http://www.pso.ahrq.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Cathryn Bach, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, MS 06N100B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act, 42 U.S.C. 299b–21 to 299b–26, and the related Patient Safety Rule, 42 CFR part 3, published in the **Federal Register** on November 21, 2008 (73 FR 70732–70814), establish a framework by which individuals and entities that meet the definition of provider in the Patient Safety Rule may voluntarily report information to PSOs listed by AHRQ, on a privileged and confidential basis, for the aggregation and analysis of patient safety events.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of PSOs.

Section 3.104(e)(1) of the Patient Safety Rule specifies that a PSO's listing, unless revoked or relinquished earlier, automatically expires at midnight of the last day of the three-year listing period if, prior to this deadline, the required certifications for a new three-year listing are not submitted by the PSO and accepted by AHRQ. These conditions were not met. Accordingly, Emergency Medical Error Reduction Group PSO was delisted effective at 12:00 Midnight ET (2400) on November 27, 2021.

More information on PSOs can be obtained through AHRQ's PSO website at *http://www.pso.ahrq.gov.*

Dated: January 10, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–00663 Filed 1–13–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Solicitation for Nominations for Members of the U.S. Preventive Services Task Force (USPSTF)

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Solicits nominations for new members of the USPSTF.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) invites nominations of individuals qualified to serve as members of the U.S. Preventive Services Task Force (USPSTF).

DATES: Nominations must be received electronically by March 15th of a given year to be considered for appointment to begin in January of the following year.

ADDRESSES: Submit your responses electronically via: *https://uspstf nominations.ahrq.gov/register.*

FOR FURTHER INFORMATION CONTACT: Lydia Hill at (301) 427–1587 or *coordinator@uspstf.net.*

SUPPLEMENTARY INFORMATION:

Arrangement for Public Inspection

Nominations and applications are kept on file at the Center for Evidence and Practice Improvement, AHRQ, and are available for review during business hours. AHRQ does not reply to individual nominations, but considers all nominations in selecting members. Information regarded as private and personal, such as a nominee's social security number, home and email addresses, home telephone and fax numbers, or names of family members will not be disclosed to the public in accord with the Freedom of Information Act. 5 U.S.C. 552(b)(6); 45 CFR 5.31(f).

Nomination Submissions

Nominations must be submitted electronically, and should include:

1. The applicant's current curriculum vitae and contact information, including mailing address, and email address; and

2. A letter explaining how this individual meets the qualification requirements and how he or she would contribute to the USPSTF. The letter should also attest to the nominee's willingness to serve as a member of the USPSTF.

AHRQ will later ask people under serious consideration for USPSTF membership to provide detailed information that will permit evaluation of possible significant conflicts of interest. Such information will concern matters such as financial holdings,

consultancies, non-financial scientific interests, and research grants or contracts.

To obtain a diversity of perspectives, AHRQ particularly encourages nominations of women, members of underrepresented populations, and persons with disabilities. Interested individuals can nominate themselves. Organizations and individuals may nominate one or more people qualified for membership on the USPSTF at any time. Individuals nominated prior to March 15, 2021, who continue to have interest in serving on the USPSTF should be re-nominated.

Qualification Requirements

To qualify for the USPSTF and support its mission, an applicant or nominee should, at a minimum, demonstrate knowledge, expertise, and national leadership in the following areas:

1. The critical evaluation of research published in peer-reviewed literature and in the methods of evidence review;

2. Clinical prevention, health promotion and primary health care; and

3. Implementation of evidence-based recommendations in clinical practice including at the clinician-patient level, practice level, and health-system level.

Additionally, the Task Force benefits from members with expertise in the following areas:

- Public Health
- Health Equity and The Reduction of Health Disparities
- Application of Science to Health Policy
- Decision modeling
- Dissemination and Implementation
- Behavioral Medicine/Clinical Health Psychology
- Communication of Scientific Findings to Multiple Audiences Including Health Care Professionals, Policy Makers, and the General Public

Candidates with experience and skills in any of these areas should highlight them in their nomination materials.

Applicants must have no substantial conflicts of interest, whether financial, professional, or intellectual, that would impair the scientific integrity of the work of the USPSTF and must be willing to complete regular conflict of interest disclosures.

Applicants must have the ability to work collaboratively with a team of diverse professionals who support the mission of the USPSTF. Applicants must have adequate time to contribute substantively to the work products of the USPSTF.

Nominee Selection

Nominated individuals will be selected for the USPSTF on the basis of how well they meet the required qualifications and the current expertise needs of the USPSTF. It is anticipated that new members will be invited to serve on the USPSTF beginning in January, 2023. All nominated individuals will be considered; however, strongest consideration will be given to individuals with demonstrated training and expertise in the areas of Internal Medicine, Pediatrics, and Advanced Practice Nursing. AHRQ will retain and may consider for future vacancies nominations received this year and not selected during this cycle.

Some USPSTF members without primary health care clinical experience may be selected based on their expertise in methodological issues such as meta-analysis, analytic modeling, or clinical epidemiology. For individuals with clinical expertise in primary health care, additional qualifications in methodology would enhance their candidacy.

Background

Under Title IX of the Public Health Service Act, AHRQ is charged with enhancing the quality, appropriateness, and effectiveness of health care services and access to such services. 42 U.S.C. 299(b). AHRQ accomplishes these goals through scientific research and promotion of improvements in clinical practice, including clinical prevention of diseases and other health conditions. See 42 U.S.C. 299(b).

The USPSTF, an independent body of experts in prevention and evidence-based medicine, works to improve the health of all Americans by making evidence-based recommendations about the effectiveness of clinical preventive services and health promotion. The recommendations made by the USPSTF address clinical preventive services for adults and children, and include screening tests, counseling services, and preventive medications.

The USPSTF was first established in 1984 under the auspices of the U.S. Public Health Service. Currently, the USPSTF is convened by the Director of AHRQ, and AHRQ provides ongoing scientific, administrative, and dissemination support for the USPSTF's operation. See 42 U.S.C. 299b–4(a)(1). USPSTF members are invited to serve four year terms. New members are selected each year to replace those members who are completing their appointments.

The USPSTF rigorously evaluates the effectiveness of clinical preventive services and formulating or updating recommendations regarding the appropriate provision of preventive services. Current USPSTF recommendations and associated evidence reviews are available on the internet (*www.uspreventiveservicestaskforce.org*).

USPSTF members meet three times a year for two days in the Washington, DC area or virtually if necessary. A significant portion of the USPSTF's work occurs between meetings during conference calls and via email discussions. Member duties include prioritizing topics, designing research plans, reviewing and commenting on systematic evidence reviews, discussing evidence and making recommendations on preventive services, reviewing stakeholder comments, drafting final recommendation documents, and participating in workgroups on specific topics and methods. Members can expect to receive frequent emails, can expect to participate in multiple conference calls each month, and can expect to have periodic interaction with stakeholders. AHRQ estimates that members devote approximately 200 hours a year outside of in-person meetings to their USPSTF duties. The members are all volunteers and do not receive any compensation beyond support for travel to attend the thrice yearly meetings and trainings.

Dated: January 7, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–00488 Filed 1–13–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel; (SEP)—RFA–CK–22–005, Vector-Borne Disease Regional Centers of Excellence.

Dates: March 17–18, 2022.

Times: 10:00 a.m.–5:00 p.m., EDT.

Place: Teleconference, Centers for Disease Control and Prevention, Room 1080, 8 Corporate Square Boulevard, Atlanta, GA 30329–4027.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, CDC, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329–4027, Telephone: (404) 718–8833, Email: *GAnderson@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00717 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CE–22–008, Using Data Linkage to Improve Our Understanding of Suicide/Self-inflicted Injury and/or Drowning.

Date: May 24–25, 2022.

Time: 8:30 a.m.–5:30 p.m., EDT.

Place: Videoconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Mikel Walters, Ph.D., Scientific Review Officer, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, Georgia 30341–3717, Telephone: (404) 639–0913, Email: *MWalters@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00722 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CE–22–007: Reduce Health Disparities and Improve Traumatic Brain Injury (TBI) Related Outcomes Through the Implementation of CDC's Pediatric Mild TBI Guideline.

Date: June 6–7, 2022.

Time: 8:30 a.m.–5:30 p.m., EDT.

Place: Videoconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Mikel Walters, Ph.D., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, Georgia 30341, Telephone (404) 639–0913, *MWalters@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00719 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—CE22–006, Research Grants to Evaluate the Effectiveness of Physical Therapy-based Exercises and Movements Used to Reduce Older Adults Falls (U01).

Date: May 17–18, 2022.

Time: 8:30 a.m., EDT.

Place: Web Conference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Aisha L. Wilkes, M.P.H., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, Georgia 30341, Telephone (404)639–6473, *AWilkes@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00723 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel; (SEP)— CE22–003, Rigorously Evaluating Programs and Policies to Prevent Child Sexual Abuse (CSA).

Date: April 19–20, 2022.

Time: 8:30 a.m., EDT.

Place: Web Conference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Aisha L. Wilkes, M.P.H., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, Georgia 30341, Telephone: (404)639–6473, *AWilkes@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00716 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CE–22–010: Rigorous Evaluation of Strategies to Prevent Overdose through Linking People with Illicit Substance Use Disorder to Recovery Support Services.

Date: June 14–15, 2022.

Time: 8:30 a.m.–5:30 p.m., EDT.

Place: Videoconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Mikel Walters, Ph.D., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, Georgia 30341, Telephone (404) 639–0913, *MWalters@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00724 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel; (SEP)—CE22–009, Rigorous Evaluation of Community-Level Substance Use and Overdose Prevention Frameworks that Incorporate ACEs-Related Prevention Strategies.

Date: April 26–27, 2022.

Time: 8:30 a.m., EDT.

Place: Web Conference..

Agenda: To review and evaluate grant applications.

For Further Information Contact: Aisha L. Wilkes, M.P.H., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, Georgia 30341, Telephone (404)639–6473, *AWilkes@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00718 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single-Source Cooperative Agreement To Fund the All-India Institute for Medical Sciences, New Delhi (AIIMS, New Delhi)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the award of approximately $2,000,000, with an expected total funding of approximately $10,000,000 over a five-year period, to AIIMS, New Delhi. The award will support research to estimate the incidence of influenza and other respiratory viruses (such as SARS-CoV–2) among working-age adults and other priority populations in India to strengthen the evidence base and inform influenza vaccine policy in India.

DATES: The period for this award will be September 30, 2022, through September 29, 2027.

FOR FURTHER INFORMATION CONTACT: Amy Yang, Ph.D., National Center for HIV, Viral Hepatitis, STD and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS US8–1, Atlanta, GA 30329, Telephone: 404–718–8835, email: *corp_erpo_8835@cdc.gov.*

SUPPLEMENTARY INFORMATION: This single-source award will allow the recipient to conduct research to estimate the incidence of influenza and other respiratory viruses (such as SARS-CoV–2) among working-age adults and other priority populations in India to strengthen the evidence base and inform influenza vaccine policy in India.

AIIMS, New Delhi, is in a unique position to conduct this work, as it is the only institution in India with the required scientific and technical expertise to conduct multi-site cohort studies on influenza and other respiratory viruses like SARS-CoV–2 which require robust epidemiological and laboratory capacity and maintains the high research standards required by CDC. AIIMS, New Delhi, is governmentally mandated by the AIIMS Act of 1956 and operates autonomously as an institution of national importance under the Ministry of Health and Family Welfare. AIIMS, New Delhi, is the leader of basic, clinical, and translational medical research in India.

Summary of the Award

Recipient: The All-India Institute for Medical Sciences, New Delhi (AIIMS, New Delhi).

Purpose of the Award: The purpose of this award is to support research to estimate the incidence of influenza and other respiratory viruses, such as severe acute respiratory syndrome coronavirus 2 (SARS-CoV–2), among working-aged adults and other priority populations in India to strengthen the evidence base to help inform influenza vaccine policy in India. The recipient will set up a multi-center hospital-based platform in India to estimate the disease and economic burden of influenza- and COVID–19-associated hospitalization of working age adults (18–60 years) in India. An additional goal is to increase awareness about influenza burden and prevention methods among clinicians and public health practitioners. This project aligns with activities conducted under the CDC Influenza Division's International Program to build the evidence base for better understanding the disease and economic burden of influenza and to identify strategies for influenza prevention, including vaccination in low- and middle-income settings.

Amount of Award: $2,000,000 in Federal Fiscal Year (FYY) 2022 funds, and an estimated $2,000,000 for each subsequent 12-month budget period over five years, subject to availability of funds.

Authority: This program is authorized under Public Health Service Act, Section 307 (42 U.S.C. 242*l*).

Period of Performance: September 30, 2022 through September 29, 2027.

Dated: January 11, 2022.

Terrance Perry,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00704 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CE–22–011: Understanding Polydrug Use Risk and Protective Factors, *Patterns, and Trajectories to Prevent Drug Overdose.*

Date: May 3–4, 2022.

Time: 8:30 a.m.–5:30 p.m., EDT.

Place: Videoconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Mikel Walters, Ph.D., Scientific Review

Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, Georgia 30341, Telephone (404) 639–0913, *MWalters@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–00721 Filed 1–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10142]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by February 14, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* This collection dates back to 2005. Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), and implementing regulations at 42 CFR, Medicare Advantage organizations (MAO) and Prescription Drug Plans (PDP) are required to submit an actuarial pricing ''bid'' for each plan offered to Medicare beneficiaries for approval by the Centers for Medicare & Medicaid Services (CMS). MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. The competitive bidding process defined by the ''The Medicare Prescription Drug, Improvement, and Modernization Act'' (MMA) applies to both the MA and Part D programs. It is an annual process that encompasses the release of the MA rate book in April, the bid's that plans submit to CMS in June, and the release of the Part D and RPPO benchmarks, which typically occurs in August. *Form Number:* CMS–10142 (OMB control number: 0938–0944); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 555; *Total Annual Responses:* 4,995; *Total Annual Hours:* 149,850. (For policy questions regarding this collection contact Rachel Shevland at 410–786–3026.)

Dated: January 11, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–00692 Filed 1–13–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Family-to-Family Health Information Center Feedback Surveys, OMB No. 0906–0040—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than February 14, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the acting HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–9094.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Family-to-Family Health Information Center Feedback Surveys OMB No. 0906–0040—Extension

Abstract: The Family-to-Family Health Information Center (F2F HIC or Center) program is authorized by the Social Security Act, Title V, § 501(c) (42 U.S.C. 701(c)), as amended by the Medicare Access and CHIP Reauthorization Act of 2015 (Pub. L. 114–10), § 216, the Bipartisan Budget Act of 2018 (Pub. L. 115–123), § 50501, and the Sustaining Excellence in Medicaid Act of 2019 (Pub. L. 116–39), § 5. The goal of the F2F HIC program is to promote optimal health for children and youth with special health care needs (CYSHCN) by facilitating their access to an effective health delivery system and by meeting the health information and support needs of families of CYSHCN and the professionals who serve them. HRSA's Maternal and Child Health Bureau funds 59 F2F HICs in each of the 50 United States and the District of Columbia, five U.S. Territories (Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands and the Northern Mariana Islands); and three F2F HICs who serve American Indians/Alaska Natives. On average, these Centers provide information, education, technical assistance, and peer support to approximately 200,000 families of CYSHCN and approximately 100,000 health professionals each year. F2F HICs are staffed by families of CYSHCN who are uniquely positioned to provide such services, and by health professionals. F2F HIC staff also assist in ensuring families and health professionals are partners in decision making at all levels of care and service delivery.

In order to evaluate the F2F HIC program, HRSA developed two Family-to-Family Health Information Center Feedback Surveys for family members of CYSHCN and health professionals who serve such families. Each F2F HIC administers the surveys and reports data back to HRSA. Survey respondents will be asked to answer questions about how useful they found the information, assistance, or resources received from the F2F HICs. The purpose of this notice is to solicit comments regarding the continuation of previously approved feedback surveys; no changes will be made to the survey instruments.

A 60-day notice published in the **Federal Register**, 86, FR 60260 (November 1, 2021). There were no public comments.

Need and Proposed Use of the Information: Data from the feedback surveys will provide mechanisms to capture consistent performance data from F2F HIC grant recipients. The data will also allow F2F HICs to evaluate the effectiveness of their interventions and improve services provided to families and the providers who serve CYSHCN families.

Likely Respondents: Likely respondents are users of F2F HIC services, which include family members of CYSHCN and health professionals who serve such families.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
F2F HIC Feedback Survey	4,000	1	4,000	0.15	600
F2F HIC Grant Recipient Activity	59	1	59	89.00	5,251
Total	4,059		4,059		5,851

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–00689 Filed 1–13–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Inaugural Meeting of the President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders

AGENCY: Department of Health and Human Services, Office of the Secretary, Office for Civil Rights, White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services (HHS) is hereby giving notice that the President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders will hold a virtual, two-day meeting on February 3 and February 4, 2022. The meeting is the first in a series of federal advisory committee meetings regarding the development of recommendations to promote equity, justice, and opportunity for Asian American, Native Hawaiian, and Pacific Islander (AA and NHPI) communities. No registration is required. The meeting is open to the public and will be live streamed at

www.hhs.gov/live. The Commission, co-chaired by HHS Secretary Xavier Becerra and the U.S. Trade Representative Ambassador Katherine Tai, will advise the President on: (i) The development, monitoring, and coordination of executive branch efforts to advance equity, justice, and opportunity for AA and NHPI communities in the United States, including efforts to close gaps in health, socioeconomic, employment, and educational outcomes; (ii) policies to address and end anti-Asian bias, xenophobia, racism, and nativism, and opportunities for the executive branch to advance inclusion, belonging, and public awareness of the diversity and accomplishments of AA and NHPI people, cultures, and histories; (iii) policies, programs, and initiatives to prevent, report, respond to, and track anti-Asian hate crimes and hate incidents; (iv) ways in which the Federal Government can build on the capacity and contributions of AA and NHPI communities through equitable Federal funding, grantmaking, and employment opportunities; (v) policies and practices to improve research and equitable data disaggregation regarding AA and NHPI communities; (vi) policies and practices to improve language access services to ensure AA and NHPI communities can access Federal programs and services; and (vii) strategies to increase public- and private-sector collaboration, and community involvement in improving the safety and socioeconomic, health, educational, occupational, and environmental well-being of AA and NHPI communities.

DATES: The Commission will meet for two days on February 3, 2022, from 1:00 p.m. to approximately 7:00 p.m. Eastern Time (ET), and February 4, 2022, from 1:30 p.m. to approximately 5:00 p.m. ET. The confirmed time and agenda will be posted on the website for the President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders: *https://www.hhs.gov/about/whiaanhpi/commission/index.html* when this information becomes available.

Location: The meeting will be live streamed at *www.HHS.gov/live.*

FOR FURTHER INFORMATION CONTACT: Emmeline Ochiai, Designated Federal Officer, President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders, U.S. Department of Health and Human Services, Office of the Secretary, Office for Civil Rights, Hubert H. Humphrey Building, Room 515F, 200 Independence Ave. SW, Washington, DC 20201, (202) 619–0403 (telephone), (202) 619–3818 (fax).

SUPPLEMENTARY INFORMATION: Information is available on the President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders website at *https://www.hhs.gov/about/whiaanhpi/commission/index.html.* The names of the 25 members of the President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders are available at *https://www.hhs.gov/about/whiaanhpi/commission/commissioners/index.html.*

Purpose of Meeting: During the inaugural meeting of the Commission, the commissioners will be sworn into service, receive briefings on the immediate and systemic challenges facing AA and NHPI communities, and begin to develop recommendations regarding the ways the public, private and non-profit sectors can work together to advance equity, justice, and opportunity for AA and NHPI communities.

Background: Asian American, Native Hawaiian, and Pacific Islander individuals and communities have molded the American experience, and the contributions and achievements of AA and NHPI communities make the United States stronger and more vibrant. The richness of America's multicultural democracy is strengthened by the diversity of AA and NHPI communities and the many cultures and languages of AA and NHPI individuals in the United States, who collectively constitute the fastest growing racial group in the Nation and make rich contributions to our society, our economy, and our culture.

Systemic barriers to equity, justice, and opportunity put the American dream out of reach of many AA and NHPI communities. Many AA and NHPI individuals face persistent disparities in socioeconomic, health, and educational outcomes. Linguistic isolation and lack of access to language-assistance services continue to lock many AA and NHPI individuals out of opportunities. Data collection practices fail to measure and reflect the diversity of AA and NHPI populations. Failure to disaggregate data contributes to enduring stereotypes about Asian Americans as a ''model minority'' and obscures disparities within AA and NHPI communities.

Tragic acts of anti-Asian violence have increased during the COVID–19 pandemic, casting a shadow of fear and grief over many AA and NHPI communities, in particular East Asian communities. Long before this pandemic, AA and NHPI communities in the United States, including South Asian and Southeast Asian communities, have faced persistent xenophobia, religious discrimination, racism, and violence. At the same time, AA and NHPI communities are overrepresented in the pandemic's essential workforce in healthcare, food supply, education, and childcare, with more than four million AA and NHPIs manning the frontlines throughout the pandemic. Additionally, while they make up just four percent of registered nurses in the U.S., Filipino nurses accounted for 32 percent of nurse lives lost to COVID–19 in 2020.

Many AA and NHPI communities, and in particular Native Hawaiian and Pacific Islander communities, have also been disproportionately burdened by the COVID–19 public health crisis. Evidence suggests that Native Hawaiians and Pacific Islanders are three times more likely to contract COVID–19 compared to white people and nearly twice as likely to die from the disease. On top of these health inequities, many AA and NHPI workers, families, and small businesses have faced devastating economic losses during this crisis, which must be addressed.

Public Participation at Meeting: Members of the public are invited to view the Commission meeting at *www.HHS.gov/live.* Registration is not needed. Please note that there will be no opportunity for oral public comments during the inaugural meeting of the Commission. However, written comments are welcomed throughout the development of the Commission's recommendations to promote equity, justice, and opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders and may be emailed to *AANHPICommission@hhs.gov.*

Authority: Executive Order 14031. The President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders (Commission) is governed by provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

Krystal Ka'ai,

Executive Director, White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders and President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders.

[FR Doc. 2022–00698 Filed 1–13–22; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; Mental Health Research in Low and Middle-Income Countries.

Date: February 17, 2022.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6000, MSC 9606, Bethesda, MD 20852, 301–500–5829, *serena.chu@nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Prevention of Perinatal Depression.

Date: February 18, 2022.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6000, MSC 9606, Bethesda, MD 20852, 301–500–5829, *serena.chu@nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: January 11, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–00699 Filed 1–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; Clinical Trials to Test the Effectiveness of Treatment, Preventive, and Services Interventions (R01, Collaborative R01, R34).

Date: February 17, 2022.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Early Stage Clinical Trials and Development of Pharmacologic or Device-Based Interventions.

Date: February 28, 2022.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: January 11, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–00697 Filed 1–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; National Center for Advancing Translational Sciences Special Emphasis Panel.

Date: February 17, 2022.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Suite 1037, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alumit Ishai, Ph.D., Scientific Review Officer, Office of Grants Management and Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Suite 1037, Bethesda, MD 20892, 301–827–5819, *alumit.ishai@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: January 10, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–00675 Filed 1–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from *https://www.genome.gov/event-calendar/95th-Meeting-of-National-Advisory-Council-for-Human-Genome-Research*. Any member of the public may submit written comments no later than 15 days after the 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 Advisory Council for Human Genome Research.

Date: February 7–8, 2022.

Closed: February 07, 2022, 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Open: February 07, 2022, 11:30 a.m. to 6:00 p.m.

Agenda: Report from Institute Director and Institute staff.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Closed: February 08, 2022, 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892, (301) 402–0838, *pozzattr@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.genome.gov/council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: January 10, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–00670 Filed 1–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0826]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0068

AGENCY: Coast Guard, DHS.

ACTION: Sixty-Day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0068, State Access to the Oil Spill Liability Trust Fund for Removal Costs under the Oil Pollution Act of 1990; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before March 15, 2022.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2021–0826] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2021–0826], and must be received by March 15, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's

instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: State Access to the Oil Spill Liability Trust Fund for Removal Costs under the Oil Pollution Act of 1990.

OMB Control Number: 1625–0068.

Summary: This information collection is the mechanism for a Governor, or their designated representative, of a state to make a request for payment from the Oil Spill Liability Trust Fund (OSLTF) in an amount not to exceed $250,000 for removal cost consistent with the National Contingency Plan required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of discharge, of oil.

Need: This information collection is required by, 33 CFR part 133, for implementing 33 U.S.C. 2712(d)(1) of the Oil Pollution Act of 1990 (OPA 90). The information provided by the State to the National Pollution Fund Center (NPFC)is used to determine whether expenditures submitted by the state to the OSLTF are compensable, and, where compensable, to ensure the correct amount of reimbursement is made by the OSLTF to the state. If the information is not collected, the Coast Guard and the National Pollution Funds Center will be unable to justify the resulting expenditures, and thus be unable to recover costs from the parties responsible for the spill when they can be identified.

Forms: None.

Respondents: Governor of a state or their designated representative.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden of 3 hours a year remains unchanged.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: January 11, 2022.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2022–00693 Filed 1–13–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[212.LLIDB00000.L12200000.DA0000]

Notice of Closure on Public Lands in Boise County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure.

SUMMARY: Notice is hereby given that the Skinny Dipper Hot Springs, located on public lands administered by the Four Rivers Field Office, Bureau of Land Management (BLM), is closed to all uses.

DATES: The Skinny Dipper Hot Springs closure will be in effect for five years from 12:01 a.m., February 14, 2022, or until rescinded or modified by the authorized officer or designated Federal officer, whichever is earlier.

FOR FURTHER INFORMATION CONTACT: Brent Ralston, Four Rivers Field Manager, 3948 Development Avenue, Boise, Idaho 83705, email *bralston@blm.gov,* or phone (208) 384–3300. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877–8339 to contact Mr. Ralston. The FRS is available 24 hours a day, seven days a week, to leave a message or question with Mr. Ralston. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: The closure affects public lands including and surrounding Skinny Dipper Hot Springs, located approximately 4 miles east of Banks, Idaho. The affected public lands are: All public land north of Idaho State Highway 17, also known as the Banks-Lowman Highway, in Lot 3; Section 25, T. 9 N., R. 3 E., Boise Meridian, Boise County, Idaho, containing approximately 41.58 acres.

The closure is necessary to allow the BLM to provide for public health and safety and continue to rehabilitate and restore natural conditions damaged by unauthorized use and development around the hot springs.

The BLM will post closure signs at main access points to the closed area and the area used for parking located adjacent to the highway. This closure order will be posted in the Boise District BLM office. Maps of the affected area and other documents associated with this closure are available at Four Rivers Field Office, 3948 Development Avenue, Boise, Idaho 83705 and online at *https://go.usa.gov/x6MgS.*

Exemptions: The following persons are exempt from this order: Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or fire-fighting forces in the performance of their official duties; and persons with written authorization from the BLM's Four Rivers Field Office.

Enforcement: Any person who violates this closure may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Idaho law.

Authority: 43 CFR 8364.1.

Tanya M. Thrift,

Boise District Manager (Acting).

[FR Doc. 2022–00403 Filed 1–13–22; 8:45 am]

BILLING CODE 4331–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2022–0001]

Atlantic Wind Lease Sale 8 (ATLW–8) for Commercial Leasing for Wind Power on the Outer Continental Shelf (OCS) in the New York (NY) Bight—Final Sale Notice (FSN)

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Final sale notice.

SUMMARY: This FSN contains information pertaining to the areas available for commercial wind energy leasing on the OCS in the NY Bight. Specifically, this FSN details certain provisions and conditions of the leases, auction details, the lease form, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution. The Bureau of Ocean Energy Management (BOEM) will offer six leases: Lease OCS–A 0537, Lease OCS–A 0538, Lease OCS–A 0539, Lease OCS–A 0541, Lease OCS–A 0542, and Lease OCS–A 0544 (Lease Areas). The issuance of any lease resulting from this sale would not constitute an approval of project-specific plans to develop offshore wind energy. Such plans, if submitted by the lessee, would be subject to subsequent environmental, technical, and public reviews prior to a decision on whether the proposed development should be authorized.

DATES: BOEM will hold an online mock auction for potential bidders starting at 9:00 a.m. eastern standard time (EST) on February 18, 2022. The monetary auction will be held online and will begin at 9:00 a.m. EST on February 23,

2022. Additional details are provided in the section entitled ''Deadlines and Milestones for Bidders.''

FOR FURTHER INFORMATION CONTACT: Luke Feinberg, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166, (571) 474–7616, or *luke.feinberg@boem.gov.*

SUPPLEMENTARY INFORMATION:

I. *Background:* BOEM published a *Call for Information and Nominations* (Call) for an area of 1,735,154 acres in the NY Bight in April of 2018 (83 FR 15602). Based on the information received in response to that notice and consultation with ocean users, BOEM identified Wind Energy Areas (WEA) in March 2021 encompassing 807,383 acres. This lease sale was proposed by BOEM on June 14, 2021, through a *Proposed Sale Notice (PSN),* which encompassed 627,331 acres and was published in the **Federal Register** (86 FR 31524). A 60-day comment period followed. BOEM received 134 comment submissions in response to the PSN, which are available on regulations.gov (Docket ID: BOEM–2021–0033) at: *https://www.regulations.gov/document/BOEM-2021-0033-0001.* BOEM has posted its responses to comments submitted during the PSN comment period. The document, entitled *Response to Comments,* can be found through BOEM's website at: *https://www.boem.gov/Commercial-Wind-Leasing/NYBight/.*

In response to the comments received, BOEM made several changes from the description of the NY Bight lease sale that was published in the PSN. The primary change is a reorientation of lease area boundaries resulting in six areas being offered for sale, which is further explained in Section IV—Area Offered for Leasing. Overall, BOEM has deconflicted and reduced the initial 1,735,154 acres proposed in the Call by 72% to 488,201 acres offered for sale through this notice, including most recently a 22% reduction from the total lease acreage in the PSN to the final lease acreage in this FSN. This final reduction culminated an effort to address concerns raised by Tribes, partnering agencies, and the public through the comment period and targeted outreach. In addition, a number of lease stipulations were developed, or refined, based on feedback solicited in the PSN, including provisions to: advance engagement and coordination with federally recognized Tribes, ocean users, other agencies, underserved communities, and other interested stakeholders; advance flexibility in transmission planning; advance the domestic supply chain; and promote the use of project labor agreements (PLAs). In response to feedback from the PSN, BOEM will also limit the number of leases that any bidder can win to one.

II. *List of Eligible Bidders:* BOEM has determined that the following 25 entities are legally, technically, and financially qualified to hold a commercial wind lease in the NY Bight pursuant to 30 CFR 585.106 and 107, and therefore, may participate in this lease sale as bidders subject to meeting the requirements outlined in this notice:

Company name	Company No.
547 Energy LLC	15123
Arevia Power LLC	15129
Atlantic Shores Offshore Wind Bight, LLC	15119
Attentive Energy LLC	15115
Avangrid Renewables, LLC	15019
Bight Wind Holdings, LLC	15112
BP US Offshore Wind Energy LLC	15122
CPV Offshore Wind LP	15114
Diamond Wind North America, LLC	15113
East Wind LLC	15076
EDF Renewables Development, Inc	15027
Equinor Wind US LLC	15058
GIG Infrastructure HoldCo, LLC	15125
GW Offshore Wind LLC	15121
Horizon Wind Power LLC	15081
Invenergy Wind Offshore LLC	15091
Mid-Atlantic Offshore Wind LLC	15118
OW Ocean Winds East, LLC	15096
PNE USA, Inc	15056
PSEG Renewable Generation LLC	15132
RWE Offshore Wind Holdings, LLC	15061
SSE Renewables North America Offshore Wind LLC	15124
US Mainstream Offshore LLC	15120
US Mainstream Renewable Power Inc	15089
US Wind Inc	15023

a. *Affiliated Entities:* On the Bidder's Financial Form (BFF) discussed below, eligible bidders must list any eligible bidders with whom they are affiliated. Affiliated eligible bidders are not permitted to compete against each other in the lease sale and must decide by the start of the auction which eligible bidder (if any) will participate. One bidder may bid on behalf of a planned joint entity provided the other entity is not a participant in the lease sale. If two or more affiliated bidders participate in the auction, BOEM may disqualify some or all such bidders from the auction.

BOEM considers two entities to be affiliated if they meet the definition of affiliate in 30 CFR 1206.20, as applicable, or if they are both direct, or indirect, subsidiaries of the same parent company.

III. *Deadlines and Milestones for Bidders:* This section describes the major deadlines and milestones in the auction process from publication of this FSN to execution of the lease pursuant to this sale. These are organized into various stages: The FSN Waiting Period; Conducting the Auction; and From the Auction to Lease Execution.

a. FSN Waiting Period:

i. *Bidder's Financial Form:* Each bidder must submit a BFF to BOEM to participate in the auction. BOEM must receive each BFF no later than January 26, 2022. If a bidder does not submit a BFF by this deadline, BOEM, in its sole discretion, may grant an extension to that bidder only if BOEM determines the bidder's failure to timely submit a BFF was caused by events beyond the bidder's control. The BFF can be downloaded at: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.* Once BOEM has processed a BFF, the bidder may log into *pay.gov* and submit a bid deposit. For purposes of this auction, BOEM will not consider any BFFs submitted by bidders for previous lease sales. BOEM will only accept an originally executed paper copy of the BFF. The BFF must be executed by an authorized representative listed on the bidder's legal qualifications. Each bidder is required to sign the self-certification in the BFF, in accordance with 18 U.S.C. 1001 (Fraud and False Statements).

ii. *Bid Deposit:* Each bidder must provide a bid deposit of $5,000,000 no later than February 9, 2022 in order to participate in the mock auction and the monetary auction. BOEM will consider extensions to this deadline only if BOEM determines that the failure to timely submit the bid deposit was caused by events beyond the bidder's control. Further information about bid deposits can be found in the ''Bid Deposit'' section of this notice.

b. Conducting the Auction:

i. *Mock Auction:* BOEM will hold a Mock Auction on February 18, 2022 beginning at 9:00 a.m. EST. The Mock Auction will be held online. BOEM will contact each bidder that has timely filed a BFF and bid deposit and provide instructions for participation. Only bidders that have timely submitted BFFs and bid deposits may participate in the Mock Auction.

ii. *Monetary Auction:* On February 23, 2022, BOEM, through its contractor, will hold the auction. The first round of the auction will start at 9:00 a.m. EST. The auction will proceed electronically according to a schedule to be distributed by the BOEM Auction Manager at the time of the auction. BOEM anticipates that the auction will last 1-business day, but it may continue on consecutive business days, as necessary, until the auction ends in accordance with the procedures described in the ''Auction Procedures'' section of this notice.

iii. *Announce Provisional Winners:* BOEM will announce the provisional

winners of the lease sale after the auction ends.

c. From the Auction to Lease Execution:

i. *Refund Non-Winners:* Once the provisional winners have been announced, BOEM will return the non-winners' bid deposits.

ii. *Department of Justice (DOJ) Review:* DOJ will have 30 days in which to conduct an antitrust review of the auction, pursuant to 43 U.S.C 1337(c).

iii. *Delivery of the Lease:* BOEM will send three lease copies to each winner, with instructions for executing the lease. The first year's rent is due 45-calendar days after the winners receive the lease copies for execution.

iv. *Return the Lease:* Within 10-business days of receiving the lease copies, the auction winners must post financial assurance, pay any outstanding balance of their bonus bids (*i.e.,* winning monetary bid minus applicable bid deposit), and sign and return the three executed lease copies. The winners may request extensions to the 10-day deadline, and BOEM may grant such extensions if BOEM determines the delay to be caused by events beyond the requesting winner's control, pursuant to 30 CFR 585.224(e).

v. *Execution of Lease:* Once BOEM has received the signed lease copies and verified that all other required materials have been received, BOEM will make a final determination regarding its issuance of the leases and will execute the leases, if appropriate.

IV. *Area Offered for Leasing:* In response to comments received on the PSN and consultation with Federal agencies, BOEM is offering six lease areas totaling 488,201 acres for sale through this notice (Figure 1). The eight areas in the PSN have been reoriented and reduced by 22% to address ocean user conflicts in response to comments and input from ocean users, including the fishing industry, the U.S. Coast Guard (USCG) and navigation interests, the National Marine Fisheries Service (NMFS), and the Department of Defense (DOD). Lease Area OCS–A 0543 as identified in the PSN will not be offered for leasing at this time in response to issues raised by the fishing industry and DOD, as well as to allow for increased flexibility in the ongoing siting of an adjacent fairway proposed by the USCG. If circumstances change, BOEM may reconsider this area in a future sale. In addition, at this time, BOEM decided to remove from leasing consideration several areas that overlap with both fishing activity and seafloor features identified by NMFS and other stakeholders as potentially sensitive to impacts from offshore wind facility construction. These removals reduced the viability of OCS–A 0540 as a standalone Lease Area. Therefore, BOEM expanded the western boundary of OCS–A 0539 and removed proposed lease OCS–A 0540. The removal of OCS–A 0543 also negated the justification for the area formerly called a ''transit corridor'' (running southwest by northeast) between what was previously OCS–A 0543 and OCS–A 0540. The removal of this transit corridor allowed for a westward expansion of the boundaries of OCS–A 0541 and OCS–A 0542, as depicted in the map of the areas linked below. Comments received regarding fishing activity and seafloor features also resulted in no leases being offered within 2.5 nautical miles (nmi) of the Mid-Atlantic Scallop Access Area.

The area available for sale will be auctioned as six leases:

TABLE 1 TO SECTION IV—ATLW–8 FINAL LEASE AREAS

Lease	Total acres	No surface occupancy (acres)
Lease OCS–A 0537	71,522	.....
Lease OCS–A 0538	84,332	12,810
Lease OCS–A 0539	125,964	11,687
Lease OCS–A 0541	79,351	3,212
Lease OCS–A 0542	83,976	7,082
Lease OCS–A 0544	43,056	

BILLING CODE 4310–MR–P

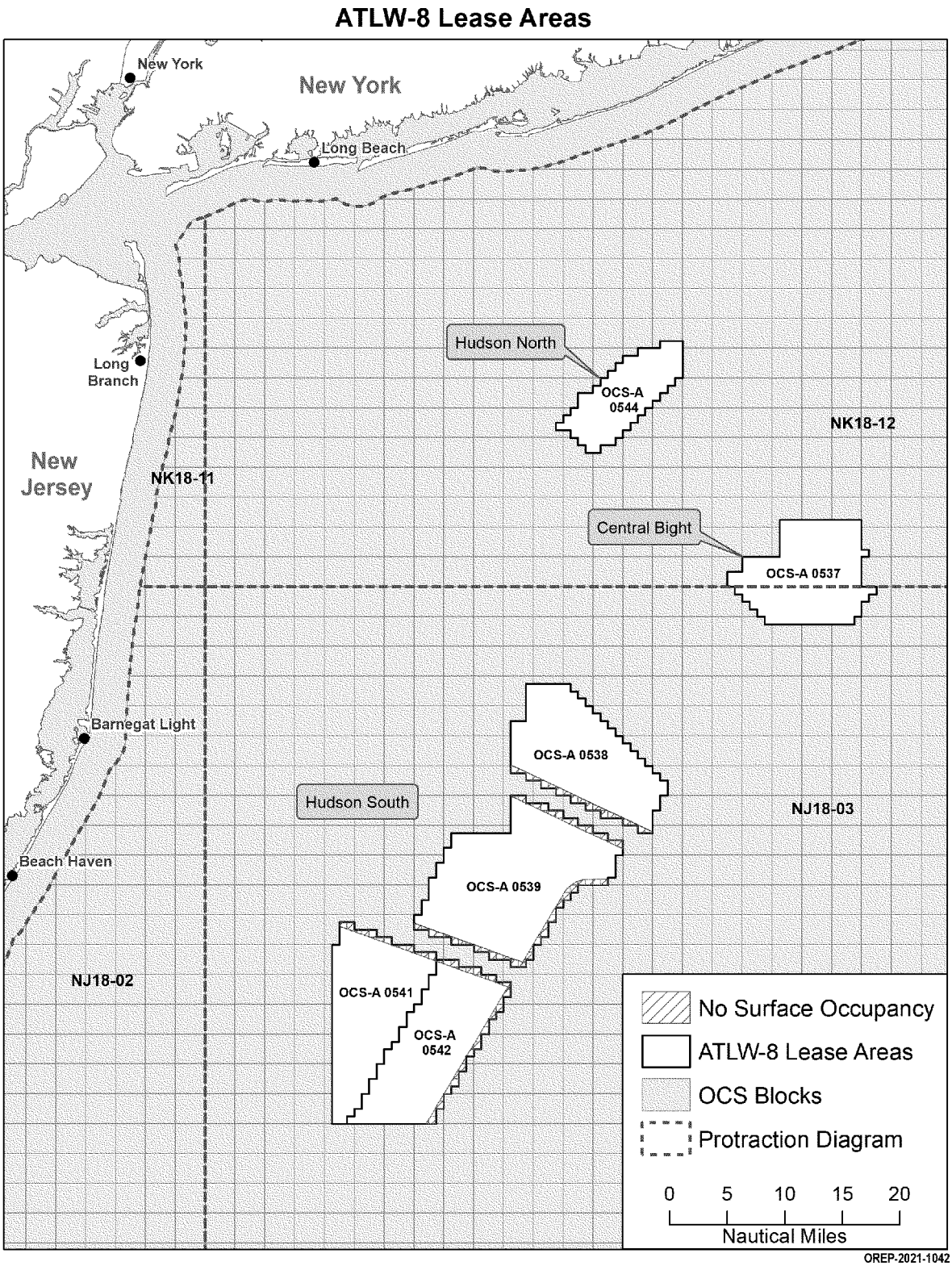

Figure 1 to Section IV - ATLW-8 Final Lease Areas

BILLING CODE 4310–MR–C

a. *Transit Corridors:* In the PSN, BOEM solicited comments on proposed transit corridors in Hudson South. USCG pointed out that the term ''transit corridor'' is not defined or recognized in law, regulation, or international convention. As such, the use of the term will likely add confusion. BOEM will not use the term in this sale or future

lease sales or other actions. The remaining feedback BOEM received through PSN comments and meetings with the fishing community was largely positive. Therefore, the following lease areas have 2.44 nmi of unleased ocean space between them: OCS–A 0538 and OCS–A 0539 as well as between OCS–A 0539 and OCS–A0541/OCS–A 0542. These areas remain open ocean in which BOEM is not offering a lease. The Permanent International Association of Navigation Congresses World Association of Waterborne Transport Infrastructure and Maritime Institute Netherlands calculations and guidelines as well as the USCG draft Port Access Route Study (USCG–2020–0172) were used to inform our analysis. We note that the USCG draft Port Access Route Study (USCG–2020–0172) suggests that formal establishment of shipping safety fairways or other routing measures within a wind farm are not necessary to facilitate safe transit.

b. *Areas of No Surface Occupancy:* BOEM generally does not lease in increments smaller than an aliquot, which is defined as 1/16th of an OCS lease block (2,304 hectares or 5,693.29 acres). To accommodate the desired distances between surface structures, select portions of the lease areas in the Hudson South WEA (OCS–A 0538, 0539, 0541, 0542) will be offered for sale, but no surface occupancy will be permitted, as described in Addendum A of each respective lease.

c. *Habitat Avoidance and Facilitating Fishing Vessel Activity:* Commenters recommended that BOEM remove from leasing consideration habitat features that could be adversely impacted by future offshore wind facility development. These areas were primarily represented by the New Jersey Department of Environmental Protection's ''Prime Fishing Area'' data. Additionally, fishers have requested that offshore wind facilities be designed in a manner that, among other things, provides for safe transit and fishing through and adjacent to future offshore wind facilities. In the Hudson South and the Central Bight WEAs, BOEM removed from leasing consideration areas that met these multiple avoidance recommendations. In Hudson South, BOEM removed areas adjacent to the Mid-Atlantic Scallop Access Area and areas to the west of OCS–A 0539 that are fished by the Atlantic surfclam fishery. In the Central Bight WEA, the southern portion of OCS–A 0537 was removed due to multiple factors, including fishing activity and seafloor features.

d. *Map of the Area Offered for Leasing:* A map of the Lease Areas, and GIS spatial files X, Y (eastings, northings) UTM Zone 18, NAD83 Datum, and geographic X, Y (longitude, latitude), NAD83 Datum can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.* A large-scale map of the Lease Areas, showing boundaries of the area with numbered blocks, is available from BOEM upon request at the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166, Phone: (703) 787–1300, Fax: (703) 787–1708.

V. *Environmental Review:* On August 10, 2021, BOEM announced the availability of a draft Environmental Assessment (EA) that assesses the potential impacts of the issuance of commercial and research leases within the identified WEAs of the NY Bight, and the granting of rights-of-way and rights-of-use and easement in the region. The EA focuses on potential environmental consequences of site characterization activities and site assessment activities. The EA also considers project easements associated with each potential lease issued and grants for subsea cable corridors in the NY Bight. The availability of the Final EA and Finding of No Significant Impact was announced on December 16, 2021. BOEM determined that the Proposed Action would not cause any significant impacts and implementing the Proposed Action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969. BOEM will conduct additional environmental reviews upon receipt of a lessee's proposed project-specific plans, such as a Site Assessment Plan (SAP) or Construction and Operations Plan (COP).

VI. *New and Modified Lease Stipulations:* Based on feedback provided, BOEM is adding lease stipulations that, though discussed conceptually, were not explicitly proposed in the lease packages associated with the PSN. BOEM also is refining certain stipulations in the PSN and previous lease packages.

a. *Reporting requirements:* In an effort to require early and regular engagement with Tribes and ocean users, underserved communities, and other stakeholders (collectively ''Tribes and parties'') that may be potentially affected by the project activities on the OCS, BOEM is building upon an existing lease stipulation to require a semi-annual progress report. Within the progress report, Lessees will identify Tribes and parties potentially affected by proposed activities and provide updates on engagement activities, impacts on or benefits to the Tribes and parties due to the proposed activities, and how, if at all, a project has been informed or altered to address those challenges or benefits, as well as any planned engagement activities during the next reporting period. In acknowledgment of the existing and growing consultation burden placed on many of the Tribes and parties, the stipulation also requires, to the maximum extent practicable, that Lessees coordinate with one another on engagement activities. It is BOEM's intention that this requirement to coordinate engagement apply not only to meetings proposed by Lessees, but also to reasonable requests to coordinate engagement requested by Tribes and parties. In addition, the stipulation requires that the progress report incorporate separate lease requirements for the development of communication plans for fisheries (Fisheries Communication Plan (FCP)), Tribes (Native American Tribes Communication Plan), and agencies (Agency Communication Plan), which serve to guide engagement activities with those groups. Consistent with current practice, the FCP is a requirement of the lease; however, BOEM has added additional elements to include in the FCP based on comments received. Lastly, the progress report must also include an update on activities executed under any survey plan.

b. *Transmission Planning:* BOEM is continuing a planned approach to transmission and is evaluating options including the use of cable corridors, regional transmission systems, meshed systems, and other mechanisms. Therefore, BOEM may condition COP approval on the incorporation of such methods where appropriate. BOEM encourages those who obtain leases from this sale to engage in early coordination with adjacent lessees, states, Tribal Nations, and other ocean users to identify ways to minimize impacts from transmission. In addition, BOEM has modified the lease stipulations concerning communication with Tribal Nations and parties to explicitly seek input and discussion surrounding transmission easements prior to proposing such easements.

c. *Birds and Bats:* During Endangered Species Act (ESA) consultation, the U.S. Fish and Wildlife Service recommended in its October 15, 2021, letter to BOEM the installation of automated Motus telemetry tracking stations on meteorological buoys to help address

information gaps on offshore movements of birds and bats, including ESA-listed species. Therefore, BOEM is including a stipulation requiring the use of such tracking stations.

d. *Project Labor Agreements and Supply Chain:* BOEM is committed to a clean energy future, workforce development and safety, and establishment of a durable domestic supply chain that can sustain the U.S. offshore wind energy industry. To advance this vision, BOEM has included three lease stipulations in the NY Bight FSN that will encourage union-built projects and contribute towards establishing a domestic supply chain:

i. The first stipulation requires lessees to make every reasonable effort to enter a project labor agreement covering the construction stage of any project proposed for the Lease Areas.

ii. The second stipulation requires lessees to establish a statement of goals in which the lessee will describe its plans for contributing to the creation of a robust and resilient U.S.-based offshore wind industry supply chain. The lessee must provide regular progress updates to BOEM, and BOEM will make those updates publicly available.

iii. The last stipulation incentivizes the lessee to procure major offshore wind energy components domestically. For the Lease Areas, BOEM will set the fee rate at 0.02 (*i.e.,* 2%) for the entire life of commercial operations. Should the lessee satisfy the terms of the stipulation by meaningfully and substantially assembling or manufacturing major components in the United States, they may be eligible for a 1% operating fee rate for a period of five years.

e. *Surface Structure Layout and Orientation:* Where one lease abuts a neighboring BOEM lease area, each lessee must endeavor to implement a layout of surface structures that facilitates full enjoyment of the lease and allows for a structure layout that contains two common lines of orientation across the adjacent leases (as described in Navigation and Vessel Inspection Circular 01–19). Where such a design cannot be agreed upon among adjacent lessees, each lessee will be required to incorporate a 1-nmi setback from the boundary with the neighboring lease where no surface structures will be permitted.

f. Endangered Species Act Programmatic Consultation: BOEM has completed a programmatic consultation with the NMFS under section 7 of the ESA. Federal partners that were co-action agencies on the programmatic consultation include the Bureau of Safety and Environmental Enforcement, U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. On June 29, 2021, NMFS issued a Letter of Concurrence under the ESA (*https://www.boem.gov/renewable-energy/final-nlaa-osw-programmatic*) that covers site characterization (high resolution geophysical (HRG), geotechnical, and biological surveys) and site assessment and data collection (deployment, operation, and retrieval of meteorological and oceanographic data buoys) activities associated with Atlantic OCS leases. As a result of this consultation, project design criteria (PDCs) and best management practices (BMPs) associated with the mitigation, monitoring, and reporting conditions have been developed for those data collection activities covered in the consultation. The PDCs and BMPs pertain to mitigation, monitoring, and reporting conditions for reducing noise exposure to protected species from HRG surveys, avoiding vessel interactions with protected species, and mooring design and marine debris requirements to avoid entanglement of listed species. Similar to the requirements for threatened and endangered species and critical habitat under the ESA, BOEM requires mitigation, monitoring, and reporting conditions for all marine mammals. These PDCs and BMPs will be lease requirements for NY Bight OCS leasing activities and are found in the document *Project Design Criteria and Best Management Practices for Data Collection Associated with Atlantic Offshore Wind Leases* found at: *https://www.boem.gov/renewable-energy/nmfs-esa-consultations.*

VII. *Potential Future Restrictions:* Prospective bidders should be aware of potential conflicts with existing uses of the OCS by the DOD and USCG, among others. BOEM coordinates with the DOD and USCG throughout our leasing process. A December 2020 letter from the DOD summarizes our most recent consultations and is available at: *https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/PUBLIC-NY-Bight-DOD.pdf.*

a. *Height Restrictions:* Development of Lease Areas in the Hudson South WEA could adversely affect U.S. Air Force Weather Division's Next Generation Weather Radar by limiting the ability to track tropical storms moving towards the region if turbine heights exceed 1,000 feet; however, DOD has informed BOEM that more analysis is needed on specific project proposals to determine the extent of interference, if any. Lessees will be expected to coordinate with the DOD Military Aviation and Installation Assurance Siting Clearinghouse as they design their proposed facilities to assess the impact on radar operations. If interference from turbines heights greater than 1,000 feet is identified, the DOD has indicated a condition of COP approval may be necessary that would require curtailment during severe weather events.

b. *Air Surveillance and Radar:* The North American Aerospace Defense Command mission may be affected by the development of the Lease Areas. Lessees will be expected to coordinate with the DOD Military Aviation and Installation Assurance Siting Clearinghouse as they design their proposed facilities to assess the level of impact on radar operations. Mitigation measures or conditions of a COP approval may necessitate mitigation of the identified interference.

c. *Potential Future Conflicts with OCS–A 0544:* The PSN identified a potential conflict in the Hudson North WEA (OCS–A 0544) with a new shipping safety fairway designation, as proposed by USCG, to accommodate vessel traffic travelling across the NY Bight from the Delaware Bay area to east of Montauk. The USCG published a final Port Access Route Study on January 3, 2022 that proposed an adjusted fairway route that avoids this conflict. Potential bidders should be aware that there could be future changes or necessary mitigation measures relating to the developable area of the lease if the proposed fairway route is adjusted during the USCG's subsequent fairway rulemaking process.

VIII. *Lease Terms and Conditions:* BOEM has included terms, conditions, and stipulations for the OCS commercial wind leases to be offered through this sale. After the leases are issued, BOEM reserves the right to require compliance with additional terms and conditions associated with approval of a SAP or COP. The leases are available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.* The leases include the following five attachments:

- Addendum ''A'' (Description of Leased Area and Lease Activities);
- Addendum ''B'' (Lease Term and Financial Schedule);
- Addendum ''C'' (Lease Specific Terms, Conditions, and Stipulations);
- Addendum ''D'' (Project Easement); and
- Addendum ''E'' (Rent Schedule).

Addenda ''A,'' ''B,'' and ''C'' provide detailed descriptions of lease terms and conditions. Addenda ''D'' and ''E'' will be completed at the time of COP approval or approval with modifications.

The most recent version of BOEM's renewable energy commercial lease form (BOEM–0008) is available on BOEM's website at: *http://www.boem.gov/BOEM-OCS-Operation-Forms/.*

Pursuant to 30 CFR 585.601, a leaseholder wishing to submit a SAP must do so within 12 months of lease issuance. If the lessee intends to continue to hold the lease into its operations term, the lessee must submit a COP at least 6 months before the end of the site assessment term.

IX. *Financial Terms and Conditions:* This section provides an overview of the annual payments required of the lessee that will be fully described in the lease, and the financial assurance requirements that will be associated with the lease.

a. *Rent:* Pursuant to 30 CFR 585.224(b) and 585.503, the first year's rent payment of $3 per acre is due within 45-calendar days of the date the lessee receives the lease for execution. Thereafter, annual rent payments are due on the anniversary of the effective date of the lease as defined in 30 CFR 585.237 (the ''Lease Anniversary''). Once commercial operations under the lease begin, BOEM will charge rent only for the portions of the lease remaining undeveloped (*i.e.,* non-operating acreage). For a 71,522 acre lease (the size of OCS–A 0537), the rent payment will be $214,566 per year if no portion of the lease area is authorized for commercial operations.

If the lessee submits an application for relinquishment of a portion of its leased area within the first 45-calendar days following the date that the lease is received by the lessee for execution, and BOEM approves that application, no rent payment will be due on the relinquished portion of the lease area. Later relinquishments of any portion of the lease area will reduce the lessee's rent payments starting in the year following BOEM's approval of the relinquishment. The lessee must also pay rent for any project easement associated with the lease, commencing on the date that BOEM approves the COP (or modification thereof) that describes the project easement as outlined in 30 CFR 585.508. Annual rent for a project easement that is 200 feet wide and centered on the transmission cable is $70 per statute mile. For any additional acreage required, the lessee must also pay the greater of $5 per acre per year or $450 per year.

b. *Operating Fee:* For purposes of calculating the initial annual operating fee payment pursuant to 30 CFR 585.506, BOEM applies an operating fee rate to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first 12 months of operations. This initial payment will be prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment is due within 45 days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments are due on or before the Lease Anniversary.

The subsequent annual operating fee payments are calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power production. For the purposes of this calculation, the imputed market value would be the product of the project's annual nameplate capacity, the total number of hours in the year (8,760), the capacity factor, and the annual average price of electricity derived from a regional wholesale power price index. For example, the annual operating fee for a 1,028-megawatt (MW) wind facility operating at a 40% capacity (*i.e.,* capacity factor of 0.4) with an annual average regional wholesale power price of $40/megawatt hour (MWh) and an operating fee rate of 0.02 will be calculated as follows:

$$\text{Annual Operating Fee} = 1{,}028\ \text{MW} \times 8{,}760\ \frac{\text{hrs}}{\text{year}} \times 0.4 \times \frac{\$40}{\text{MWh}}\ \text{Power Price} \times 0.02 = \$2{,}881{,}689.60$$

i. *Operating Fee Rate:* The operating fee rate is the share of imputed wholesale market value of the projected annual electric power production due to the Office of Natural Resources Revenue as an annual operating fee. For the Lease Areas, BOEM will set the fee rate at 0.02 (*i.e.,* 2%) for the entire life of commercial operations. Should the lessee satisfy the terms of the stipulation by meaningfully and substantially assembling or manufacturing major components in the United States, they may be eligible for a 1% operating fee rate for a period of five years.

ii. *Nameplate Capacity:* Nameplate capacity is the maximum rated electric output, expressed in MW, which the turbines of the wind facility under commercial operations can produce at their rated wind speed as designated by the turbine's manufacturer. The nameplate capacity available at the start of each year of commercial operations on the lease will be the capacity provided in the Fabrication and Installation Report (FIR). For example, if the lessee installed 100 turbines as documented in its FIR, and each is rated by the manufacturer at 12 MW, the nameplate capacity of the wind facility is 1,200 MW.

iii. *Capacity Factor:* The capacity factor relates to the amount of energy delivered to the grid during a period of time compared to the amount of energy the wind facility would have produced at full capacity during that same period of time. This factor is represented as a decimal between zero and one. There are several reasons why the amount of power delivered is less than the theoretical 100% of capacity. For a wind facility, the capacity factor is mostly determined by the availability of wind. Transmission line loss and down time for maintenance or other purposes also affect the capacity factor.

The capacity factor for the year in which the commercial operation date occurs, and for the first 6 full years of commercial operations on the lease, is set to 0.4 (*i.e.,* 40%). At the end of the sixth year, the capacity factor may be adjusted to reflect the performance over the previous five years based upon the actual metered electricity generation at the delivery point to the electrical grid. Similar adjustments to the capacity factor may be made once every five years thereafter.

iv. *Wholesale Power Price Index:* Pursuant to 30 CFR 585.506(c)(2)(i), the wholesale power price, expressed in dollars per MW-hour, is determined at the time each annual operating fee payment is due. For the leases offered in this sale, BOEM will use the simple hourly average of the spot price indices for New York Independent System Operators New York City (Zone J).

c. *Financial Assurance:* Within 10-business days after receiving the lease copies and pursuant to 30 CFR 585.515–.516, the provisional winners of the leases must provide an initial lease-specific bond or other approved means of meeting the lessor's initial financial assurance requirements, in the amount of $100,000. The provisional winners may meet financial assurance requirements by posting a surety bond or by setting up an escrow account with a trust agreement giving BOEM the right

to withdraw the money held in the account on demand. BOEM encourages the provisionally winning bidder to discuss the financial assurance requirement with BOEM as soon as possible after the auction has concluded. BOEM will base the amount of all SAP, COP, and decommissioning financial assurance on cost estimates for meeting all accrued lease obligations at the respective stages of development. BOEM will determine the required amount of supplemental and decommissioning financial assurance on a case-by-case basis. The financial terms described above can be found in Addendum ''B'' of the leases, which BOEM has made available with this notice on its website at: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.*

X. *Bidder's Financial Form:* Each bidder must fill out the BFF referenced in this FSN. BOEM has also made a copy of the form available with this notice on its website at: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.* BOEM recommends that each bidder designate an email address in its BFF that the bidder will then use to create an account in *pay.gov* (if it has not already done so). BOEM will not consider BFFs submitted by bidders for previous lease sales to satisfy the requirements of this auction. If a bidder does not submit a BFF by January 26, 2022, BOEM, in its sole discretion, may grant an extension to that bidder only if BOEM determines the bidder's failure to timely submit a BFF was caused by events beyond the bidder's control. BOEM will only accept an original, executed paper copy of the BFF. The BFF must be executed by an authorized representative listed in the qualifications package on file with BOEM as authorized to bind the company.

XI. *Bid Deposit:* A bid deposit is an advance cash payment submitted to BOEM to participate in the auction. After creating an account in *pay.gov* (if necessary), bidders may use the Bid Deposit Form on the *pay.gov* website to leave a deposit. Each bidder must submit a bid deposit of $5,000,000 no later than February 9, 2022. Any bidder who fails to submit the bid deposit by this deadline may be disqualified from participating in the auction.

Following the auction, bid deposits will be applied against bonus bids or other obligations owed to BOEM. If the bid deposit exceeds a bidder's total financial obligation, BOEM will refund the balance of the bid deposit to the bidder. BOEM will refund bid deposits to non-winners once BOEM has announced the provisional winner.

If BOEM offers a lease pursuant to a provisionally winning bid and that bidder fails to timely return the signed lease form, establish financial assurance, or pay the balance of its bid, BOEM will retain the bidder's $5,000,000 bid deposit. In such a circumstance, BOEM reserves the right to determine which bid would have won in the absence of the bid previously determined to be the winning bid and to offer a lease pursuant to this next highest bid.

XII. *Minimum Bid:* The minimum bid is the lowest bid that BOEM will accept as a winning bid, and it is where BOEM will start the bidding in the auction. BOEM has established a minimum bid of $100.00 per acre for this lease sale.

XIII. *Auction Procedures:* As authorized under 30 CFR 585.220(a)(2) and 585.221(a)(1), BOEM will use an ascending bidding auction with cash as the bid variable for this lease sale. BOEM will start the auction using the minimum bid prices for each Lease Area and will increase those prices incrementally until no more than one active bidder per Lease Area remains in the auction.

a. *The Auction:* Using an online bidding system to host the auction, BOEM will start the bidding for Lease Areas OCS–A 0537 through 0539, OCS–A 0541, OCS–A 0542, and OCS–A 0544, as described below. Bidders may bid for at most one of the offered Lease Areas in each round of the auction, and ultimately acquire at most one of the Lease Areas in the auction.

Lease area	Acres	Minimum bid
OCS–A 0537	71,522	$7,152,200
OCS–A 0538	84,332	8,433,200
OCS–A 0539	125,964	12,596,400
OCS–A 0541	79,351	7,935,100
OCS–A 0542	83,976	8,397,600
OCS–A 0544	43,056	4,305,600

b. *Live Bids:* The auction will be conducted in a series of rounds. At the start of each round, BOEM will state an asking price for each Lease Area. If a bidder is willing to meet the asking price for one of the Lease Areas, it will indicate its intent by submitting a bid equal to the asking price. A bid at the full asking price is referred to as a ''live bid.'' To participate in the next round of the auction, a bidder must have submitted a live bid for one of the Lease Areas in each previous round, or BOEM must have carried forward a bidder's bid from a previous round. As long as there are two or more live bids (including bids carried forward) for at least one of the Lease Areas, the auction moves to the next round. If a bid is uncontested, it is automatically carried forward to the next round. BOEM will raise the asking price for each of the Lease Areas that has received two or more live bids in the previous round. Asking price increments will be determined based on several factors, including (but not necessarily limited to) the expected time needed to conduct the auction and the number of rounds that have already occurred. BOEM reserves the right to increase or decrease bidding increments as appropriate.

A bidder may switch its live bid from one Lease Area to another between rounds only if its bid from the previous round was contested. For example, a bidder cannot switch from OCS–A 0537 to OCS–A 0538 unless there was at least one other live bid for OCS–A 0537 in the prior round. If the bid was uncontested in the previous round, the bidder cannot switch Lease Areas, and its bid in the previous round is carried forward to the next round. If another bidder places a live bid on OCS–A 0537 later in the auction, BOEM will stop automatically carrying forward the previously uncontested bid on that Lease Area. The bidder that placed the previously carried forward bid is then free to bid on any of the Lease Areas in the next round at the new asking prices.

If a bidder decides to stop bidding when its bid is contested, there remain circumstances in which BOEM may select the bid as the winning bid (*e.g.,* if the bid is ultimately selected in the winner determination that is described in detail below, or if the winning bid is disqualified at the award stage of the auction and BOEM selects another bid). In these circumstances, the bidder may be bound by its bid and thus obligated to pay the full bid amount. Bidders may be bound by any of their bids until the auction results are finalized.

Between rounds, BOEM will disclose to all bidders that submitted bids: (1) The number of live bids or bids carried forward for each of the Lease Areas in the previous round of the auction (*i.e.,* the level of demand at the asking price); and (2) the asking price for each of the Lease Areas in the upcoming round of the auction.

c. *Exit Bids:* In any round after the first round, a bidder may submit an ''exit bid'' (also known as an ''intra-round bid'') only for the same Lease Area as the bidder's contested live bid in the previous round. An exit bid is a bid that is greater than the previous round's asking price, but less than the current round's asking price for that Lease Area. An exit bid is *not* a live bid, and it represents the final bid that a bidder may submit in the auction. A bidder may not submit both an exit bid on one of the Lease Areas and a live bid

on a different Lease Area. During the auction, the exit bid can be seen only by BOEM and not by other bidders. BOEM will not raise the asking price in a Lease Area with only exit bids in a given round because BOEM only raises asking prices when a Lease Area receives multiple live bids. As soon as each of the Lease Areas has one or zero live bids (including bids carried forward, which could include an exit bid if another bidder does not bid on this area in a subsequent round), the auction is over, regardless of the number of exit bids on each area.

d. *Determination of Provisional Winners:* After the bidding ends, BOEM will determine the provisionally winning bids for each Lease Area by a two-stage procedure. In stage 1, the highest bid (live bid or exit bid) received for each Lease Area in the final round will be designated the provisionally winning bid, if there is a single highest bid. In the event of a tie (*i.e.,* if two or more bidders submitted identical highest exit bids for the same Lease Area), the selection of one of the highest exit bids will be deferred until stage 2.

In stage 2, BOEM will consider bids from all bidding rounds for Lease Areas that were not assigned in stage 1 by bidders who were not assigned one of the Lease Areas in stage 1. BOEM will select the combination of such bids that maximizes the sum of the bid amounts of the selected bids, subject to the following constraints: (1) Each Lease Area that received multiple highest exit bids in the final round (but no live bid) is assigned to one of the bidders that submitted the highest exit bid; (2) at most one bid from each bidder can be selected; and (3) at most one bid for each Lease Area can be selected. If there is a unique combination of bids that solves this maximization problem, then these bids are deemed to be the remaining provisionally winning bids. If two or more combinations of bids tie by producing the same maximized sum of bid amounts, the auction system will select one of the combinations by generating pseudorandom numbers. The provisional winners will pay the amounts of their provisionally winning bids. Provisional winners may be disqualified if they are subsequently found to have violated auction rules or BOEM regulations, or otherwise engaged in conduct detrimental to the integrity of the competitive auction. If a bidder submits a bid that BOEM determines to be a provisionally winning bid, the bidder will be expected to sign the applicable lease documents, establish financial assurance, and submit the cash balance of its bid (*i.e.,* winning bid amount minus the bid deposit) within 10-business days of receiving the lease copies, pursuant to 30 CFR 585.224. BOEM reserves the right not to issue the lease to the provisionally winning bidder if that bidder fails to timely sign and pay for the lease or otherwise fails to comply with applicable regulations or the terms of the FSN. In that case, the bidder would forfeit its bid deposit. BOEM may consider failure of a bidder to timely pay the full amount due to be an indication that the bidder may no longer be financially qualified to participate in other lease sales under 30 CFR 585.106 and 585.107.

BOEM will publish the provisionally winning bid amounts and provisional winners. The bid results, including exit bids, will be published on BOEM's website after review of the results and announcement of the provisional winners.

e. *Authorized Individuals and Bidder Authentication:* A company that is eligible to participate in the auction will identify on its BFF up to three individuals who are authorized to bid on behalf of the company, including their names, business telephone numbers, and email addresses. After BOEM has processed the bid deposits, the auction contractor will send several emails to the authorized individuals. The emails will contain user login information and instructions for accessing the bidder manual for the auction system and the auction system technical supplement (ASTS).

The auction system will require software tokens for two-factor authentication. To set up the tokens, authorized individuals must download an app onto their smartphone or tablet via a recent operating system. One of the emails sent to authorized individuals will contain instructions for installing the app and the credentials needed to activate the software token. A short telephone conversation with the auction contractor may also be needed to use the credentials. The login information, along with the tokens, will be tested during the mock auction. If an eligible bidder fails to submit a bid deposit or does not participate in the auction, BOEM will de-activate that bidder's tokens and login information.

f. *Timing of Auction:* The auction will begin at 9:00 a.m. EST on February 23, 2022. Bidders may log in as early as 8:30 a.m. EST on that day. BOEM recommends that bidders log in earlier than 9:00 a.m. EST on that day to ensure that any login issues are resolved prior to the start of the auction. Once bidders have logged in, they should review the auction schedule, which lists the anticipated start times, end times, and recess times of each round in the auction. Each round is structured as follows:

- Round bidding begins;
- Bidders enter their bids;
- Round bidding ends and the recess begins;
- During the recess, previous round results and next round asking prices are posted;
- Bidders review the previous round results and prepare their next round bids; and
- Next round bidding begins.

The first round will last about 30 minutes, though subsequent rounds will be shorter. Recesses are anticipated to last approximately 10 minutes. This description of the auction schedule is tentative. Bidders should consult the auction schedule on the auction system during the auction for updated times. Bidding will continue until about 6:00 p.m. EST each day. BOEM anticipates that the auction will last 1- to 2-business days, but may continue for additional business days as necessary until the auction has concluded.

g. *Messaging Service:* BOEM and the auction contractors will use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM may change the schedule at any time, including during the auction. If BOEM changes the schedule during an auction, it will use the messaging feature to notify bidders that a revision has been made and will direct bidders to the relevant page. BOEM will also use the messaging system for other updates during the auction.

Bidders may place bids at any time during the round. At the top of the bidding page, a countdown clock shows how much time remains in the round. Bidders have until the end of the round to place bids. Bidders should place bids according to the procedures described in this notice and the ASTS. Information about the round results will only be made available after the round has closed, so there is no strategic advantage to placing bids early or late in the round.

The ASTS will elaborate on the auction procedures described in this FSN. In the event of an inconsistency between the ASTS and the FSN, the FSN is controlling.

h. *Alternate Bidding Procedures:* Redundancy is the most effective way to mitigate technical and human issues during an auction. Bidders should strongly consider authorizing more than one individual to bid in the auction—and confirming during the mock auction that each individual is able to access the auction system. A 4G card or other form

of wireless access is helpful in case a company's main internet connection should fail. As a last resort, an authorized individual facing technical issues may request to submit its bid by telephone. In order to be authorized to place a telephone bid, an authorized individual must call the help desk number listed in the auction manual *before* the end of the round. BOEM will authenticate the caller's identity, including requiring the caller to provide a code from the software token. The caller must also explain the reasons why a telephone bid must be submitted. BOEM may, in its sole discretion, permit or refuse to accept a request for the placement of a bid using this alternate bidding procedure.

i. *Prohibition on Communications Between Bidders During Auction:* During the auction, bidders are prohibited from communicating with each other regarding their participation in the auction. Also, during the auction, bidders are prohibited from communicating to the public regarding any aspect of their participation or lack thereof in the auction, including, but not limited to, through social media, updated websites, or press releases.

XIV. *Post-Auction Procedures:*

a. *Rejection or Non-Acceptance of Bids:* BOEM reserves the right and authority to reject all bids that do not satisfy the requirements and rules of the auction, the FSN, or applicable regulations and statutes.

i. *Anti-Competitive Review:* Bidding behavior in this sale is subject to Federal antitrust laws. Accordingly, following the auction, but before the acceptance of bids and the issuance of leases, BOEM will ''allow the Attorney General, in consultation with the Federal Trade Commission, 30 days to review the results of the lease sale.'' 43 U.S.C. 1337(c). If a provisionally winning bidder is found to have engaged in anti-competitive behavior in connection with its participation in the competitive bidding process, BOEM may reject its provisionally winning bid. Compliance with BOEM's auction procedures and regulations is not an absolute defense to violations of antitrust laws.

Anti-competitive behavior determinations are fact-specific. Such behavior may manifest itself in several different ways, including, but not limited to:

1. An express or tacit agreement among bidders not to bid in an auction or to bid a particular price;

2. An agreement among bidders not to bid or not to bid on one of the Lease Areas;

3. An agreement among bidders not to bid against each other; or

4. Other agreements among bidders that have the potential to affect the final auction price.

Pursuant to 43 U.S.C. 1337(c), BOEM will decline to award a lease if the Attorney General, in consultation with the Federal Trade Commission, determines that awarding the lease would be inconsistent with the antitrust laws.

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see *https://www.justice.gov/atr/business-resources* or consult legal counsel.

b. *Process for Issuing the Lease:* Once all post-auction reviews have been completed to BOEM's satisfaction, BOEM will issue three unsigned copies of the lease to each provisionally winning bidder. Within 10-business days after receiving the lease copies, the provisionally winning bidders must:

1. Sign and return the lease copies on the bidder's behalf;

2. File financial assurance, as required under 30 CFR 585.515–.537; and

3. Pay by electronic funds transfer (EFT) the balance (if any) of the bonus bid (winning bid less the bid deposit). BOEM requires bidders to use EFT procedures (not *pay.gov,* the website bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained in the ''Instructions for Making Electronic Payments'' available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.*

BOEM will not execute a lease until the three requirements above have been satisfied, BOEM has accepted the provisionally winning bidder's financial assurance pursuant to 30 CFR 585.515, and BOEM has processed the provisionally winning bidder's payment.

BOEM may extend the 10-business day deadline for signing a lease, filing the required financial assurance, and paying the balance of the bonus bid if BOEM determines the delay was caused by events beyond the provisionally winning bidder's control.

If a provisionally winning bidder does not meet these requirements or otherwise fails to comply with applicable regulations or the terms of the FSN, BOEM reserves the right not to issue the lease to that bidder. In such a case, the provisionally winning bidder will forfeit its bid deposit. Also, in such a case, BOEM reserves the right to identify the next highest bid for that lease area submitted during the lease sale by a bidder who has not won one of the other Lease Areas and to offer the lease to that bidder pursuant to its bid.

Within 45-calendar days of the date that a provisionally winning bidder receives copies of the lease, it must pay the first year's rent using the *pay.gov* and Renewable Energy Initial Rental Payment form available at: *https://www.pay.gov/public/form/start//27797604/.*

Subsequent annual rent payments must be made following the detailed instructions contained in the ''Instructions for Making Electronic Payments,'' available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/new-york-bight.*

c. *Non-Procurement Debarment and Suspension Regulations:* Pursuant to regulations at 43 CFR part 42, subpart C, an OCS renewable energy lessee must comply with the Department of the Interior's non-procurement debarment and suspension regulations at 2 CFR parts 180 and 1400. The lessee must also communicate this requirement to persons with whom the lessee does business relating to this lease by including this term as a condition in their contracts and other transactions.

d. *Force Majeure:* The Program Manager of BOEM's Office of Renewable Energy Programs has the discretion to change any auction details specified in the FSN, including the date and time, in case of a *force majeure* event that the Program Manager deems may interfere with a fair and proper lease sale process. Such events may include, but are not limited to: Natural disasters (*e.g.,* earthquakes, hurricanes, floods, blizzards), wars, riots, acts of terrorism, fire, strikes, civil disorder, or other events of a similar nature. In case of such events, BOEM will notify all qualified bidders via email, phone, or through the BOEM website at: *http://www.boem.gov/Renewable-Energy-Program/index.aspx.*

Bidders should call 703–787–1121 if they have concerns.

e. *Withdrawal of Blocks:* BOEM reserves the right to withdraw all or portions of the Lease Areas prior to executing the leases with the winning bidders.

f. *Appeals:* The appeals procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). Pursuant to 30 CFR 585.225:

(a) If BOEM rejects your bid, BOEM will provide a written statement of the reasons and refund any money deposited with your bid, without interest.

(b) You will then be able to ask the BOEM Director for reconsideration, in

writing, within 15-business days of bid rejection, under 30 CFR 585.118(c)(1). We will send you a written response either affirming or reversing the rejection.

The procedures for appealing final decisions with respect to lease sales are described in 30 CFR 585.118(c).

XV. *Protection of Privileged or Confidential Information:* BOEM will protect privileged and confidential information that you submit, as required by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to ''trade secrets and commercial or financial information that you submit that is privileged or confidential.'' 5 U.S.C. 552(b)(4). If you wish to protect the confidentiality of such information, clearly mark it ''Contains Privileged or Confidential Information'' and consider submitting such information as a separate attachment. BOEM will not disclose such information, except as required by FOIA. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release. Further, BOEM will not treat as confidential aggregate summaries of otherwise confidential information.

Authority: 43 U.S.C. 1337(p); 30 CFR 585.211 and 585.216.

Amanda Lefton,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2022–00504 Filed 1–13–22; 8:45 am]

BILLING CODE 4310–MR–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Bankruptcy Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory committee on Bankruptcy Rules; notice of cancellation of open hearing.

SUMMARY: The following virtual public hearing on proposed amendments to the Federal Rules of Bankruptcy Procedure has been canceled: Bankruptcy Rules Hearing on January 28, 2022. The announcement for this hearing was previously published in the **Federal Register** on August 11, 2021.

DATES: January 28, 2022.

FOR FURTHER INFORMATION CONTACT: Bridget Healy, Esq., Acting Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073.)

Dated: January 11, 2022.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2022–00655 Filed 1–13–22; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–943]

Importer of Controlled Substances Application: Organic Standards Solutions International, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Organic Standards Solutions International, LLC 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 February 14, 2022. Such persons may also file a written request for a hearing on the application on or before February 14, 2022.

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 request 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 November 15, 2021, Organic Standards Solutions International, LLC., 7290 Investment Drive, Unit B, North Charleston, South Carolina 29418–8305, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import the listed controlled substances to produce analytical reference standards for distribution to its customers. Drug codes 7350 (Marihuana Extract) and 7360 (Marihuana) will be used for the manufacture of cannabidiol only. In reference to drug code 7370 (Tetrahydrocannabinols), the company plans to import the synthetic version of this controlled substance to produce analytical reference standards for distribution to their customers. 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 Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2022–00652 Filed 1–13–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Joint Stipulation and Order Modifying the Consent Decree With Central Sprinkler Corporation Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On January 10, 2022, the Department of Justice lodged a proposed Joint Stipulation and Order Modifying the Consent Decree with Central Sprinkler Corporation (''CD Modification''), with the United States District Court for the Eastern District of Pennsylvania in the lawsuit entitled *United States* v. *Parker Hannifin Corporation and Central Sprinkler Corporation,* Civil Action No. 2:05–cv–1351.

The CD Modification modifies a 2005 Consent Decree entered into between the United States and Central Sprinkler Corporation (''Central Sprinkler''), relating to Operable Unit 3 (OU3) at the North Penn Area 6 Superfund Site in Montgomery County, Pennsylvania (the ''Site''). The 2005 Consent Decree addresses one of the source locations in OU3: Property located at 451 North

Cannon Avenue, Lansdale, Pennsylvania (the ''Central Sprinkler Parcel''). Among other provisions, the 2005 Consent Decree requires Central Sprinkler to implement a remedy selected for the Central Sprinkler Parcel in a 2000 Record of Decision (ROD). Since then, EPA has issued an Amendment to the ROD as it relates to the Central Sprinkler Parcel. In addition, Central Sprinkler has completed soil remediation obligations at Operable Unit 2 (OU2).

The proposed CD Modification: (i) Requires implementation of the OU3 remedy as amended by the ROD Amendment and makes related revisions; (ii) updates notice, reporting, and payment requirements; (iii) updates access and use requirements; (iv) adds Central Sprinkler's corporate successor as a defendant; and (v) provides Central Sprinkler and its successor a Site-wide covenant not to sue based on completion of soil remediation actions at OU2.

The publication of this notice opens a period for public comment on the proposed CD Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Parker Hannifin Corporation and Central Sprinkler Corporation,* D.J. Ref. No. 90–11–2–06024/10. 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 CD Modification 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 CD Modification 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 $24.25 (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 $6.75.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–00645 Filed 1–13–22; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Rehabilitation Maintenance Certificate

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 14, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 8111(b), the Federal Employees' Compensation Act (FECA) provides that OWCP may pay an individual undergoing vocational rehabilitation a maintenance allowance, not to exceed $200 a month. 33 U.S.C. 908(g) of the LHWCA provides that person(s) undergoing such vocational rehabilitation shall receive maintenance allowances as additional compensation. Form OWCP–17 is used to collect information necessary to determine the amount of any maintenance allowance to be paid. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 7, 2021 (86 FR 55861).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Rehabilitation Maintenance Certificate.

OMB Control Number: 1240–0012.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 287.

Total Estimated Number of Responses: 694.

Total Estimated Annual Time Burden: 118 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–00673 Filed 1–13–22; 8:45 am]

BILLING CODE 4510–CH–P

OFFICE OF MANAGEMENT AND BUDGET

[OMB Control No. O348–NEW]

Information Collection; Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

AGENCY: The Office of Management and Budget.

ACTION: Notice; request for comment.

SUMMARY: The Office of Management and Budget (OMB) as part of its continuing effort to reduce paperwork and respondent burden, is announcing an opportunity for public comment on a new proposed collection of information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on new collection proposed by the Agency.

DATES: Submit comments on or before: March 15, 2022.

ADDRESSES: Submit comments identified by Information Collection 0348–NEW, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation), by any of the following methods:

- *Federal eRulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments to *https://www.regulations.gov,* will be posted to the docket unchanged.

Instructions: Please submit comments only and cite Information Collection 0348–NEW, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation), in all correspondence related to this collection. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two to three business days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Amira Boland, Office of Management and Budget, 725 17th St. NW, Washington, DC 20006, 202–395–0380, or via email to *amira.c.boland@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the PRA, (44 U.S.C. 3501–3520) Federal Agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA 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, OMB is publishing notice of the proposed collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veterans benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet on Forrester's 2020 CX Index, the Federal sector's average score is 10.7 points behind the private sector average and lower than any other industry or sector studied. Nearly half of the bottom 5% of the U.S. CX Index Rankings are Federal agencies.

The President's Management Agenda (*see https://www.performance.gov/PMA*) prioritizes efforts to improve the experience of those the Government serves—all of the people, families, businesses, organizations, and communities across America, especially those communities that have been historically underserved by Government, when they use Government services. This focus on customer experience will not only improve the delivery, efficiency, security, and effectiveness of our Government programs, it will advance equity and enhance everyday interactions with public services and uplift the lives of those who need them the most. To support this, OMB Circular A–11 Section 280 establishes Government-wide standards for mature customer experience organizations in government and measurement. In order for Federal programs to design and deliver the experience taxpayers deserve, they must often undertake three general categories of activities: Conduct ongoing customer research, gather and share customer feedback, and test services and digital products. Both the PMA and Section 280 charge the President's Management Council—the primary Government-wide body that advises the President and OMB on management issues that span agencies—with the routine designation of cross-agency ''life experiences'' for improvement (such as turning 65, surviving a natural disaster, or having a child) that do not fit neatly within one agency's mission area.

For these projects, OMB designers and staff, such as the those on the Federal Customer Experience team or at the U.S. Digital Service, may lead and coordinate information collections in service of cross-agency life experience improvement efforts. These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.,* in person, video, and audio collections), interviews, questionnaires, surveys, and focus groups. OMB will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request, where appropriate.

The results of the data collected will be used to improve the delivery of Federal services and programs, and in particular, those experiences that are more Government-wide in nature. It will include the creation of customer personas, customer journey maps (for a definition of and more information on customer personas and journey maps, see *https://performance.gov/cx/projects*), and reports and summaries of customer feedback data and user insights. It will also provide Government-wide data on customer experience that can be displayed on *Performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

Method of Collection

OMB will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. OMB may also utilize observational techniques to collect this information.

Data

Form Number(s): None.
Type of Review: New.

B. Annual Reporting Burden

Affected Public: Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Federal Government

agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local, Tribal, or territorial governments; and universities.

Estimated Number of Respondents: 2,001,550.

Estimated Time per Response: Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 1.5 hours to participate in an interview.

Estimated Total Annual Burden Hours: 101,125.

Estimated Total Annual Cost to Public: $2,737,454.

C. Public Comments

OMB invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Jason S. Miller,

Deputy Director of Management.

[FR Doc. 2022–00662 Filed 1–13–22; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

The Interagency Council on Statistical Policy's Recommendation for a Standard Application Process (SAP) for Requesting Access to Certain Confidential Data Assets

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President.

ACTION: Notice of solicitation of comments.

SUMMARY: As part of the implementation of the Foundations for Evidence-Based Policymaking Act of 2018, the Office of Management and Budget (OMB) requests comments on the Interagency Council on Statistical Policy's recommendation for a Standard Application Process (SAP) for requesting access to certain confidential data assets. The SAP is to be a process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply to access confidential data assets accessed or acquired by a statistical agency or unit for the purposes of developing evidence. This new process would be implemented while maintaining stringent controls to protect confidentiality and privacy, as required by the law.

DATES: To ensure consideration of comments on this Notice, comments must be provided in writing no later than 60 days from the publication date of this notice. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to send comments electronically (see **ADDRESSES**, below).

ADDRESSES: Comments may be sent via *www.regulations.gov*—a Federal E-Government website that allows the public to find, review, and submit comments on documents that agencies have published in the **Federal Register** and that are open for comment. Simply type ''OMB–2022–0001'' (in quotes) in the Comment or Submission search box, click Go, and follow the instructions for submitting comments. Comments received by the date specified above will be included as part of the official record.

Comments submitted in response to this notice may be made available to the public and are subject to disclosure under the Freedom of Information Act. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket; however, *www.regulations.gov* does include the option of commenting anonymously. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

Electronic Availability: **Federal Register** notices are available electronically at *www.federalregister.gov/.*

FOR FURTHER INFORMATION CONTACT: For information about this request for comments, contact Rochelle Martinez, OMB, *Statistical_Directives@omb.eop.gov,* 9242 New Executive Office Building, 725 17th St. NW, Washington, DC 20503, telephone (202) 395–5897.

SUPPLEMENTARY INFORMATION: OMB is issuing a request for comment under the *Foundations for Evidence-Based Policymaking Act of 2018,* Public Law 115–435, 132 stat. 5529 (2019), hereafter referred to as the Evidence Act.

Specifically, the Evidence Act requires OMB to establish a process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply for access to confidential data assets accessed or acquired by a statistical agency or unit.[1] This new process would be implemented while maintaining stringent controls to protect confidentiality and privacy, as required by the law. In addition, under the *Paperwork Reduction Act,* the Interagency Council on Statistical Policy (ICSP) is to advise and assist the Director of OMB in coordinating the Federal statistical system and setting statistical policy.[2] The ICSP is chaired by the Chief Statistician of the United States and membership includes the heads of the 13 recognized statistical agencies, or in the case of an agency that does not have a statistical agency or unit, the agency's Statistical Official.[3]

In that capacity, and in order for the statistical system to comply with this Evidence Act requirement, the ICSP submitted a set of recommendations to OMB for a policy that would establish a standard application process (SAP) for requesting access to certain confidential data assets accessed or acquired by designated statistical agencies and units.

OMB's Office of the Chief Statistician, within the Office of Information and Regulatory Affairs (OIRA), relies on public comment and subject matter expertise across the Federal government when establishing OMB policies or guidance for efficient coordination of Federal statistics. Accordingly, OMB is seeking public comment on the ICSP's recommendations.

Applicability

The proposed policy would impose requirements on all recognized

[1] 44 U.S.C. 3583(a). ''Statistical agencies or units'' are those agencies or organizational units designated by the Director of OMB pursuant to 44 U.S.C. 3562(a).

[2] 44 U.S.C. 3504(e).

[3] 5 U.S.C. 314.

statistical agencies and units under 44 U.S.C. 3561(11) and 3562. As a result, all persons seeking access to data under U.S.C. 3583 would apply for such access under the requirements of this policy. At the time of this proposal, there are sixteen designated statistical agencies and units: Bureau of Economic Analysis (Department of Commerce); Bureau of Justice Statistics (Department of Justice); Bureau of Labor Statistics (Department of Labor); Bureau of Transportation Statistics (Department of Transportation); Census Bureau (Department of Commerce); Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration (Department of Health and Human Services); Economic Research Service (Department of Agriculture); Energy Information Administration (Department of Energy); Microeconomic Surveys Unit (Board of Directors of the Federal Reserve System); National Agricultural Statistical Service (Department of Agriculture); National Animal Health Monitoring System, Animal and Plant Health Inspection Service (Department of Agriculture); National Center for Education Statistics (Department of Education); National Center for Health Statistics (Department of Health and Human Services); National Center for Science and Engineering Statistics (National Science Foundation); Office of Research, Evaluation, and Statistics (Social Security Administration); and Statistics of Income Division (Department of the Treasury).

In the future, if the Director of OMB recognizes an agency or organizational unit as a statistical agency or unit, then it would become subject to this policy and shall adopt the SAP.

Under the proposal, other Executive branch agencies or organizational units may, at their discretion, and with the concurrence of the SAP Governance Body, utilize the SAP to accept applications for access to confidential data for the purpose of developing evidence. Agencies facilitate access to confidential data by enabling applicants to submit proposals through the SAP. When making use of the SAP to accept such proposals, it is proposed that an Agency must adopt and abide by the entirety of this policy for those data assets, including use of the data inventory, common application, review criteria, timelines, appeals process, progress tracking, and reporting, with appropriate exceptions for legal and regulatory requirements as allowed for in the proposed policy.

Background

Data accessed or acquired by statistical agencies and units is vital for developing evidence on conditions, characteristics, and behaviors of the public and on the operations and outcomes of public programs and policies. This evidence can benefit the stakeholders in the programs, the broader public, and policymakers and program managers at the local, State, Tribal, and National levels. Some evidence may be built upon public versions of data that were initially collected under a statistical confidentiality protection statute, but where some type of disclosure limitation methods have been applied, such as the removal of Personal Identifying Information (PII) and aggregation of information, to prevent the risk of disclosing the identities of individuals. However, some evidence-building activities have long required or benefited greatly from the use of properly and strongly protected confidential data. Such uses are conducted in a manner that maintains the confidentiality of the data and the public trust.

Again, these arrangements have long been established by contract or by entering into a special agreement, where a statistical agency or unit may allow approved individuals (hereafter, referred to as agents) to perform exclusively statistical activities on an approved project using confidential data, subject to appropriate control, supervision, and agreement to comply with all relevant legal provisions. CIPSEA authorizes data accessed or acquired by a statistical agency or unit under a pledge of confidentiality to be shared with such agents, and subjects such agents to the same fines and penalties, including potential criminal penalties, for willful and unauthorized disclosures as statistical agency or unit employees and officers. Such arrangements have been used successfully even prior to CIPSEA's enactment in 2002 for the purpose of facilitating the generation of evidence.

However, the process for an individual to become a designated agent authorized to access a confidential data asset for an approved statistical activity often varies across Federal statistical agencies. Moreover, the trusted status that agents obtain from one agency may not transfer to another agency, requiring the potential duplication of costly and time-consuming clearance processes. The variety of applications and clearance procedures used across the Federal statistical system for confidential data access potentially impacts the ability of agents to generate evidence that could inform the efficiency of government policies and programs, as well as the availability of evidence to inform non-Federal decision making. Evidence building opportunities would be enhanced, while maintaining data protections and ensuring appropriate use, by the design and construction of a standard application process (SAP) for access to confidential data.

Recognizing this potential, in 2016, the U.S. Congress established the Commission on Evidence-Based Policymaking (CEP) to explore how to increase the availability and use of evidence in the Federal government while protecting privacy and confidentiality. In the September 7, 2017 report on its findings, the CEP provided a series of recommendations in response to its charge. As part of its findings, the CEP highlighted the heterogeneity in application processes for confidential data as an important challenge for those seeking to access confidential data from multiple agencies to build evidence. The CEP further noted that ''inefficiencies in the [confidential] data access processes create administrative expenses and researcher burdens that can impede Federally-funded research.'' [4] Federally-funded research, while not the only type of research that would be supported by the SAP, today represents a large share of data-access demand.

The CEP report directly influenced the Evidence Act. Informed by the findings of the CEP,[5] the Evidence Act requires that the Director of OMB establish an SAP that will be adopted by statistical agencies and units and allow agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, to apply to access certain confidential data accessed or acquired by statistical agencies or units.[6] Specifically, the Evidence Act requires that each statistical agency or unit establish an 'identical' application process, which includes not just the application form but also the criteria for determining whether to grant an applicant access to the confidential data

[4] *https://bipartisanpolicy.org/wp-content/uploads/2019/03/Full-Report-The-Promise-of-Evidence-Based-Policymaking-Report-of-the-Comission-on-Evidence-based-Policymaking.pdf.*

[5] H.R. Rep No. 115–411 (2017).

[6] 44 U.S.C. 3583(a). Agencies, the Congressional Budget Office, State, local, and Tribal governments may, for the purposes of developing evidence, apply to access confidential data accessed or acquired by statistical agencies and units by applying for an employee(s) of those organizations to be designated as agents to conduct a specific statistical activity.

asset, timeframes for prompt determinations, an appeals process for adverse determinations, and reporting requirements for full transparency. While the adoption of the SAP is required for statistical agencies and units recognized under CIPSEA, it is understood that other agencies and organizational units within the Executive branch may benefit from the adoption of the SAP to accept applications for access to confidential data assets available for the purpose of developing evidence.

In 2019, a subset of statistical agencies and units associated with the Federal Statistical Research Data Centers established a pilot project that provided researchers with a common, online application form and metadata inventory for requesting access to certain confidential data assets (*www.researchdatagov.com*). Two key lessons learned from the pilot were that the standard application process requires clear policy guidelines and a central capacity to guide implementation and standardization. As the number of participating agencies increases, as well as the complexity of the SAP program itself, a policy that guides decision making and establishes clear roles and responsibilities becomes increasingly important. Based on the pilot experience and subsequent, in 2021 OMB designated the Standard Application Process program as a government-wide shared service and established the role of Program Management Office (PMO) as a managing partner of the program.

In order to provide needed guidance and recommendations, in 2020 the ICSP established a subcommittee on the SAP. The subcommittee sought to build on the earlier pilot project and the lessons learned by engaging in outreach to researchers and data providers likely to use the SAP. Initial feedback from stakeholders had common themes. For example, stakeholders indicated that application processes are often long and cumbersome, that transparency of requirements and timely approvals are important, and that they would like to see more standardization of processes across agencies.

Guided by the requirements of the Evidence Act and the stakeholder feedback, the ICSP SAP subcommittee drafted a policy for the establishment of an SAP. The draft policy went through multiple rounds of review by ICSP member agencies and units to ensure the requirements align with the requirements of Evidence Act, the additional statutory and regulatory requirements governing certain data assets or statistical agencies and units, and the practical conditions affecting an approved research project's lifecycle. In July 2021, the ICSP voted to send the draft policy to OMB as a recommendation for establishing an SAP consistent with the Evidence Act requirements.

Interagency Council on Statistical Policy Recommendation

OMB seeks comment on this proposal. We have made a preliminary determination that the proposal also meets the requirements of the Evidence Act (44 U.S.C. 3583), and has the potential to reduce the burden to applicants while maintaining currently strong access and confidentiality protections.

In summary, the application process begins with an applicant identifying a confidential data asset for which a statistical agency or unit is accepting applications for the purpose of developing evidence, and ends with the agency or unit's determination whether to grant access to the applicant. In the case of an adverse determination, the application process ends with the conclusion of an appeals process if the applicant elects to appeal the adverse determination. The scope of this proposal excludes decisions about the mode of access to confidential data or methods by which data are protected from unauthorized disclosure.[7]

The implementation of the proposed SAP would include an online portal that serves as the primary location for researchers and others seeking to identify and apply for access to confidential data available for evidence building purposes. The SAP Portal would include an SAP Data Inventory and searchable metadata on confidential data assets for which evidence-building applications are being accepted, and would be populated by statistical agencies and units. The goal of the policy is for the metadata to be sufficient to facilitate data identification and ensure that potential applicants can find and access adequate documentation on available data assets. The SAP Portal would also include a common application form that is standardized across statistical agencies and units and datasets, except where unique legal or regulatory requirements create a need for additional fields.

Upon receipt of a completed application, statistical agencies and units would apply a common set of criteria when reviewing both the proposed project and the applicant. When reviewing a proposed project, statistical agencies and units would ensure that the data use is for exclusively statistical purposes; the use is allowed under relevant statutes, regulations, notices, agreements, and other requirements governing the use of the data; that appropriate statistical disclosure limitations could be applied to the relevant data; there is a demonstrated need for the data; the project is feasible; and the public trust can be maintained. When required by statute or regulation, statistical agencies or units may consider additional criteria as appropriate.

The proposed policy would establish a set of four authorization levels that define the level of applicant review required. For example, Authorization Level 1 would require evaluation of the applicant's identity and completion of training, Authorization Level 2 would have the additional requirement of a non-disclosure or other agreement(s) to be completed, and Authorization Levels 3 and 4 would require two levels of background investigations. The authorization level required for an applicant would be determined by the data asset and mode of data access requested in the project proposal, and would be listed in the SAP Data Inventory itself. The authorization levels are generally consistent with current practices for given modes of data access. For example, Authorization Level 1 would be consistent with the level of access that is usually associated with indirect access to confidential data using a secure web-based query system and Authorization Level 4 would be consistent with practices at the Federal Statistical Research Data Centers.

The timeline for review of applications would be standardized across statistical agencies and units under the proposal. For applications involving a single agency it is proposed that review of project should occur within twelve (12) weeks, and for applications involving requests for data access from multiple agencies the review should occur within twenty-four (24) weeks to allow for the additional complexity and coordination. Agencies who cannot meet the required timing would be able to seek an extension when appropriate. Requests that require the statistical agency or unit to obtain approval from entities not subject to the proposed policy are not subject to the timeframes. Under the proposal, review of applicants should occur no later than three (3) weeks after a project receives approval, unless the review requires a new background investigation.

Upon receipt of an adverse determination, it is proposed that

[7] Those decisions fall within the scope of a regulation that OMB will promulgate under 44 U.S.C. 3582.

applicants have the opportunity to appeal the decision to a review body within the statistical agency or unit, when the grounds for the adverse determination are under the control of the relevant statistical agencies or units. The result of the appeals process would be communicated with the applicant within eight (8) weeks of the appeal request submission. Under the proposal applicants would also have the opportunity to file an appeal of alleged noncompliance with the policy directly with the Chief Statistician at OMB, who would review the allegation and, if appropriate, take steps to facilitate compliance with the policy.[8]

The SAP Portal will provide applicants with up-to-date tracking of applications throughout the review process. The SAP Portal will also provide public reporting of key information with regard to the operation of the SAP, such as the review status and final determination for every project, as required by the Evidence Act.

The full text of the ICSP policy recommendation may be found in the docket (OMB–2022–0001).

Desired Focus of Comments

OMB is particularly interested in receiving comments on the specific areas of interest described below. To provide the most useful feedback, responders should read the SAP policy draft before addressing the posed questions. We also recommend that responses be concise, include citations if summarizing or depending on published work, and provide any links to related research. In addition, a fuller consideration of comments would be facilitated by clear identification of the question(s) being addressed. Each question provides a link to the related discussion within the policy draft. The full text of the ISCP SAP policy recommendations is available as a supplemental document on *www.regulations.gov* in docket number ''OMB–2022–0001''.

OMB welcomes comment on any and all aspects of this policy. We have also identified specific areas of interest for comment, including:

Metadata standards:

• To provide flexibility over time, the proposed policy would require the SAP Program Management Office (PMO) to develop and maintain a set of metadata standards subject to approval by the SAP Governance Body.

1. Should key metadata elements be considered as part of the policy? If so, which?

2. What are the key metadata elements that the PMO should consider in its development of the metadata standards?

3. Would it be valuable for the metadata standards to comply with any other existing metadata standards? If so, which?

Application windows:

• The proposed policy would allow each individual statistical agency or unit to establish their own time window during which applications will be accepted for a given data asset as a way to manage resource constraints. This approach is designed to maximize services from higher capacity statistical agencies, which have resources to keep an application window open all year in many cases, but at the potential expense of standardization across statistical agencies, because some lower capacity statistical agencies may not have the resources to review applications on a constant flow basis.

4. How could this proposed approach be improved, if at all?

• If instead the policy were to require all agencies to align to a common fixed-length window, we believe that has the potential to lead to a decrease in availability for higher capacity agencies.

5. How could this policy be implemented in a way that maximizes its usefulness? How could the following aspects help:

i. Frequency of windows for accepting applications (*e.g.,* annual, quarterly)?

ii. Minimum number of days for accepting applications (*e.g.,* 60 days) for each window?

iii. Alignment of acceptance windows across statistical agencies or products?

iv. Any other features to assist applicants seeking data from multiple statistical agencies for a single project?

Applicant evaluation:

• The proposed policy would introduce four standardized authorization levels and four standard review criteria against which applicant(s) will be evaluated. The authorization levels are designed to align generally with currently used access modes as described above. They will also need to align with accessibility levels to be defined in an upcoming OMB regulation required under 44 U.S.C. 3582. The standard review criteria would respond to the requirement for an explicit, consistent, and identical review process.

6. Is the proposal an appropriate framework, and should it differ in any manner between Federal and non-Federal applicants? If not, what additional levels or criteria should guide the applicant review process to improve the efficiency of the SAP?

Appeals process:

• The proposed policy would provide applicants the ability to file an appeal in the event their application receives a negative disposition. Under this process, the appeal is reviewed by three officials at the statistical agency or unit, including the statistical agency or unit head or delegate, and a consensus decision is required to reverse the original determination.

7. What additional aspects should be considered to ensure that the process is fair, equitable, and transparent?

8. How, if at all, should processes vary for applications that would use data from multiple agencies?

Public reporting:

• The Evidence Act (44 U.S.C. 3583(a)(6)) requires public reporting on the status and disposition of each application to promote transparency.

9. What additional information should be considered as part of the proposed public reporting requirements beyond what the proposal suggests?

In addition, OMB welcomes more general comment on the merit of the proposed SAP both in technical terms and as statistical policy, including whether any elements should be modified in support of technical improvement or to improve statistical policy. The technical implications of the proposed SAP involve the feasibility, cost, and effectiveness of its structure and processes. The statistical policy implications relate to how well the proposed SAP supports the missions of statistical agencies and units by serving the information and research needs of policymakers and the public, while protecting the privacy and confidentiality of individuals who provide data.

Authority: 44 U.S.C. 3583.

Shalanda D. Young,

Acting Director, Office of Management and Budget.

[FR Doc. 2022–00620 Filed 1–13–22; 8:45 am]

BILLING CODE 3110–01–P

[8] The proposal describes a procedural appeal, which would not extend to review of the substantive decision.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 22–003]

Name of Information Collection: NASA Contractor Financial Management Records

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 March 15, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to 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

The NASA Contractor Financial Management Reporting System is the basic financial medium for contractor reporting of estimated and incurred costs, providing essential data for projecting costs and hours to ensure that contractor performance is realistically planned and supported by dollar and labor resources. The data provided by these reports is an integral part of the Agency's accrual accounting and cost-based budgeting system. Respondents are reimbursed for associated cost to provide the information, per their negotiated contract price and associated terms of the contract. There are no ''total capital and start-up'' or ''total operation and maintenance and purchase of services'' costs associated since NASA policy requires that data reported is generated from the contractors' existing system. The contractors' internal management system shall be relied upon to the maximum extent possible.

II. Methods of Collection

NASA collects this information electronically and that is the preferred manner, however information may also be collected via mail or fax.

III. Data

Title: NASA Contractor Financial Management Reports.

OMB Number: 2700–0003.

Type of Review: Renewal of a previously approved collection.

Affected Public: Business or other for profit or not-for-profit institutions.

Estimated Annual Number of Activities: 500.

Estimated Number of Respondents per Activity: 12.

Annual Responses: 6,000.

Estimated Time per Response: 9 hours.

Estimated Total Annual Burden Hours: 54,000 hours.

Estimated Total Annual Cost: $9,100,000.

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. 2022–00648 Filed 1–13–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 22–004]

Name of Information Collection: NASA Science Mission Directorate Workplace Climate Survey

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 March 15, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to 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

The Science Mission Directorate (SMD) within NASA is undertaking an Inclusion, Diversity, Equity, and Accessibility (IDEA) change effort. SMD seeks to advance these IDEA principles in all SMD programs and activities. This survey will be used as an evidence-building tool baselining SMD staff (civil servants and contractors) views on the SMD cultural climate. The survey will then be periodically (approximately annually) administered to determine whether cultural indicators are improving as IDEA efforts are implemented. Data obtained is intended for SMD internal use only and will not be publicly released. Data will be used to inform and substantiate IDEA strategy, initiatives, and design. This intelligence will be laser-focused on improving SMD's internal environment. This survey will be open to both contractors and civil servants because contractors are integral to and embedded within the SMD workforce. No other data collection mechanism exists to obtain opinions from the contractor portion of the workforce on this topic. The survey will be voluntary and anonymous (the identity of survey respondents will not be collected).

II. Methods of Collection

Electronic.

III. Data

Title: SMD Climate Survey.

OMB Number:

Type of Review: New.

Affected Public: Individuals who work as contractors, detailees, or IPAs for NASA SMD.

Estimated Annual Number of Activities: 1.

Estimated Number of Respondents per Activity: 400.

Annual Responses: 400.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 100 hours.

Estimated Total Annual Cost: $3,000.

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. 2022–00649 Filed 1–13–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities

Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: Federal Council on the Arts and the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Federal Council on the Arts and the Humanities will hold a meeting of the Arts and Artifacts Domestic Indemnity Panel.

DATES: The meeting will be held on Thursday, February 17, 2022, from 12:00 p.m. until adjourned.

ADDRESSES: The meeting will be held by videoconference originating at the National Endowment for the Arts, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506, (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for panel review, discussion, evaluation, and recommendation on applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities, for exhibitions beginning on or after March 21, 2022. Because the meeting will consider proprietary financial and commercial data provided in confidence by indemnity applicants, and material that is likely to disclose trade secrets or other privileged or confidential information, and because it is important to keep the values of objects to be indemnified and the methods of transportation and security measures confidential, I have determined that that the meeting will be closed to the public pursuant to subsection (c)(4) of section 552b of title 5, United States Code. I have made this determination under the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 15, 2016.

Dated: January 11, 2022.

Samuel Roth,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2022–00667 Filed 1–13–22; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: IMLS Evaluation of Four Grant Programs Serving Native American, Native Hawaiian, and Alaska Native Communities

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments about the proposed IMLS evaluation of four specific grant programs: The Native American Library Services: Basic Grants; Native American Library Services: Enhancement Grants; Native American/Native Hawaiian Museum Services; and Native Hawaiian Library Services. The purpose of the evaluation will be to determine how well the agency's grant-making aligns with the needs of communities served by these specific programs; to lay a foundation for improving the quality, reach, and impact of the agency's grant programs in the future; and to inform increasing organizational capacity of eligible applicants to submit high-quality grant applications and of awardees to successfully complete their award responsibilities.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 14, 2022.

ADDRESSES: Send comments to Connie Bodner, Ph.D., Director of Grants Policy and Management, Office of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Bodner can be reached by telephone: 202–653–4636, or by email at *cbodner@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

FOR FURTHER INFORMATION CONTACT: Matthew Birnbaum, Ph.D., Supervising Social Scientist, Office of Research and Evaluation, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Birnbaum can be reached by telephone at 202–653–4760, or by email at *mbirnbaum@imls.gov.*

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

The Institute of Museum and Library Services is the primary source of Federal support for the Nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit *www.imls.gov.*

II. Current Actions

IMLS began making awards to improve core services in Native American and Native Hawaiian libraries in 1998 and to sustain heritage, culture, and knowledge in Native American and Native Hawaiian communities through museum services in 2005. The proposed evaluation of IMLS's four grant programs specifically designed and congressionally mandated to serve Native American, Native Hawaiian, and Alaska Native communities will be the first comprehensive consideration of this suite of grant programs. The evaluation will employ a mixed methods approach to assess the fit between these IMLS grant programs and the expressed needs of the communities they are serving; identify gaps in reaching potential grant applicants; examine the differences among those who apply and are funded, those who apply and are not funded, and those who do not apply; assess the impact of IMLS's grant programs on awardees; and assess the performance of IMLS as a federal grant-maker and how well it aligns with White House and Congressional priorities.

Agency: Institute of Museum and Library Services.

Title: IMLS Evaluation of Four Grant Programs Serving Native American, Native Hawaiian, and Alaska Native Communities.

OMB Control Number: 3137–NEW.

Agency Number: 3137.

Respondents/Affected Public: Museum and library professionals working at organizations that have sought or would like to seek public funding through IMLS's grant programs serving Native American, Native Hawaiian, and Alaska Native communities.

Total Estimated Number of Annual Respondents: 250.

Frequency of Response: Once per request.

Average Minutes per Response: TBD.

Total Estimated Number of Annual Burden Hours: TBD.

Cost Burden (dollars): TBD.

Public Comments Invited: Comments submitted in response to this Notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: January 10, 2022.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2022–00647 Filed 1–13–22; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of January 17, 24, 31, February 7, 14, 21, 2022.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of January 17, 2022

There are no meetings scheduled for the week of January 17, 2022.

Week of January 24, 2022—Tentative

Thursday, January 27, 2022

9:00 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Nuclear Materials Users Business Lines (Public Meeting); (Contact: Celimar Valentin-Rodriguez: 301–415–7124)

Additional Information: The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.*

Week of January 31, 2022—Tentative

There are no meetings scheduled for the week of January 31, 2022.

Week of February 7, 2022—Tentative

Tuesday, February 8, 2022

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting); (Contact: Celimar Valentin-Rodriguez: 301–415–7124)

Additional Information: The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.* For those who would like to attend in person, note that all visitors are required to complete the NRC Self-Health Assessment and Certification of Vaccination forms. Visitors who certify that they are not fully vaccinated or decline to complete the certification must have proof of a negative Food and Drug Administration-approved polymerase chain reaction (PCR) or Antigen (including rapid tests) COVID–19 test specimen collection from no later than the previous 3 days prior to entry to an NRC facility. The forms and additional information can be found here *https://www.nrc.gov/about-nrc/covid-19/guidance-for-visitors-to-nrc-facilities.pdf.*

Week of February 14, 2022—Tentative

There are no meetings scheduled for the week of February 14, 2022.

Week of February 21, 2022—Tentative

Thursday, February 24, 2022

10:00 a.m. Briefing on Regulatory Research Program Activities (Public Meeting); (Contact: Nick Difrancesco: 301–415–1115)

Additional Information: The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.* For those who would like to attend in person, note that all visitors are required to complete the NRC Self-Health Assessment and Certification of Vaccination forms. Visitors who certify that they are not fully vaccinated or decline to complete the certification must have proof of a negative Food and Drug Administration-approved polymerase chain reaction (PCR) or Antigen (including rapid tests) COVID–19 test specimen collection from no later than the previous 3 days prior to entry to an NRC facility. The forms and additional information can be found here *https://www.nrc.gov/about-nrc/covid-19/guidance-for-visitors-to-nrc-facilities.pdf.*

Week of February 28, 2022—Tentative

There are no meetings scheduled for the week of February 28, 2022.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Tyesha.Bush@nrc.gov* or *Betty.Thweatt@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: January 12, 2022.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator Office of the Secretary.

[FR Doc. 2022–00846 Filed 1–12–22; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL SERVICE

International Product Change—Inbound International Tracked Delivery Service

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add Inbound International Tracked Delivery Service to the list of International Ancillary Services in the Competitive Product List in the Mail Classification Schedule, and to add Inbound International Tracked Delivery Service to the list of Optional Features for Inbound Letter Post Small Packets and Bulky Letters in the Mail Classification Schedule.

DATES: *Date of notice:* January 14, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642, on January 7, 2022, it filed with the Postal Regulatory Commission a *Request of USPS to Add Inbound International Tracked Delivery Service to the Competitive Product List, [and] Notice of Establishment of Classifications and Rates Not of General Applicability.* In the request, the United States Postal Service® seeks to add Inbound International Tracked Delivery Service to the competitive product list and to classify it as an international ancillary service of the Inbound Letter Post Small Packets and Bulky Letters product. Documents are available at *www.prc.gov,* Docket Nos. MC2022–37 and CP2022–44.

Joshua Hofer,

Attorney, Ethics and Compliance.

[FR Doc. 2022–00678 Filed 1–13–22; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93937; File No. SR–MEMX–2021–22]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Connectivity Fees

January 10, 2022.

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 December 30, 2021, MEMX LLC (''MEMX'' or the ''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 is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members [3] and non-Members (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on January 3, 2022. 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] *See* Exchange Rule 1.5(p).

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

Background

The purpose of the proposed rule change is to amend the Fee Schedule to adopt fees the Exchange will charge to Members and non-Members for physical connectivity to the Exchange and for application sessions (otherwise known as ''logical ports'') that a Member utilizes in connection with their participation on the Exchange (together with physical connectivity, collectively referred to in this proposal as ''connectivity services,'' as described in greater detail below and in Exhibit 5).

The Exchange has not previously imposed any fees for connectivity services necessary to access and participate on its market. In general, the Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. In particular, the Exchange believes that each exchange should take extra care to be able to demonstrate that these fees are based on its costs and reasonable business needs. The Exchange is proposing to implement the proposed fee on January 3, 2022.

In proposing to charge fees for connectivity services, the Exchange has sought to be especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related service, and also carefully and transparently assessing the impact on Members—both generally and in relation to other Members, *i.e.,* to assure the fee will not create a financial burden on any participant and will not

have an undue impact in particular on smaller Members and competition among Members in general. The Exchange believes that this level of diligence and transparency is called for by the requirements of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] with respect to the types of information self-regulatory organizations (''SROs'') should provide when filing fee changes, and Section 6(b) of the Act,[6] which requires, among other things, that exchange fees be reasonable and equitably allocated,[7] not designed to permit unfair discrimination,[8] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[9] This rule change proposal addresses those requirements, and the analysis and data in each of the sections that follow are designed to clearly and comprehensively show how they are met.[10]

As noted above, MEMX currently does not charge fees for connectivity to the Exchange, including fees for physical connections or application sessions for order entry purposes or receipt of drop copies. The objective of this approach was to eliminate any fee-based barriers to connectivity for Members when MEMX launched as a national securities exchange in 2020, and it was successful in achieving this objective in that a significant number of Members are directly or indirectly connected to the Exchange. As detailed below, MEMX recently calculated its aggregate monthly costs for providing physical connectivity to the Exchange at $795,789 and its aggregate monthly costs for providing application sessions at $347,936. Because MEMX has to date offered all connectivity free of charge, MEMX has borne 100% of all connectivity costs. In order to cover the aggregate costs of providing connectivity to its Users (both Members and non-Members)[11] and to recoup some of the costs already borne by the Exchange to create and offer its services, the Exchange is proposing to modify its Fee Schedule, pursuant to MEMX Rules 15.1(a) and (c), to charge a fee of $6,000 per month for each physical connection in the data center where the Exchange primarily operates under normal market conditions (''Primary Data Center'') and a fee of $3,000 per month for each physical connection in the Exchange's geographically diverse data center, which is operated for backup and disaster recovery purposes (''Secondary Data Center''), each as further described below. The Exchange also proposes to modify its Fee Schedule, pursuant to MEMX Rules 15.1(a) and (c), to charge a fee of $450 per month for each application session used for order entry (''Order Entry Port'') and application session for receipt of drop copies (''Drop Copy Port'') in the Exchange's Primary Data Center, as further described below.[12]

Cost Analysis

In October 2021, MEMX completed a study of its aggregate costs to produce market data and connectivity (the ''Cost Analysis''). The Cost Analysis required a detailed analysis of MEMX's aggregate baseline costs, including a determination and allocation of costs for core services provided by the Exchange—transaction execution, market data, membership services, physical connectivity, and application sessions (which provide order entry, cancellation and modification functionality, risk functionality, ability to receive drop copies, and other functionality).[13] MEMX separately divided its costs between those costs necessary to deliver each of these core services, including infrastructure, software, human resources (*i.e.,* personnel), and selling, general and administrative expenses (''cost drivers''). Next, MEMX applied an estimated allocation of each cost driver to each core service. By allocating segmented costs to each core service, MEMX was able to estimate by core service the potential margin it might earn based on different fee models. The Exchange notes that as a non-listing venue it has four primary sources of revenue that it can potentially use to fund its operations: Transaction fees, fees for connectivity services, membership and regulatory fees, and market data fees. Accordingly, the Exchange must cover its expenses from these four primary sources of revenue.

Based on the analysis described above, MEMX estimates that the cost drivers to provide connectivity services, including both physical connections and application sessions, result in an aggregate monthly cost of $1,143,715. MEMX currently does not charge fees for connectivity services and therefore generates no revenue in connection with such services.

The following chart details the individual line-item costs considered by MEMX to be related to offering physical connectivity.

Costs drivers	Costs
Human Resources	$262,129
Infrastructure and Connectivity Technology (servers, switches, etc.)	162,000
Data Center Costs	219,000
Hardware and Software Licenses	4,507
Monthly Depreciation	99,328
Allocated Shared Expenses	48,826
Total	795,789

For personnel costs (Human Resources), MEMX calculated an allocation of employee time for employees whose functions include providing and maintaining physical connectivity and performance thereof (primarily the MEMX network infrastructure team, which spends most of their time performing functions necessary to provide physical connectivity) as well as a limited subset of personnel with ancillary functions

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(8).

[10] In 2019, Commission staff published guidance suggesting the types of information that SROs may use to demonstrate that their fee filings comply with the standards of the Exchange Act (''Fee Guidance''). While MEMX understands that the Fee Guidance does not create new legal obligations on SROs, the Fee Guidance is consistent with MEMX's view about the type and level of transparency that exchanges should meet to demonstrate compliance with their existing obligations when they seek to charge new fees. *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019) available at *https://www.sec.gov/tm/staff-guidancesro-rule-filings-fees.*

[11] Types of market participants that obtain connectivity services from the Exchange but are not Members include service bureaus and extranets. Service bureaus offer technology-based services to other companies for a fee, including order entry services to Members, and thus, may access application sessions on behalf of one or more Members. Extranets offer physical connectivity services to Members and non-Members.

[12] As proposed, fees for connectivity services would be assessed based on each active connectivity service product at the close of business on the first day of each month. If a product is cancelled by a Member's submission of a written request or via the MEMX User Portal prior to such fee being assessed then the Member will not be obligated to pay the applicable product fee. In order to provide an opportunity for Users to disconnect any of their assigned connectivity services, if they choose to do so, thereby reducing the fee to be charged, the Exchange proposes to allow such Users to discontinue use of any connectivity service product without charge if they provide notice of intent to cancel use of such product within two weeks of receipt of the first bill for connectivity services in the first month in which the Exchange will commence charging for such services and discontinue use of the product before the beginning of the next month. As proposed, after the first month of billing, MEMX will not return pro-rated fees even if a product is not used for an entire month.

[13] The Exchange is not proposing to adopt fees for market data at this time and has proposed noting in Exhibit 5 that the Exchange does not charge for market data. MEMX notes that it has separately filed proposals to adopt membership fees and to modify transaction pricing (though such changes are not directly related to the costs described in this filing). Each of these changes, as proposed, is also to be effective January 3, 2022.

related to establishing and maintaining such connectivity (such as information security and finance personnel). The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions. The Infrastructure and Connectivity Technology cost includes servers, switches and related hardware required to provide physical access to the Exchange, some of which is owned by the Exchange and some of which is leased by the Exchange in order to allow efficient periodic technology refreshes. Data Center costs includes an allocation of the costs the Exchange incurs to provide physical connectivity in the third party data centers where it maintains its equipment as well as related costs (the Exchange does not own the Primary Data Center or the Secondary Data Center, but instead, leases space in data centers operated by third parties). Hardware and Software Licenses includes hardware and software licenses used to operate and monitor physical assets necessary to offer physical connectivity to the Exchange. All physical assets and software, which also includes assets used for testing and monitoring of Exchange infrastructure, were valued at cost, depreciated or leased over periods ranging from three to five years. Finally, a limited portion of general shared expenses was allocated to overall physical connectivity costs as without these general shared costs the Exchange would not be able to operate in the manner that it does and provide physical connectivity. The costs included in general shared expenses include general expenses of the Exchange, including office space and office expenses, utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services, and telecommunications costs. The total monthly cost of $795,789 was divided by the number of physical connections the Exchange maintains (143), to arrive at a cost of approximately $5,565 per month, per physical connection.

The following chart details the individual line-item costs considered by MEMX to be related to offering application sessions.

Costs drivers	Costs
Human Resources	$147,029
Infrastructure and Connectivity Technology (servers, switches, etc.)	33,358
Data Center Costs	n/a
Hardware and Software Licenses	108,138
Monthly Depreciation	n/a
Allocated Shared Expenses	59,400
Total	347,926

With respect to application sessions, MEMX calculated Human Resources cost by taking an allocation of employee time for employees whose functions include providing application sessions and maintaining performance thereof (including a broader range of employees such as technical operations personnel, market operations personnel, and software engineering personnel) as well as a limited subset of personnel with ancillary functions related to maintaining such connectivity (such as sales, membership, and finance personnel). The Human Resources cost was again calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions. The Infrastructure and Connectivity Technology cost includes servers and switches, and related hardware, and the allocation of cost was limited to those specifically supporting the provision of application sessions. Hardware and Software Licenses includes hardware and software licenses used to monitor the health of the order entry services provided by the Exchange. All physical assets and software, which also includes assets used for testing and monitoring of order entry infrastructure, were valued at cost, depreciated or leased over periods ranging from three to five years. Finally, a limited portion of general shared expenses was allocated to overall application session costs as without these general shared costs the Exchange would not be able to operate in the manner that it does and provide application sessions. The costs included in general shared expenses include general expenses of the Exchange, including office space and office expenses, utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services, and telecommunications costs. The total monthly cost of $347,926 was divided by the number of application sessions the Exchange maintains (835), to arrive at a cost of approximately $417 per month, per application session.

As discussed above, the Exchange conducted an extensive Cost Analysis in which the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the provision of connectivity services, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the provision of connectivity services, and thus bears a relationship that is, ''in nature and closeness,'' directly related to network connectivity services. In turn, the Exchange allocated certain costs more to physical connectivity and others to applications, while certain costs were only allocated to such services at a very low percentage or not at all. The sum of all such portions of expenses represents the total actual baseline cost of the Exchange to provide connectivity services, or a monthly expense of $1,143,715.

In conducting its Cost Analysis, the Exchange did not allocate any of its expenses in full to either physical connectivity or application sessions and did not double-count any expenses. Instead, as described above, the Exchange allocated applicable cost drivers across its core services. For instance, in calculating the Human Resources expenses to be allocated to physical connections, the Exchange allocated network infrastructure personnel with a high percentage of the cost of such personnel (75%) given their focus on functions necessary to provide physical connections. The Exchange did not allocate any other Human Resources expense for providing physical connections to any other employee group outside of a smaller allocation (19%) of the cost associated with certain specified personnel who work closely with and support network infrastructure personnel. In contrast, the Exchange allocated much smaller percentages of costs (11% or less) across a wider range of personnel groups in order to allocate Human Resources costs to providing application sessions. This is because a much wider range of personnel are involved in functions necessary to offer, monitor and maintain application sessions but the tasks necessary to do so are not a primary or full-time function. In total, the Exchange allocated 13.8% of its personnel costs to providing physical connections and 7.7% of its personnel costs to providing application sessions, for a total allocation of 21.5% Human Resources expense to provide connectivity services.

As another example, the Exchange allocated depreciation expense to both physical connections and application sessions but in different amounts. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased

to operate and support the network. Without this equipment, the Exchange would not be able to operate the network and provide connectivity services to its Members and non-Members and their customers. However, the Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing connectivity services, but instead allocated approximately 27% of the Exchange's overall depreciation and amortization expense to connectivity services (19% attributed to physical connections and 8% to application sessions).

The Exchange notes that the Cost Analysis was based on the Exchange's first year of operations and projections for the next year. As such, the Exchange believes that its costs will remain relatively similar in future years. It is possible however that such costs will either decrease or increase. To the extent the Exchange sees growth in use of connectivity services it will receive additional revenue to offset future cost increases. However, if use of connectivity services is static or decreases, the Exchange might not realize the revenue that it anticipates or needs in order to cover applicable costs. Accordingly, the Exchange commits to periodically review the costs applicable to providing connectivity services and to propose changes to its fees as appropriate.

Physical Connectivity Fees

MEMX offers its Members the ability to connect to the Exchange in order to transmit orders to and receive information from the Exchange. Members can also choose to connect to MEMX indirectly through physical connectivity maintained by a third-party extranet. Extranet physical connections may provide access to one or multiple Members on a single connection. Users of MEMX physical connectivity services (both Members and non-Members) [14] seeking to establish one or more connections with the Exchange submit a request to the Exchange via the MEMX User Portal or directly to Exchange personnel. Upon receipt of the completed instructions, MEMX establishes the physical connections requested by the User. The number of physical connections assigned to each User as of November 30, 2021, ranges from one to ten, depending on the scope and scale of the Member's trading activity on the Exchange as determined by the Member, including the Member's determination of the need for redundant connectivity. The Exchange notes that 44% of its Members do not maintain a physical connection directly with the Exchange in the Primary Data Center (though many such Members have connectivity through a third party provider) and another 44% have either one or two physical ports to connect to the Exchange in the Primary Data Center. Thus, only a limited number of Members, 12%, maintain three or more physical ports to connect to the Exchange in the Primary Data Center.

As described above, in order to cover the aggregate costs of providing physical connectivity to Users and to recoup some of the costs already borne by the Exchange to provide physical connectivity, the Exchange is proposing to charge a fee of $6,000 per month for each physical connection in the Primary Data Center and a fee of $3,000 per month for each physical connection in the Secondary Data Center. There is no requirement that any Member maintain a specific number of physical connections and a Member may choose to maintain as many or as few of such connections as each Member deems appropriate. The Exchange notes, however, that pursuant to Rule 2.4 (Mandatory Participation in Testing of Backup Systems), the Exchange does require a small number of Members to connect and participate in functional and performance testing as announced by the Exchange, which occurs at least once every 12 months. Specifically, Members that have been determined by the Exchange to contribute a meaningful percentage of the Exchange's overall volume must participate in mandatory testing of the Exchange's backup systems (*i.e.,* such Members must connect to the Secondary Data Center). The Exchange notes that Members that have been designated are still able to use third party providers of connectivity to access the Exchange at its Secondary Data Center. Nonetheless, because some Members are required to connect to the Secondary Data Center pursuant to Rule 2.4 and to encourage Exchange Members to connect to the Secondary Data Center generally, the Exchange has proposed to charge one-half of the fee for a physical connection in the Primary Data Center.

The proposed fee will not apply differently based upon the size or type of the market participant, but rather based upon the number of physical connections a User requests, based upon factors deemed relevant by each User (either a Member, service bureau or extranet). The Exchange believes these factors include the costs to maintain connectivity, business model and choices Members make in how to participate on the Exchange, as further described below.

The proposed fee of $6,000 per month for physical connections at the Primary Data Center is designed to permit the Exchange to cover the costs allocated to providing connectivity services with a modest markup (approximately 8%), which would also account for costs the Exchange has previously borne completely on its own and help fund future expenditures (increased costs, improvements, etc.). The Exchange believes it is appropriate to charge fees that represent a reasonable markup over cost given the other factors discussed above, including the lack of other costs to participate on the Exchange and the need for the Exchange to maintain a highly performant and stable platform to allow Members to transact with determinism. The Exchange also reiterates that the Exchange has not previously charged any fees for connectivity services and its allocation of costs to physical connections was part of a holistic allocation that also allocated costs to other core services without double-counting any expenses. As such, the proposal only truly constitutes a ''markup'' to the extent the Exchange recovers the initial costs of building the network and infrastructure necessary to offer physical connectivity and operating the Exchange for over a year without connectivity fees.

As noted above, the Exchange proposes a discounted rate of $3,000 per month for physical connections at its Secondary Data Center. The Exchange has proposed this discounted rate for Secondary Data Center connectivity in order to encourage Members to establish and maintain such connections. Also, as noted above, a small number of Members are required pursuant to Rule 2.4 to connect and participate in testing of the Exchange's backup systems, and the Exchange believes it is appropriate to provide a discounted rate for physical connections at the Secondary Data Center given this requirement.

The Exchange notes that this rate is well below the cost of providing such services and the Exchange will operate its network and systems at the Secondary Data Center without recouping the full amount of such cost through connectivity services.

The proposed fee for physical connections is effective on filing and will become operative on January 3, 2021[sic]. The Exchange is not proposing to assess any fees for market data at this time, has separately proposed a fee for membership and has also separately proposed to make certain changes to Exchange transaction fees.

[14] *See supra* note 11.

Application Session Fees

Similar to other exchanges, MEMX offers its Members application sessions, also known as logical ports, for order entry and receipt of trade execution reports and order messages. Members can also choose to connect to MEMX indirectly through a session maintained by a third-party service bureau. Service bureau sessions may provide access to one or multiple Members on a single session. Users of MEMX connectivity services (both Members and non-Members) [15] seeking to establish one or more application sessions with the Exchange submit a request to the Exchange via the MEMX User Portal or directly to Exchange personnel. Upon receipt of the completed instructions, MEMX assigns the User the number of sessions requested by the User. The number of sessions assigned to each User as of November 30, 2021, ranges from one to more than 100, depending on the scope and scale of the Member's trading activity on the Exchange (either through a direct connection or through a service bureau) as determined by the Member. For example, by using multiple sessions, Members can segregate order flow from different internal desks, business lines, or customers. The Exchange does not impose any minimum or maximum requirements for how many application sessions a Member or service bureau can maintain, and it is not proposing to impose any minimum or maximum session requirements for its Members or their service bureaus.

As described above, in order to cover the aggregate costs of providing application sessions to Users and to recoup some of the costs already borne by the Exchange to provide application sessions, the Exchange is proposing to charge a fee of $450 per month for each Order Entry Port and Drop Copy Port in the Primary Data Center. The Exchange notes that it does not propose to charge for: (1) Order Entry Ports or Drop Copy Ports in the Secondary Data Center, or (2) any Test Facility Ports or MEMOIR Gap Fill Ports. The Exchange has proposed to provide Order Entry Ports and Drop Copy Ports in the Secondary Data Center free of charge in order to encourage Members to connect to the Exchange's backup trading systems. Similarly, because the Exchange wishes to encourage Members to conduct appropriate testing of their use of the Exchange, the Exchange has not proposed to charge for Test Facility Ports. With respect to MEMOIR Gap Fill ports, such ports are exclusively used in order to receive information when a market data recipient has temporarily lost its view of MEMX market data. The Exchange has not proposed charging for such ports because the costs of providing and maintaining such ports is more directly related to producing market data, and the Exchange is not proposing to charge for market data at this time.

The proposed fee of $450 per month for each Order Entry Port and Drop Copy Port in the Primary Data Center is designed to permit the Exchange to cover the costs allocated to providing application sessions with a modest markup (approximately 8%), which would also account for costs the Exchange has previously borne completely on its own and help fund future expenditures (increased costs, improvements, etc.). The Exchange also reiterates that the Exchange has not previously charged any fees for connectivity services and its allocation of costs to application sessions was part of a holistic allocation that also allocated costs to other core services without double-counting any expenses. As such, the proposal only truly constitutes a ''markup'' to the extent the Exchange recovers the initial costs of building the network and infrastructure necessary to offer application sessions and operating the Exchange for over a year without connectivity fees.

The proposed fee is also designed to encourage Users to be efficient with their application session usage, thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize in managing its aggregate costs for providing connectivity services. There is no requirement that any Member maintain a specific number of application sessions and a Member may choose to maintain as many or as few of such ports as each Member deems appropriate. The Exchange has designed its platform such that Order Entry Ports can handle a significant amount of message traffic (*i.e.,* over 50,000 orders per second), and has no application flow control or order throttling. As such, while several Members maintain a relatively high number of ports because that is consistent with their usage on other exchanges and is preferable for their own reasons, the Exchange believes that it has designed a system capable of allowing such Members to significantly reduce the number of application sessions maintained.

The proposed fee will not apply differently based upon the size or type of the market participant, but rather based upon the number of application sessions a User requests, based upon factors deemed relevant by each User (either a Member or service bureau on behalf of a Member). The Exchange believes these factors include the costs to maintain connectivity and choices Members make in how to segment or allocate their order flow.[16]

The proposed fee for application sessions is effective on filing and will become operative on January 3, 2021[sic]. The Exchange is not proposing to assess any fees for market data at this time, has separately proposed a fee for membership and has also separately proposed to make certain changes to Exchange transaction fees.

Additional Discussion

As discussed above, the proposed fees for connectivity services do not by design apply differently to different types or sizes of Members. As discussed in more detail in the Statutory Basis section, the Exchange believes that the likelihood of higher fees for certain Members subscribing to connectivity services usage than others is not unfairly discriminatory because it is based on objective differences in usage of connectivity services among different Members. The Exchange's incremental aggregate costs for all connectivity services are disproportionately related to Members with higher message traffic and/or Members with more complicated connections established with the Exchange, as such Members: (1) Consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high-touch network support services provided by the Exchange and its staff, including network monitoring, reporting and support services, resulting in a much higher cost to the Exchange to provide such connectivity services. For these reasons, MEMX believes it is not unfairly discriminatory for the Members with higher message traffic and/or Members with more complicated connections to pay a higher share of the

[15] *See supra* note 11.

[16] The Exchange understands that some Members (or service bureaus) may also request more Order Entry Ports to enable the ability to send a greater number of simultaneous order messages to the Exchange by spreading orders over more Order Entry Ports, thereby increasing throughput (*i.e.,* the potential for more orders to be processed in the same amount of time). The degree to which this usage of Order Entry Ports provides any throughput advantage is based on how a particular Member sends order messages to MEMX, however the Exchange notes that its architecture reduces the impact or necessity of such a strategy. All Order Entry Ports on MEMX provide the same throughput, and as noted above, the throughput is likely adequate even for a Member sending a significant amount of volume at a fast pace, and is not artificially throttled or limited in any way by the Exchange.

total connectivity services fees. While Members with a business model that results in higher relative inbound message activity or more complicated connections are projected to pay higher fees, the level of such fees is based solely on the number of physical connections and/or application sessions deemed necessary by the Member and not on the Member's business model or type of Member. The Exchange notes that the correlation between message traffic and usage of connectivity services is not completely aligned because Members individually determine how many physical connections and application sessions to request, and Members may make different decisions on the appropriate ways based on facts unique to their individual businesses. Based on the Exchange's architecture, as described above, the Exchange believes that a Member even with high message traffic would be able to conduct business on the Exchange with a relatively small connectivity services footprint.

Finally, the fees for connectivity services will help to encourage connectivity services usage in a way that aligns with the Exchange's regulatory obligations. As a national securities exchange, the Exchange is subject to Regulation Systems Compliance and Integrity (''Reg SCI'').[17] Reg SCI Rule 1001(a) requires that the Exchange establish, maintain, and enforce written policies and procedures reasonably designed to ensure (among other things) that its Reg SCI systems have levels of capacity adequate to maintain the Exchange's operational capability and promote the maintenance of fair and orderly markets.[18] By encouraging Users to be efficient with their usage of connectivity services, the proposed fee will support the Exchange's Reg SCI obligations in this regard by ensuring that unused application sessions are available to be allocated based on individual User needs and as the Exchange's overall order and trade volumes increase. Additionally, because the Exchange will charge a lower rate for a physical connection to the Secondary Data Center and will not charge any fees for application sessions at the Secondary Data Center or its Test Facility, the proposed fee structure will further support the Exchange's Reg SCI compliance by reducing the potential impact of a disruption should the Exchange be required to switch to its Disaster Recovery Facility and encouraging Members to engage in any necessary system testing with low or no cost imposed by the Exchange.[19]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[20] of the Act in general, and furthers the objectives of Section 6(b)(4)[21] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of Section 6(b)(5)[22] of the Act in that they are designed 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 a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[23] One of the primary objectives of MEMX is to provide competition and to reduce fixed costs imposed upon the industry. Consistent with this objective, the Exchange believes that this proposal reflects a simple, competitive, reasonable, and equitable pricing structure designed to permit the Exchange to cover certain fixed costs that it incurs for providing connectivity services, which are discounted when compared to products and services offered by competitors.[24]

Commission staff noted in its Fee Guidance that, as an initial step in assessing the reasonableness of a fee, staff considers whether the fee is constrained by significant competitive forces. To determine whether a proposed fee is constrained by significant competitive forces, staff has said that it considers whether the evidence demonstrates that there are reasonable substitutes for the product or service that is the subject of a proposed fee. There is no regulatory requirement that any market participant connect to the Exchange, that any participant connect in a particular manner, or that any participant maintain a certain number of connections to the Exchange. The Exchange reiterates that a small number of Members are required to connect to the Exchange for participation in mandatory testing of backup systems but such connectivity does not have to be obtained directly from the Exchange but instead can be through a third party provider that provides connectivity to the Exchange.

The Exchange also acknowledges that certain market participants operate businesses that do, in fact, require them to be connected to all U.S. equity exchanges. For instance, certain Members operate as routing brokers for other market participants. As an equities exchange with 4% volume, these routing brokers likely need to maintain a connection to the Exchange on behalf of their clients. However, it is connectivity services provided by the Exchange that allow such participants to offer their clients a service for which they can be compensated (and allowing their clients not to directly connect but still to access the Exchange), and, as such, the Exchange believes it is reasonable, equitably allocated and not unfairly discriminatory to charge such Members for connectivity services.

As a new entrant to the equities market, the Exchange does not have as Members many market participants that actively trade equities on other exchanges nor are such market participants directly connected to the Exchange. There are also a number of the Exchange's Members that do not connect directly to MEMX. For instance, of the number of Members that maintain application sessions to participate directly on the Exchange, many such Members do not maintain physical connectivity but instead access the

[17] 17 CFR 242.1000–1007.

[18] 17 CFR 242.1001(a).

[19] While some Members might directly connect to the Secondary Data Center and incur the proposed $3,000 per month fee, there are other ways to connect to the Exchange, such as through a service bureau or extranet, and because the Exchange is not imposing fees for application sessions in the Secondary Data Center, a Member connecting through another method would not incur any fees charged directly by the Exchange. However, the Exchange notes that a third party service provider providing connectivity to the Exchange likely would charge a fee for providing such connectivity; such fees are not set by or shared in by the Exchange.

[20] 15 U.S.C. 78f.

[21] 15 U.S.C. 78f(b)(4).

[22] 15 U.S.C. 78f(b)(5).

[23] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[24] *See infra* notes 30–34 and accompanying text.

Exchange through a service bureau or extranet. In addition, of the Members that are directly connected to MEMX, it is generally the individual needs of the Member that require whether they need one or multiple physical connections to the Exchange as well as the number of application sessions that they will maintain. It is all driven by the business needs of the Member, and as described above, the Exchange believes it offers technology that will enable Members to maintain a smaller connectivity services footprint than they do on other markets.

The potential argument that all broker-dealers are required to connect to all exchanges is not true given the Exchange's experience as a new entrant to the market over the past year. Instead, many market participants awaited the Exchange growing to a certain percentage of market share before they would join as a Member or connect to the Exchange. In addition, many market participants still have not connected despite the Exchange's growth in one year to more than 4% of the overall equities market share. Thus, the Exchange recognizes that the decision of whether to connect to the Exchange is separate and distinct from the decision of whether and how to trade on the Exchange. This is because there are multiple alternatives to directly participating on the Exchange (such as use of a third-party routing broker to access the Exchange) or directly connecting to the Exchange (such as use of an extranet or service bureau). The Exchange acknowledges that many firms may choose to connect to the Exchange, but ultimately not trade on it, based on their particular business needs. The decision of which type of connectivity to purchase, or whether to purchase connectivity at all, is based on the business needs of each individual firm.

There is also competition for connectivity to the Exchange. For instance, the Exchange competes with certain non-Members who provide connectivity and access to the Exchange, namely extranets and service bureaus. These are resellers of MEMX connectivity—they are not arrangements between broker-dealers to share connectivity costs. Those non-Members resell that connectivity to multiple market participants over the same connection. When physical connectivity is re-sold by a third-party, the Exchange will not receive any connectivity revenue from that sale, and without connectivity fees for the past year, such third parties have been able to re-sell something they receive for free. Such arrangements are entirely between the third-party and the purchaser, thus constraining the ability of MEMX to set its connectivity pricing as indirect connectivity is a substitute for direct connectivity. Indirect connectivity is a viable alternative that is already being used by Members and non-Members of MEMX, constraining the price that the Exchange is able to charge for connectivity to its Exchange. As set forth above, nearly half of the Exchange's Members do not have a physical connection provided by the Exchange and instead must use a third party provider. Members who have not established any connectivity to the Exchange are still able to trade on the Exchange indirectly through other Members or non-Member extranets or service bureaus that are connected. These Members will not be forced or compelled to purchase physical connectivity services, and they retain all of the other benefits of membership with the Exchange. Accordingly, Members have the choice to purchase physical connectivity and are not compelled to do so. The Exchange notes that without an application session, specifically an Order Entry Port, a Member could not submit orders to the Exchange. As such, while application sessions too can be obtained from a third party reseller (*i.e.,* a service bureau) the Exchange will receive revenue either from the Member or the third party service bureau for each application session. However, as noted elsewhere, the Exchange has designed its platform such that Order Entry Ports can handle a significant amount of message traffic (*i.e.,* over 50,000 orders per second), and has no application flow control or order throttling. As such, the Exchange believes that it has designed a system capable of allowing such Members to significantly reduce the number of application sessions maintained.

The Exchange believes that the proposed fees for connectivity services are reasonable, equitable and not unfairly discriminatory because, as described above, the proposed pricing for connectivity services is directly related to the relative costs to the Exchange to provide those respective services, and does not impose a barrier to entry to smaller participants. Accordingly, the Exchange offers direct connectivity alternatives and various indirect connectivity (via third-party) alternatives, as described above.

The Exchange recognizes that there are various business models and varying sizes of market participants conducting business on the Exchange. The Exchange's incremental aggregate costs for all connectivity services are disproportionately related to Members with higher message traffic and/or Members with more complicated connections established with the Exchange, as such Members: (1) Consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high-touch network support services provided by the Exchange and its staff, including network monitoring, reporting and support services, resulting in a much higher cost to the Exchange to provide such connectivity services. Accordingly, the Exchange believes the allocation of the proposed fees that increase based on the number of physical connections or application sessions is reasonable based on the resources consumed by the respective type of market participant (*i.e.,* lowest resource consuming Members will pay the least, and highest resource consuming Members will pay the most), particularly since higher resource consumption translates directly to higher costs to the Exchange.

With respect to equities trading, the Exchange had a 4.16% market share of the U.S. equities industry in November 2021.[25] The Exchange is not aware of any evidence that a market share of approximately 4% provides the Exchange with anti-competitive pricing power because, as shown above, market participants that choose to connect to the Exchange have various choices in determining how to do so, including third party alternatives. This, in addition to the fact that not all broker-dealers are required to connect to the Exchange, supports the Exchange's conclusion that its pricing is constrained by competition.

Several market participants choose not to be Members of the Exchange and choose not to access the Exchange, and several market participants also access the Exchange indirectly through another market participant. To illustrate, the Exchange currently has 66 Members. However, based on publicly available information regarding a sample of the Exchange's competitors, the New York Stock Exchange LLC (''NYSE'') has 142 members, Cboe BZX Exchange, Inc. (''BZX'') has 140 members, and Investors Exchange LLC (''IEX'') has 133 members.[26] If all market participants were required to be Members of the

[25] Market share percentage calculated as of November 30, 2021. The Exchange receives and processes data made available through consolidated data feeds (*i.e.,* CTS and UTDF).

[26] *See* NYSE Membership Directory, available at: *https://www.nyse.com/markets/nyse/membership;* BZX Form 1 filed November 19, 2021, available at: *https://www.sec.gov/Archives/edgar/vprr/2100/21009368.pdf;* IEX Current Members list, available at: *https://exchange.iex.io/resources/trading/current-membership/.*

Exchange and connect directly to the Exchange, the Exchange would have over 130 Members, in line with these other exchanges. But it does not. The Exchange currently has approximately half of the number of members as compared to these other exchanges.

Separately, the Exchange is not aware of any reason why market participants could not simply drop their connections and cease being Members of the Exchange if the Exchange were to establish unreasonable and uncompetitive prices for its connectivity services. Market participants choose to connect to a particular exchange and because it is a choice, MEMX must set reasonable pricing for connectivity services, otherwise prospective Members would not connect and existing Members would disconnect, connect through a third-party reseller of connectivity, or otherwise access the Exchange indirectly. No market participant is required by rule or regulation to be a Member of or connect directly to the Exchange, though again, the Exchange acknowledges that certain types of broker-dealers might be compelled by their business model to connect and also notes that pursuant to Rule 2.4, certain Members with significant volume on the Exchange are required to connect to the Exchange's backup systems for testing on at least an annual basis.

With regard to reasonableness, the Exchange understands that the Commission has traditionally taken a market-based approach to examine whether the SRO making the proposal was subject to significant competitive forces in setting the terms of the proposal. In looking at this question, the Commission considers whether the SRO has demonstrated in its filing that: (i) There are reasonable substitutes for the product or service; (ii) ''platform'' competition constrains the ability to set the fee; and/or (iii) revenue and cost analysis shows the fee would not result in the SRO taking supracompetitive profits. If the SRO demonstrates that the fee is subject to significant competitive forces, the Commission will next consider whether there is any substantial countervailing basis to suggest the fee's terms fail to meet one or more standards under the Exchange Act. If the filing fails to demonstrate that the fee is constrained by competitive forces, the SRO must provide a substantial basis, other than competition, to show that it is consistent with the Exchange Act, which may include production of relevant revenue and cost data pertaining to the product or service. The Exchange has not previously charged fees for connectivity services, so it does not have MEMX-specific data to support whether or not competitive forces would constrain its ability to set fees for connectivity services. However, as described above, the Exchange believes that competitive forces are in effect and that if the proposed fees for connectivity services were unreasonable that the Exchange would lose current or prospective Members and market share. The Exchange does not yet have comprehensive data of the impact of the proposed fees and will not have such data until the fees are actually imposed but the Exchange is aware of several Members that are considering modifying the way that they connect to the Exchange given the Exchange's pricing proposal. Further, the Exchange has conducted a comprehensive Cost Analysis in order to determine the reasonability of its proposed fees, including that the Exchange will not take supracompetitive profits.

MEMX believes the proposed fees for connectivity services are fair and reasonable as a form of cost recovery for the Exchange's aggregate costs of offering connectivity services to Members and non-Members. The proposed fees are expected to generate monthly revenue of $1,233,750 providing cost recovery to the Exchange for the aggregate costs of offering connectivity services, based on a methodology that narrowly limits the aggregate cost elements considered to those closely and directly related to the particular product offering. In addition, this revenue will allow the Exchange to continue to offer, to enhance, and to continually refresh its infrastructure as necessary to offer a state-of-the-art trading platform. The Exchange believes that, consistent with the Act, it is appropriate to charge fees that represent a reasonable markup over cost given the other factors discussed above, including the lack of other costs to participate on the Exchange and the need for the Exchange to maintain a highly performant and stable platform to allow Members to transact with determinism. The Exchange also believes the proposed fee is a reasonable means of encouraging Users to be efficient in the connectivity services they reserve for use, with the benefits to overall system efficiency to the extent Members and non-Members consolidate their usage of connectivity services or discontinue subscriptions to unused physical connectivity.

The Exchange further believes that the proposed fees, as they pertain to purchasers of each type of connectivity alternative, constitute an equitable allocation of reasonable fees charged to the Exchange's Members and non-Members and are allocated fairly amongst the types of market participants using the facilities of the Exchange.

As described above, the Exchange believes the proposed fees are equitably allocated because the Exchange's incremental aggregate costs for all connectivity services are disproportionately related to Members with higher message traffic and/or Members with more complicated connections established with the Exchange, as such Members: (1) Consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high-touch network support services provided by the Exchange and its staff, including network monitoring, reporting and support services, resulting in a much higher cost to the Exchange to provide such connectivity services.

Commission staff previously noted that the generation of supracompetitive profits is one of several potential factors in considering whether an exchange's proposed fees are consistent with the Act.[27] As described in the Fee Guidance, the term ''supracompetitive profits'' refers to profits that exceed the profits that can be obtained in a competitive market. The proposed fee structure would not result in excessive pricing or supracompetitive profits for the Exchange. The proposed fee structure is merely designed to permit the Exchange to cover the costs allocated to providing connectivity services with a modest markup (approximately 8%), which would also account for costs the Exchange has previously borne completely on its own and help fund future expenditures (increased costs, improvements, etc.). The Exchange believes that this is fair, reasonable, and equitable. Accordingly, the Exchange believes that its proposal is consistent with Section 6(b)(4)[28] of the Act because the proposed fees will permit recovery of the Exchange's costs and will not result in excessive pricing or supracompetitive profit. The proposed fees for connectivity services will allow the Exchange to cover certain costs incurred by the Exchange associated with providing and maintaining necessary hardware and other network infrastructure as well as network monitoring and support services; without such hardware, infrastructure, monitoring and support the Exchange would be unable to provide the connectivity services. The Exchange routinely works to improve

[27] *See* Fee Guidance, *supra* note 10.

[28] 15 U.S.C. 78f(b)(4).

the performance of the network's hardware and software. The costs associated with maintaining and enhancing a state-of-the-art exchange network is a significant expense for the Exchange, and thus the Exchange believes that it is reasonable and appropriate to help offset those costs by adopting fees for connectivity services. As detailed above, the Exchange has four primary sources of revenue that it can potentially use to fund its operations: Transaction fees, fees for connectivity services, membership and regulatory fees, and market data fees. Accordingly, the Exchange must cover its expenses from these four primary sources of revenue. The Exchange's Cost Analysis estimates the costs to provide connectivity services at $1,143,715. Based on current connectivity services usage, the Exchange would generate monthly revenues of approximately $1,233,750. This represents a modest profit when compared to the cost of providing connectivity services. However, the Exchange does anticipate (and encourages) Members and non-Members to more closely evaluate their connectivity services usage once such services are no longer free, and thus, it is possible that the revenue actually received by the Exchange will be less than $1,233,750. Even if the Exchange earns that amount or incrementally more, the Exchange believes the proposed fees for connectivity services are fair and reasonable because they will not result in excessive pricing or supracompetitive profit, when comparing the total expense of MEMX associated with providing connectivity services versus the total projected revenue of the Exchange associated with network connectivity services.

The Exchange notes that other exchanges offer similar connectivity options to market participants and that the Exchange's fees are a discount as compared to the majority of such fees.[29] With respect to physical connections, each of the Nasdaq Stock Market LLC (''Nasdaq''), NYSE, NYSE Arca, Inc. (''Arca''), BZX and Cboe EDGX Exchange, Inc. (''EDGX'') charges between $7,500–$22,000 per month for physical connectivity at their primary data centers that is comparable to that offered by the Exchange.[30] Nasdaq, NYSE and Arca also charge installation fees, which are not proposed to be charged by the Exchange. With respect to application sessions, each of Nasdaq, NYSE, Arca, BZX and EDGX charges between $500–$575 per month for order entry and drop ports.[31] The Exchange further notes that several of these exchanges each charge for other logical ports that the Exchange will continue to provide for free, such as application sessions for testing and disaster recovery purposes.[32] While the Exchange's proposed connectivity fees are lower than the fees charged by Nasdaq, NYSE, Arca, BZX and EDGX, MEMX believes that it offers significant value to Members over these other exchanges in terms of bandwidth available over such connectivity services, which the Exchanges believes is a competitive advantage, and differentiates its connectivity versus connectivity to other exchanges.[33] Additionally, the Exchange's proposed connectivity fees to its disaster recovery facility are within the range of the fees charged by other exchanges for similar connectivity alternatives.[34] The Exchange believes that its proposal to offer certain application sessions free of charge is reasonable, equitably allocated and not unfairly discriminatory because such proposal is intended to encourage Member connections and use of backup and testing facilities of the Exchange, and, with respect to MEMOIR Gap Fill ports, such ports are used exclusively in connection with the receipt and processing of market data from the Exchange, and the Exchange is not proposing market data fees at this time.

In conclusion, the Exchange submits that its proposed fee structure satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act[35] for the reasons discussed above in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities, does not permit unfair discrimination between customers, issuers, brokers, or dealers, and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest, particularly as the proposal neither targets nor will it have a disparate impact on any particular category of market participant. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that it is subject to significant competitive forces, and that the proposed fee structure is an appropriate effort to address such forces.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[36] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange does not believe that the proposed rule change would place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete. In particular, while the Exchange has not officially proposed fees until now, Exchange personnel have been informally discussing potential fees for connectivity services with a diverse group of market participants that are connected to the Exchange (including large and small firms, firms with large connectivity service footprints and small connectivity service footprints, as well as extranets and service bureaus). The Exchange has received no official complaints from Members, non-Members (extranets or service bureaus),

[29] One significant differentiation between the Exchanges is that while it offers different types of physical connections, including 10Gb, 25Gb, 40Gb, and 100Gb connections, the Exchange does not propose to charge different prices for such connections. In contrast, most of the Exchange's competitors provide scaled pricing that increases depending on the size of the physical connection. The Exchange does not believe that its costs increase incrementally based on the size of a physical connection but instead, that individual connections and the number of such separate and disparate connections are the primary drivers of cost for the Exchange.

[30] *See* the Nasdaq equities fee schedule, available at: *http://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2;* the NYSE fee schedule, available at: *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf;* the NYSE Arca equities fee schedule, available at: *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf;* the BZX equities fee schedule, available at: *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/;* the EDGX equities fee schedule, available at: *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/.* This range is based on a review of the fees charged for 10–40Gb connections at each of these exchanges and relates solely to the physical port fee or connection charge, excluding co-location fees and other fees assessed by these exchanges. The Exchange notes that it does not offer physical connections with lower bandwidth than 10Gb and that Members and non-Members with lower bandwidth requirements typically access the Exchange through third-party extranets or service bureaus.

[31] *See id.*

[32] *See id.*

[33] As noted above, all physical connections offered by MEMX are at least 10Gb capable and physical connections provided with larger bandwidth capabilities will be provided at the same rate as such connections. MEMX application sessions are capable of handling significant amount of message traffic (*i.e.,* over 50,000 orders per second), and have no application flow control or order throttling.

[34] *See supra* note 30.

[35] 15 U.S.C. 78f(b)(4) and (5).

[36] 15 U.S.C. 78f(b)(8).

third-parties that purchase the Exchange's connectivity and resell it, and customers of those resellers, that the Exchange's fees or the proposed fees for connectivity services would negatively impact their abilities to compete with other market participants or that they are placed at a disadvantage. The Exchange does not believe that the proposed fees for connectivity services place certain market participants at a relative disadvantage to other market participants because the proposed connectivity pricing is associated with relative usage of the Exchange by each market participant and does not impose a barrier to entry to smaller participants. As described above, the connectivity services purchased by market participants typically increase based on their additional message traffic and/or the complexity of their operations. The market participants that utilize more connectivity services typically utilize the most bandwidth, and those are the participants that consume the most resources from the network. Accordingly, the proposed fees for connectivity services do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed connectivity fees reflects the network resources consumed by the various size of market participants and the costs to the Exchange of providing such connectivity services.

Inter-Market Competition

The Exchange does not believes the proposed fees place an undue burden on competition on other SROs that is not necessary or appropriate. In particular, market participants are not forced to connect to all exchanges, as shown by the number of Members of the Exchange as compared to the much greater number of members at other exchanges, as described above. Not only does MEMX have less than half the number of members as certain other exchanges, but there are also a number of the Exchange's Members that do not connect directly to the Exchange. Additionally, other exchanges have similar connectivity alternatives for their participants, but with higher rates to connect.[37] The Exchange is also unaware of any assertion that the proposed fees for connectivity services would somehow unduly impair its competition with other exchanges. To the contrary, if the fees charged are deemed too high by market participants, they can simply disconnect.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[38] and Rule 19b–4(f)(2)[39] 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 change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2021–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MEMX–2021–22. 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–MEMX–2021–22 and should be submitted on or before February 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–00642 Filed 1–13–22; 8:45 am]

BILLING CODE 8011–01–P

[37] *See supra* notes 30–34 and accompanying text.

[38] 15 U.S.C. 78s(b)(3)(A)(ii).

[39] 17 CFR 240.19b–4(f)(2).

[40] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2021–0051]

Notice of Open Enrollment and Fee Increase for Our Electronic Consent Based Social Security Number Verification Service

AGENCY: Social Security Administration.

ACTION: Notice of open enrollment; fee increase.

SUMMARY: The Social Security Administration (SSA) is announcing open enrollment and a change in the subscription tier structure and associated fees for the electronic Consent Based Social Security Number (SSN) Verification (eCBSV) service. SSA will open eCBSV enrollment in Fiscal Year (FY) 2022, to interested permitted entities (PEs), as defined in section 215 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (*i.e.,* the Banking Bill). The open enrollment period for PEs will begin on February 21, 2022 and remain open indefinitely. In accordance with statutory requirements, PEs will be

required to provide payment to reimburse SSA for the development and support of the eCBSV system.

DATES:

Applicability date for open enrollment: Open eCBSV enrollment for PEs will commence February 21, 2022, at 6:00 a.m. EST.

Applicability date for fee increase: The revised subscription tier structure and associated fees will go into effect for subscription payments made on or after April 25, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher David, Office of Data Exchange, Policy Publications, and International Negotiations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (866) 395–8801, email *eCBSV@ssa.gov.*

For information on eligibility or filing for benefits, call SSA's national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit SSA's internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: Section 215 of the Banking Bill directs SSA to modify or develop a database for accepting and comparing fraud protection data [1] provided electronically by a PE.[2] In response to this statutory directive, SSA created eCBSV, a fee-based SSN verification service. eCBSV allows PEs to submit, after receipt of the number holder's consent,[3] the SSN, name, and date of birth of the number holder to SSA for verification via an application programming interface. Each PE must submit a statement that the PE is in compliance with the Banking Bill [4] in the comment section of their application to SSA.

Enrollment

SSA successfully implemented the eCBSV expanded rollout in FY 2021 to the remaining PEs that had previously submitted a valid application but were not selected as part of the limited initial rollout. eCBSV expanded rollout participation remains markedly lower than estimated by the financial industry and will result in increased fees to recover program costs incurred, as required by the Banking Bill.

To encourage increased program participation, SSA will open eCBSV enrollment in February 2022, to interested PEs, as defined in section 215 of the Banking Bill. The enrollment period to register for this service will open on February 21, 2022, at 6:00 a.m. EST, and will remain open indefinitely. After a thorough analysis, we determined that establishing an open-ended enrollment satisfies the requirements of the Banking Bill, helps increase program participation and transaction volumes, and aids in recovering costs. Additionally, opening the program to interested PEs starting February 21, 2022, provides new PEs with the flexibility to enroll at current subscription rates before the fee increase takes effect on April 25, 2022.

PEs who wish to enroll, must:

- Complete the technical registration requirements
- use the eCBSV ''Permitted Entity Registration'' screen to provide company information
- electronically sign an EIN Consent
- receive their OAuth Client ID from SSA
- configure requesting application to access the eCBSV Customer Connection and provide contact information
- review, agree, and electronically sign the Permitted Entity Certification
- review, agree, initial to all terms and conditions, and electronically sign the user agreement
- purchase the tier subscription based on expected transaction volume

Fees

The public cost burden is dependent upon the number of PEs using the service and the annual transaction volume. To date, 11 PEs enrolled out of 123 applications received to participate in eCBSV. We based the revised tier fee schedule below on 45 participating PEs in FY 2022 submitting an anticipated volume of 280,000,000 transactions. The total cost for developing the service is $50,000,000 through FY 2021, and SSA will recover the cost over a three-year period, assuming projected enrollments and transaction volumes meet our projections.

eCBSV TIER FEE SCHEDULE

Tier	Annual volume threshold	Annual fee
1	Up to 1,000 (1–1,000)	$400
2	Up to 10,000 (1,001–10,000)	3,500
3	Up to 200,000 (10,001–200,000)	40,000
4	Up to 1 million (200,001–1 million)	315,000
5	Up to 20 million (1,000,001–20 million)	1,500,000
6	Up to 50 million (20,000,001–50 million)	4,000,000
7	Over 50 million (50,000,001 and over)	7,500,000

Each enrolled PE will be required to remit the above tier-based subscription fee for the 365-day agreement period starting on or after April 25, 2022. Fees are calculated based on forecasted systems and operational expenses, agency oversight, overhead, and Certified Public Accountant (CPA) audit contract costs. Effective April 25, 2022, SSA will no longer charge a separate administrative fee in addition to the tier-based subscription fee.

[1] The Banking Bill defines ''fraud protection data'' to mean a combination of an individual's name (including the first name and any family forename or surname), SSN, and date of birth (including month, day, and year). Public Law 115–174, Title II, 215(b)(3), codified at 42 U.S.C. 405b(b)(3).

[2] The Banking Bill defines a ''permitted entity'' to mean a financial institution or service provider, subsidiary, affiliate, agent, subcontractor, or assignee of a financial institution. Public Law 115–174, Title II, 215(b)(4), codified at 42 U.S.C. 405b(b)(4).

[3] Valid, signed consent must include a wet or electronic signature. Electronic signatures must meet the definition in section 106 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006) and SSA requirements. 42 U.S.C. 405b(f)(2). The written consent must clearly specify to whom the information may be disclosed, the information you want us to disclose (*i.e.,* SSN verification) and, where applicable, during which timeframe the information may be disclosed (*i.e.,* within either the time specified on the Written Consent, or within 90 calendar days from the date the SSN holder signs the Written Consent). *See* 20 CFR 401.100(b).

[4] The permitted entity must certify that (1) the entity is a permitted entity; (2) the entity is in compliance with section 215; (3) the entity is, and will remain, in compliance with its privacy and data security requirements in Title V of 15 U.S.C. 6801, *et seq.,* with respect to the information the entity receives from the Commissioner of Social Security pursuant to this section; and (4) the entity will retain sufficient records to demonstrate its compliance with its certification and section 215 for a period of not less than 2 years. 42 U.S.C. 405b(e)(1)–(3).

Section 215(h)(1)(A) of the Banking Bill requires that the Commissioner shall ''periodically adjust'' the price paid by users. On at least an annual basis, SSA will monitor costs incurred to provide eCBSV services and will revise the tier fee schedule accordingly. We will notify PEs of the tier fee schedule in effect at the renewal of eCBSV user agreements, and via notice in the **Federal Register**. At that time, PEs can cancel the agreement or renew service according to the new tier fee schedule.

Michelle King,

Deputy Commissioner, for Budget, Finance, and Management.

[FR Doc. 2022–00638 Filed 1–13–22; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0346]

Safe Driver Apprenticeship Pilot Program To Allow Persons Ages 18, 19, and 20 To Operate Commercial Motor Vehicles in Interstate Commerce

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and establishment of pilot program.

SUMMARY: On September 10, 2020, FMCSA proposed a pilot program to allow persons ages 18, 19, and 20 to operate commercial motor vehicles (CMVs) in interstate commerce. That pilot was never implemented. However, the Infrastructure Investment and Jobs Act (IIJA), which was signed into law on November 15, 2021, requires FMCSA to establish a pilot program that would allow employers to establish an apprenticeship program for certain 18-, 19-, and 20-year-old drivers to operate commercial vehicles in interstate commerce. This notice addresses the comments received on the September 10, 2020, notice and provides the details on the establishment of the Safe Driver Apprenticeship Pilot Program required by the IIJA.

FOR FURTHER INFORMATION CONTACT: Ms. Nikki McDavid, Commercial Driver's License Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, *nikki.mcdavid@dot.gov,* (202) 366–0831. If you have questions about viewing or submitting material to the docket, call DOT Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Definitions

For the purposes of the Safe Driver Apprenticeship Pilot Program, FMCSA is using the following definitions, as prescribed in section 23022 of IIJA:

Apprentice—An individual who is under the age of 21 and holds a commercial driver's license (CDL).

Commercial driver's license (CDL)—A license issued by a State to an individual authorizing the individual to operate a class of CMV.

Commercial motor vehicle (CMV)—Any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—(1) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or (2) is designed or used to transport more than 8 passengers (including the driver) for compensation; or (3) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or (4) is used in transporting material found by the Secretary of Transportation (the Secretary) to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

Driving time—All time spent at the driving controls of a CMV in operation.

Experienced driver—An individual who

1. Is not younger than 26 years of age;
2. Has held a commercial driver's license for the 2-year period ending on the date on which the individual serves as an experienced driver;
3. During the 2-year period ending on the date on which the individual serves as an experienced driver, has had no
   i. preventable accidents reportable to the Department; or
   ii. pointed moving violations; and
4. Has a minimum of 5 years of experience driving a CMV in interstate commerce.

On-duty time—All time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. *On-duty time* shall include:

1. All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
2. All time inspecting, servicing, or conditioning any CMV at any time;
3. All driving time as defined in the term *driving time;*
4. All time in or on a CMV, other than:
   i. Time spent resting in or on a parked vehicle, except as otherwise provided in § 397.5;
   ii. Time spent resting in a *sleeper berth;* or
   iii. Up to 3 hours riding in the passenger seat of a property-carrying vehicle moving on the highway immediately before or after a period of at least 7 consecutive hours in the sleeper berth;
5. All time loading or unloading a CMV, supervising, or assisting in the loading or unloading, attending a CMV being loaded or unloaded, remaining in readiness to operate the CMV, or in giving or receiving receipts for shipments loaded or unloaded;
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled CMV;
7. All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, to comply with the random, reasonable suspicion, post-crash, or follow-up testing required by part 382 when directed by a motor carrier;
8. Performing any other work in the capacity, employ, or service of, a motor carrier; and
9. Performing any compensated work for a person who is not a motor carrier.

Pointed moving violation—A violation that results in points being added to the license of a driver, or a similar comparable violation, as determined by the Secretary.

II. Legal Basis

Subject to limited exceptions for farm vehicle drivers of articulated CMVs (49 CFR 391.67) and private (non-business) motor carriers of passengers (49 CFR 391.68), drivers of CMVs engaged in interstate commerce must be at least 21 years of age, whether or not operation of the CMV requires a CDL (49 CFR 391.11(b)(1)).

Under 49 U.S.C. 31315 and 31136(e), the Secretary has authority to grant waivers and exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs) and to conduct pilot programs in which one or more exemptions are granted to allow for the testing of innovative alternatives to certain FMCSRs. FMCSA must publish in the **Federal Register** a detailed description of each pilot program, including the exemptions being considered, and provide notice and an opportunity for public comment before the effective date of the program. The Agency is required to ensure that the

safety measures in the pilot programs are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved through compliance with the safety regulations. The maximum duration of a pilot program is 3 years. The regulatory standards for pilot programs are codified at 49 CFR part 381, subparts D and E. At the conclusion of each pilot program, FMCSA must report to Congress its findings, conclusions, and recommendations, including suggested amendments to laws and regulations that would enhance motor carrier, CMV, and driver safety, and improve compliance with the FMCSRs.

Section 23022 of IIJA requires that the Secretary establish a pilot program allowing employers to establish apprenticeship programs that would enable 18-, 19-, and 20-year-old drivers with CDLs to operate a CMV in interstate commerce. Under this same section, the Secretary must establish the pilot program not later than 60 days after the date of enactment of IIJA.

III. Discussion

FMCSA must publish in the **Federal Register** a detailed description of each pilot program, including the exemptions being considered, and provide notice and an opportunity for public comment before the effective date of the program. On September 10, 2020, FMCSA published a **Federal Register** notice proposing the requirements of a younger driver pilot program, including the exemptions being considered, and provided the public the opportunity to comment. The exemptions identified in that notice were relief from the effect of the intrastate only (or ''K'') restriction that would appear on a CDL under 49 CFR 383.153(a)(10)(vii) and an exemption from the requirement that a CMV driver operating in interstate commerce be at least 21 years of age under 49 CFR 391.11(b)(1). On November 15, 2021, IIJA, commonly referred to as the Bipartisan Infrastructure Law (BIL), was signed into law. Section 23022 of the BIL requires FMCSA to establish a pilot program that would allow motor carriers to begin an apprenticeship program as outlined in the BIL. The apprenticeship program must consist of two probationary periods, one for 120 hours and the other for 280 hours, each of which includes minimum hours of driving time with an experienced driver and performance benchmarks. In addition, the CMVs to be operated during the pilot program must be equipped with specific vehicle safety technologies. Additional requirements can be found later in this notice.

The pilot program proposed in the September 2020 **Federal Register** notice and the apprenticeship pilot program required under section 23022 of the BIL are substantially the same. Both call for two probationary periods, one for 120 hours and the other for 280 hours, and specific vehicle safety technologies. Additionally, the exemptions required for this pilot program are the same as those identified in the September 2020 notice. Because of the similarity between the pilot program proposed in September of 2020 and the requirements for the pilot program mandated by section 23022 of the BIL, FMCSA has determined that the September 2020 notice, and the comments received thereon, can satisfy the notice and comment requirement from 49 CFR 381.500(d). FMCSA summarizes the comments received on the September 2020 notice below.

IV. Discussion of Comments

In the September 10, 2020, **Federal Register** notice, FMCSA outlined its proposed pilot program and requested comments on any additional safeguards, the ability to obtain enough drivers, the vehicle technology requirements, limits to the distance apprentices can operate, data collection burdens, and limits on driver participation that FMCSA should consider in developing the pilot program requirements.

FMCSA received 201 comments to the docket, of which 10 were duplicate submissions. Of the 191 distinct submissions, 127 commenters favored the proposal, while 50 opposed it. Twenty members of Congress submitted a letter to the docket supporting the program. Other commenters remained neutral, offered conditional support, provided responses to the questions posed in the notice, or offered other suggestions. More than 139 individuals and 62 organizations commented.

The organizations that favored the pilot program included the American Trucking Associations, Commercial Vehicle Training Association, International Foodservice Distributors Association, National Association of Chemical Distributors, National Grocer Association, National Retail Federation, the Port Authority of New York and New Jersey, and the Truckload Carriers Association. In addition, numerous private citizens, motor carriers, training schools, State trucking associations, State Drivers Licensing Agencies, and other professional trade associations offered full or conditional support for the initiation of the younger driver pilot program proposed in the September 2020 **Federal Register** notice.

Commenters including the American Association of Motor Vehicle Administrators, Commercial Vehicle Safety Alliance, Insurance Institute for Highway Safety, and several motor carriers, private citizens, and other professional trade associations asked for clarification, provided data, and offered recommendations.

Those opposing the initiation of the younger driver pilot program included Advocates for Highway and Auto Safety, Citizens for Reliable and Safe Highways, the National Safety Council, National Transportation Safety Board, the Owner-Operator Independent Drivers Association, Parents Against Tired Truckers, and the Truck Safety Coalition. These opponents focused on safety, noting that younger drivers are more distracted and have higher rates of crashes, and cited the Centers for Disease Control and Prevention, which says that teenagers are unable to correctly analyze dangerous situations.

In addition, opponents also mentioned that the driver age should be raised to 25 years old and that younger drivers will not be able to handle differing conditions that exist across the country, such as weather, terrain, and varying laws.

Public Comments on 2020 Notice

The 2020 **Federal Register** notice asked several questions related to the additional safeguards, the ability to obtain enough drivers, the vehicle technology requirements, limits to the distance apprentices may operate, data collection burdens, and limits on driver participation.

Additional safeguards. FMCSA asked the public whether it should consider any additional safeguards to ensure that the pilot program provides an equivalent level of safety to the regulations without the age exemption. Most commenters that provided feedback on the question felt that no additional safeguards would be needed. The commenters that recommended specific safeguards cited behavior tests, pre-program Commercial Learner's Permit (CLP) skills test, added training hours, recording devices, and additional insurance. Section 23022 of the BIL establishes detailed safeguards that should be included as part of the pilot program for driver apprentices, some of which were suggested by commenters (such as recording devices), and as such FMCSA is adopting these as part of the Safe Driver Apprenticeship Pilot Program.

Control group drivers. FMCSA asked the public if carriers would be able to obtain enough drivers to serve in the control group. The commenters that

provided feedback on the question believed that carriers should be able to obtain enough drivers for the control group. Some commenters did mention that small carriers may find it difficult to find control group drivers. FMCSA has decided to not collect data on a specific control grop and will instead utilize comparison data on current CMV drivers, including both intrastate and interstate.

Vehicle technology requirements. FMCSA asked whether the technology requirements proposed for the pilot program would limit participation by smaller companies. The majority of commenters that provided feedback did believe that the technology requirements may limit smaller motor carriers from participating in the pilot program. One commenter felt that although the technology requirements may be costly initially, as technology becomes more available the costs will go down over time. FMCSA acknowledges that the requirements may limit smaller company participation, but as they are now required by section 23022 of the BIL, they must be included. FMCSA will take this fact into consideration when it analyzes the data and completes its final report on the pilot.

Distance limits. FMCSA asked whether it should limit the distance that pilot program participants be allowed to operate. The majority of commenters that provided feedback on the question did not believe that the FMCSA should limit the distance a pilot program participant can operate. One commenter felt that a distance restriction would defeat the purpose of the pilot and would not allow for a true comparison in the data for the program. Section 23022 does not include limitations on the distance an apprentice can travel. FMCSA has determined that it will not add such limitations to the pilot program for the same reasons identified by the majority of the commenters.

Data collection efforts. FMCSA asked if the data collection efforts proposed would be so burdensome for carriers as to discourage their participation. The commenters that responded to this question were split on whether the data collection efforts would be burdensome. Some felt that although the data collection is burdensome, it would be manageable and that most carriers have basic systems in place that would help with the data collection. FMCSA is aware of the information collection burden this pilot program creates (see discussion below), but determined that the reporting is necessary to inform the final report on the pilot program.

Participation limits. FMCSA asked whether it should limit participation to drivers who have not been involved in a preventable crash. The commenters that responded to this question were split on this question. Those that felt FMCSA should not limit participation agreed that the limit would improve the safety of the program but would skew the data. FMCSA will review the records of proposed apprentice drivers to ensure they do not present a safety risk as outlined below in the pilot program requirements section. FMCSA will account for any resulting skew in the data collected.

V. Pilot Program Requirements and Procedures

Information Collection Approval

On January 7, 2022, and in accordance with the Paperwork Reduction Act (PRA) of 1995, FMCSA requested the Office of Management and Budget (OMB) grant emergency clearance for the new information collection titled, ''Safe Driver Apprenticeship Pilot Program.'' (87 FR 1001). That notice summarized the expected data collection burdens on participants in the pilot program. Once emergency approval is granted, FMCSA will seek OMB approval for the full 3-year period using the usual PRA approval process, which will allow for both a 60-day and a 30-day comment period for the public.

Announcement of Safe Driver Apprenticeship Pilot Program

Once implemented, FMCSA will publish, on the Agency's website at *www.fmcsa.dot.gov,* an announcement that applications are being accepted for participation in the pilot program. The website will also provide links to the application forms and other helpful information for motor carriers and drivers interested in participating in the pilot program.

Motor Carriers Needed

Section 23022 of BIL requires that no more than 3,000 apprentices will participate in the Safe Driver Apprenticeship Pilot Program at any one time. For the purposes of determining paperwork burden estimates, FMCSA assumed a maximum of 1,000 participating motor carriers that would hire at least 3,000 apprenticeship pilot program participants. FMCSA recognizes additional apprentices will be needed to account for turnover due to drivers choosing to leave the program, drivers not progressing through the probationary periods, and drivers aging out of the program. The length of time during which replacement apprentices will be added will be determined by FMCSA based on the statistical and administrative needs of the pilot program data collection plan.

The pilot program anticipates the results/data will allow for conclusions within a confidence level of 0.95 (*i.e.,* significance level of 0.05) and statistical power of 80 percent.

Motor Carrier Requirements

Motor carriers that would like to participate in the Safe Driver Apprenticeship Pilot Program must complete an application for participation (see additional details below) and submit monthly data on an apprentice's driver activity (*e.g.,* vehicle miles traveled, duty hours, driving hours, off-duty time, or breaks), safety outcomes (*e.g.,* crashes, violations, and safety-critical events), and any additional supporting information (*e.g.,* onboard monitoring systems or investigative reports from previous crashes). In addition, carriers will be required to notify FMCSA within 24 hours of: (1) Any injury or fatal crash involving an apprentice; (2) an apprentice receiving an alcohol-related citation in any vehicle (*e.g.,* driving under the influence or driving while intoxicated); (3) an apprentice choosing to leave the pilot program; (4) an apprentice leaving the carrier; or (5) an apprentice failing a random or post-crash drug/alcohol test.

In addition to meeting the the requirements established in section 23022 of BIL for an apprenticeship pilot program, carriers must register an apprenticeship program with the U.S. Department of Labor (DOL). While it is not a requirement that carriers become a registered apprenticeship program prior to applying to FMCSA's pilot program, FMCSA notes that interested carriers may want to work with DOL while FMCSA is finalizing its program and before the application period for FMCSA's pilot program is opened. Additionally, carriers will need to verify that proposed apprentices meet all other requirements to participate.

Approved carriers will be publicly announced on the Agency's website to encourage potential apprentices to apply for employment directly with the identified carriers. Approved carriers will be able to assist apprentices (whom they employ) with completion of their application and participation agreement.

Approved motor carriers must ensure that they hire apprentices that meet the requirements in the ''Apprentices'' portion of this **Federal Register** notice. If at any time while participating in the pilot program, an apprentice is

disqualified for a major offense, serious traffic violation, railroad-highway grade crossing violation, or violation of an out-of-service order, as outlined in 49 CFR 383.51 of the FMCSRs, the employer must immediately notify FMCSA and remove the apprentice from the program.

Before an approved motor carrier can allow an apprentice to operate under the Safe Driver Apprenticeship Pilot Program, FMCSA will review the driver's safety performance history against its systems and will issue an exemption for each driver. The exemption allows the driver to operate in interstate commerce while participating in the pilot program despite being under 21 and having a ''K'' restriction on their CDL. An apprentice may not operate in interstate commerce without the exemption notice.

Each motor carrier accepted into the pilot program must agree to comply with all pilot program procedures and requirements, including completing required forms, obtaining driver consent, and attending information sessions.

Motor Carrier Qualifications

When FMCSA announces the implementation of the Safe Driver Apprenticeship Pilot Program, interested motor carriers will be required to complete the application form.

To qualify for participation, the motor carrier must meet the following standards:

1. Must have proper operating authority, if required, and registration;
2. Must have at least the minimum levels of financial responsibility required by the FMCSRs;
3. Must not be a high or moderate risk motor carrier as defined in the Agency's **Federal Register** notice titled, ''Notification of Changes to the Definition of a High Risk Motor Carrier and Associated Investigation'' published on March 7, 2016 (81 FR 11875);
4. Must not have a conditional or unsatisfactory safety rating;
5. Must not have any open enforcement actions (*e.g.,* Imminent Hazard, Operations Out-of-Service (OOS) Orders, Patterns of Safety Violations) in the previous 6 years;
6. Must not have a crash rate above the national average;
7. Must not have a driver OOS rate above the national average; and
8. Must not have a vehicle OOS rate above the national average.

Enforcement actions resulting in civil penalties will be reviewed on a case-by-case basis. In addition, unpaid civil penalties may be grounds to deny participation in the pilot program.

Approval for participation in the pilot program will also be dependent on the motor carrier's agreement to comply with all pilot program procedures, including the monthly submission of data.

Approved motor carriers will be provided a letter acknowledging FMCSA's approval, the carrier's acceptance into the pilot program, and the company's exemption to allow approved apprentices to operate in interstate commerce. Approved motor carriers will be publicly announced on the Agency's website to encourage potential apprentices to apply through the identified carriers for participation.

FMCSA will monitor motor carrier and driver performance throughout the pilot program to ensure safety. Motor carriers may be disqualified from the pilot program at any time if the:

1. Carrier does not maintain proper operating authority, if required, and registration;
2. Carrier does not maintain the required minimum levels of financial responsibility;
3. Carrier is prioritized as a high risk;
4. Carrier is prioritized as a moderate risk for 2 consecutive months;
5. Carrier receives a conditional or unsatisfactory safety rating;
6. Carrier is the subject of an open Federal enforcement action pending review (*e.g.,* Imminent Hazard, Operations OOS Orders, Patterns of Safety Violations). Enforcement actions resulting in civil penalties will be reviewed on a case-by-case basis.
7. For the last full calendar year, carrier has a crash rate (per million vehicle miles traveled) above the national average;
8. Carrier has a driver OOS rate above the national average for 3 consecutive months;
9. Carrier has a vehicle OOS rate above the national average for 3 consecutive months; or
10. Carrier failed to report monthly data as required.

FMCSA reserves the right to remove a carrier from the program at its discretion if it is determined there is a safety risk.

Establishment of Apprenticeship Program

As required by section 23022 of IIJA and as a condition of participating in the Safe Driver Apprenticeship Pilot Program, approved motor carriers must also establish an apprenticeship program. The apprenticeship program must consist of a 120-hour probationary period and a 280-hour probationary period for apprentice drivers. Nothing in this notice prevents an employer from imposing additional requirements on an apprentice.

120-Hour Probationary Period

During the 120-hour probationary period, the employing motor carrier must ensure the apprentice:

1. Completes 120 hours of on-duty time, of which not less than 80 hours shall be driving time in a CMV; and
2. Is competent in each of the following areas: Interstate, city traffic, rural 2-lane, and evening driving; safety awareness; speed and space management; lane control; mirror scanning; right and left turns; and logging and complying with rules relating to hours of service.

280-Hour Probationary Period

After the 120-hour probationary period, the motor carrier must ensure the apprentice completes a 280-hour probationary period. The employing motor carrier must ensure the apprentice:

1. Completes 280 hours of on-duty time, of which not less than 160 hours shall be driving time in a CMV; and
2. Is competent in each of the following areas: Backing and maneuvering in close quarters; pre-trip inspections; fueling procedures; weighing loads, weight distribution, and sliding tandems; coupling and uncoupling procedures; and trip planning, truck routes, map reading, navigation, and permits.

CMV Technologies

During both the 120-hour probationary period and the 280-hour probationary period, the employing motor carrier must ensure the apprentice only drives a CMV that has an automatic manual or automatic transmission; an active braking collision mitigation system; a forward-facing video event capture system; and a governed speed of 65 miles per hour at the pedal and under adaptive cruise control. In addition, the apprentice must be accompanied in the passenger seat of the CMV by an experienced driver. Nothing in the notice prevents an employer from requiring or installing additional technologies in a CMV.

Records Retention

The employing motor carrier must maintain records relating to the satisfaction of the performance benchmarks for each apprentice that is in the Safe Driver Apprenticeship Pilot Program.

Apprentice Prohibitions

The employing motor carrier must ensure that the apprentice does not transport passengers or hazardous materials, or operate double- or triple-trailer combinations or cargo tank vehicles while participating in the Safe Driver Apprenticeship Pilot Program, regardless of any license endorsements held.

Reportable Incidents

As outlined in section 23022 of BIL, the employing motor carrier must ensure that, if an apprentice is involved in a reportable, preventable crash or receives a pointed moving violation while driving a CMV, the apprentice will undergo remediation and additional training until the apprentice can demonstrate, to the satisfaction of the motor carrier, competence in each of the performance benchmarks. The extent of remediation and additional training will be left to the discretion of the employing motor carrier. FMCSA will clarify the standards for remediation and additional training on its website once the Agency begins accepting applications for the pilot program.

Registering an Apprenticeship Program With the DOL

Employing motor carriers that are approved to participate in the Safe Driver Apprenticeship Pilot Program must also register an apprenticeship program with the DOL, in accordance with the regulations found at 29 CFR part 29. If an employing motor carrier already has a registered apprenticeship program with the DOL, the motor carrier must ensure it meets the requirements for the Safe Driver Apprenticeship Pilot Program and maintains requirements for DOL's Registered Apprenticeship Program.

Apprentice Requirements

Drivers of CMVs, as defined in 49 CFR 383.5 and 390.5T, engaged in interstate commerce, must be at least 21 years of age (§ 391.11(b)(1)). An 18-year-old commercial CLP or CDL holder may drive in intrastate commerce only.

An apprentice that participates in the Safe Driver Apprenticeship Pilot Program will be provided relief from sections of 49 CFR parts 383 and 391 concerning minimum age requirements. Specifically, FMCSA will provide relief from the effect of the intrastate only (or ''K'') restriction that appears on a CDL in accordance with § 383.153(a)(10)(vii) and an exemption from the requirement in § 391.11(b)(1) that a CMV driver operating in interstate commerce be at least 21 years of age.

An apprentice may drive a CMV in interstate commerce while participating in the 120-hour probationary period or the 280-hour probationary period under the Safe Driver Apprenticeship Pilot Program so long as an experienced driver accompanies them in the passenger seat of the CMV.

An apprentice may drive a CMV in interstate commerce after the apprentice completes the 120-hour probationary period and the 280-hour probationary period; however, the apprentice is still considered to be participating in the Safe Driver Apprenticeship Pilot Program, and their safety performance must continue to be monitored by the employing motor carrier, including monthly safety performance reports filed with FMCSA, until the driver reaches the age of 21.

An apprentice may not participate in the Safe Driver Apprenticeship Pilot Program if during the 2-year period immediately preceding the date of hire, the driver:

1. Had more than one license (except for a military license);

2. Had his or her license suspended, revoked, cancelled or disqualified for a violation related to 49 CFR 383.51 in any State;

3. Had any conviction for a violation of military, State, or local law relating to motor vehicle traffic control (other than parking violation) arising in connection with any traffic crash and have no record of a crash in which he/she was at fault; or

4. Had been convicted of any violations described below in any type of motor vehicle:

a. Had been under the influence of alcohol as prescribed by State law;

b. Had been under the influence of a controlled substance;

c. Had an alcohol concentration of 0.04 or greater while operating a CMV;

d. Refused to take an alcohol test as required by a State under its implied consent laws or regulations as defined in 49 CFR 383.72;

e. Left the scene of a crash;

f. Used the vehicle to commit a felony;

g. Drove a CMV while his or her CDL is revoked, suspended, cancelled; or he or she is disqualified from operating a CMV;

h. Caused a fatality through the negligent operation of a CMV (including motor vehicle manslaughter, homicide by motor vehicle, or negligent homicide);

i. Had more than one conviction for any of the violations described below in any type of motor vehicle;

—Drove recklessly, as defined by State or local law or regulation (including offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property);

—Drove a CMV without the required CDL;

—Violated a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving; or

—Violated a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand held mobile telephone while driving.

The apprentice must also agree to the release of specific information by their employing motor carrier, to FMCSA for purposes of the pilot program; meet all FMCSR requirements (except age) for operating a CMV in interstate commerce; operate primarily in interstate commerce; and, if selected; maintain a good driving record (*e.g.,* free of any § 383.51 violations).

If at any time while participating in this pilot program, an apprentice is disqualified for a major offense, serious traffic violations, railroad-highway grade crossing violation, or violation of an out-of-service order, as outlined in 49 CFR 383.51 of the FMCSRs, he or she will be disqualified and removed from the program.

An apprentice may not transport passengers or hazardous materials, or operate double- or triple-trailer combinations or cargo tank vehicles while participating in the pilot program, regardless of any license endorsements held.

If a driver reaches age 21 during the pilot program, the driver will no longer be considered an apprentice. If an apprentice leaves an approved motor carrier during the pilot program, he or she is not approved to operate in interstate commerce unless re-employed with another approved motor carrier participating in the pilot program. A new apprentice application must be submitted for any new or additional hires by the approved motor carrier so that FMCSA can verify eligibility as part of the Agency's oversight of the pilot program.

Other Requirements and Information

FMCSA will prioritize approval of carriers to participate and continue based on these carriers' safety performance records over time, selecting only those with the highest or best relative performance.

Comparison Groups

FMCSA will compare the safety performance data of 18-, 19-, and 20-year-old intrastate drivers to known safety performance of intrastate drivers

and interstate drivers. FMCSA will use existing data from FMCSA systems to compare current safety and performance of CMV operators to the safety and performance of apprentices participating in the pilot program. Additionally, FMCSA will analyze the performance of apprentices before, during, and after their probationary periods.

Monitoring and Oversight

FMCSA will review both monthly data submitted by approved motor carriers and its own databases including, but not limited to, the Motor Carrier Management Information System, Safety Measurement System, CDL Information System, the Licensing and Insurance system, and the Drug and Alcohol Clearinghouse. FMCSA reserves the right to remove any motor carrier or driver from the pilot program for reasons including, but not limited to, failing to meet any of the requirements of the program.

Length and Termination of Pilot Program

Under 49 CFR part 381, FMCSA can continue the pilot program for up to 3 years, but may conclude the program sooner if there is sufficient data to analyze the safety of the pilot program drivers or if there is reason to believe the program is not achieving an equivalent level of safety that would be achieved by complying with the regulations. Additionally, the BIL requires that on the date that is 3 years after the date of establishment of the pilot program, FMCSA will terminate the program. At that time, any driver under the age of 21 who has completed an apprenticeship program may continue to drive a CMV in interstate commerce until turning 21, unless it is determined a safety concern exists.

Meera Joshi,

Deputy Administrator.

[FR Doc. 2022–00733 Filed 1–13–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2022–0002–N–1]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before March 15, 2022.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on *regulations.gov* to the docket, Docket No. FRA–2022–0002. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information Collection Clearance Officer, at email: *hodan.wells@dot.gov* or telephone: (202) 493–0440.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

Title: Locomotive Certification (Noise Compliance Regulations).

OMB Control Number: 2130–0527.

Abstract: Under authority granted by the Noise Control Act of 1972, the Environmental Protection Agency (EPA) has established limits for noise emissions related to rail carriers in 40 CFR part 201. Those limits are enforced by FRA under 49 CFR part 210. In particular, the information FRA collects under § 210.27 is necessary to ensure compliance with EPA noise standards for new locomotives. Although railroads no longer need to display a certification badge or tag in the locomotive cab, as was previously required by now-removed § 210.27(d), the locomotives still need to be tested and certified to comply with the noise emission standards, as required under § 210.27(a)–(c).

Type of Request: Extension without change (with changes in estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 4 locomotive manufacturers.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section [1]	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate [2]
210.11—Waivers	FRA anticipates zero waivers.				
210.27(a)–(c)—New locomotive certification—Request for certification.	4 locomotive manufacturers	4 requests	30 minutes	2	$155
210.31—Operation standards (stationary locomotives at 30 meters)—Recorded locomotive noise emission test under the ''Remarks'' section on the reverse side of Form FRA F 6180.49.	The estimated paperwork burden for recording locomotive noise emission tests is under OMB control number 2130–0004 under the ''Remarks'' section on the reverse side of Form FRA F 6180.49A.				
Total	4 locomotive manufacturers	4 responses	N/A	2	155

Total Estimated Annual Responses: 4.

Total Estimated Annual Burden: 2 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $155.

Title: Use of Locomotive Horns at Highway-Rail Grade Crossings.

OMB Control Number: 2130–0560.

Abstract: Under 49 CFR part 222, FRA seeks to collect information from railroads and public authorities in order to increase safety at public highway-rail grade crossings nationwide by requiring that locomotive horns be sounded when trains approach and pass through these crossings or by ensuring that a safety level at least equivalent to that provided by routine locomotive horn sounding exists for quiet zone corridors in which such horn sounding is silenced. FRA reviews applications by public authorities intending to establish new quiet zones by implementing alternative safety measures and approves the effectiveness rate assigned to them.

FRA made several adjustments to its estimated paperwork burdens in this ICR extension.

Type of Request: Extension without change (with changes in estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 754 railroads/645 public authorities.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section [3]	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate
222.15—How does one obtain a waiver of a provision of this regulation?—Petition for waiver.	754 railroads + 645 public Authorities.	2 petitions	4 hours	8.00	$619.52
222.17—How can a State agency become a recognized State agency?	FRA anticipates zero applications, as FRA has yet to receive any submissions under this provision.				
222.39(b)—How is a quiet zone established?—Public authority application to FRA—Applications to establish quiet zone.	645 public authorities	15 applications	80 hours	$1,200.00	74,148.00
—(b)(1)(i) Updated Grade Crossing Inventory Form (includes requirements under 222.49(a)).	645 public authorities	75 updated forms	30 minutes	37.50	2,317.13
—(b)(1)(iii) Diagnostic team review of proposed quiet zone crossings.	645 public authorities	3 team reviews	16 hours	48.00	3,717.12
—(b)(3)(i) 60-day comment period—Copies of quiet zone application.	645 public authorities	90 copies	2 minutes	3.00	185.37
—(b)(3)(ii) 60-day comment period—Comments to FRA on Quiet Zone Application.	754 railroads	30 comments	1.5 hours	45.00	3,484.80

[1] The current inventory exhibits a total burden of 2,237 hours while the total burden of this notice is 2 hours. As part of its review of this ICR renewal, FRA determined the 2018 estimates incorrectly included the time associated with the testing. For instance, under § 210.31, the burdens associated with testing have been addressed when FRA calculated the economic costs of the regulatory requirements. Additionally, the burden associated with the test records are covered under OMB control number 2130–0004. Thus, FRA has adjusted the estimated paperwork burden in the PRA table above so that it does not include activities outside of the scope of the PRA.

[2] Throughout this notice, the dollar equivalent cost is derived from the Surface Transportation Board's 2020 Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

CFR section [3]	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate
—(b)(3)(iii) 60-day comment period—Written no-comment statements.	FRA anticipates zero written statements.				
222.43—What notices and other information are required to create or continue a quiet zone? —Written notice of public authority's intent to create new quiet zone and notification to required parties.	Public authorities, railroads, and state agencies.	60 notices + 180 notifications.	40 hours + 10 minutes	2,430.00	150,149.70
—(b)(3) Notice of Intent –60-day comment period.	754 railroads	120 comments	1.5 hours	180.00	13,939.20
—(d) Notice of Quiet Zone Establishment—The Notice of Quiet Zone Establishment and notification to required parties.	645 public authorities	60 notices + 360 notifications.	40 hours + 10 minutes	2,460.00	152,003.40
—(d)(2)(v)–(vi) Required contents—Updated Crossing Inventory Forms (includes requirements under 222.49(a)).	645 public authorities	300 updated forms	30 minutes	150.00	9,268.50
—(d)(2)(xi) Certification by chief executive officer that the information submitted by the public authority is accurate.	645 public authorities	60 certifications	5 minutes	5.00	308.95
222.47—What periodic updates are required?—Written affirmation to FRA that Supplementary or Alternative Safety Measures (SSMs or ASMs) conform to the requirements of Appendices A and B or the terms of the Quiet Zone approval—Copies of such notification must be provided to the required parties.	645 public authorities	180 written affirmations + 1,080 copies.	30 minutes + 2 minutes.	126.00	7,785.54
—(b)(2) Updated Crossing Inventory Forms (includes requirements under 222.49(a)).	645 public authorities	900 updated forms	30 minutes	450.00	27,805.50
222.51(a)–(b)—Under what conditions will quiet zone status be terminated?—Written commitment to lower the potential risk to the traveling public at the crossings within the quiet zone.	645 public Authorities	15 written commitments.	5 hours	75.00	4,634.25
—(c) Review at FRA's initiative—Comments from interested parties during FRA's review of quiet zone status.	645 public authorities	2 comments	30 minutes	1.00	61.79
222.55(b)—How are new supplementary or alternative safety measures approved? —Request for FRA Approval of new SSMs or ASMs for quiet zone.	645 public authorities	1 letter	30 minutes	.50	30.90
—(d) Request for SSM/ASM approval upon completion of demonstration of proposed new SSMs or ASMs.	Interested parties and public.	1 letter	30 minutes	.50	30.90
222.57(a)—Can parties seek review of the Associate Administrator's actions?—A public authority or other interested party may petition FRA for review of any decision by the Associate Administrator granting or denying an application for approval of a new SSM or ASM under § 222.55 (plus copies to the required parties).	645 public authorities and interested parties.	1 petition + 6 copies	2 hours + 2 minutes	2.20	135.94

CFR section [3]	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate
—(b) Request for FRA reconsideration of disapproval of Quiet Zone and copies of requests to the required parties.	645 public authorities	1 petition letter + 6 copies.	2 hours + 2 minutes ...	2.20	135.94
—(b) Additional documents to FRA as a follow-up to petition for reconsideration.	645 public authorities	1 additional document and set of materials.	2 hours	2.00	123.58
—(b) Letter requesting FRA for an informal hearing.	645 public authorities	1 letter	30 minutes	.50	30.90
222.59(b)—When may a wayside horn be used?—Written notice of use of wayside horn at Grade Crossing within a quiet zone plus copies of the written notices to the required parties.	645 public authorities	5 notices + 30 copies	2.5 hours + 2 minutes	13.50	834.17
—(c) Notice of wayside horn located outside a quiet zone.	645 public authorities	5 notices + 30 copies	2.5 hours + 2 minutes	13.50	834.17
Appendix B to Part 222—Alternative Safety Measures—Non-engineering ASMs—Programmed Enforcement.	FRA anticipates zero submissions. Additionally, FRA has yet to receive any submissions under this provision.				
Appendix B to Part 222—Alternative Safety Measures—Modified SSMs, Engineering ASMs—Photo Enforcement.	FRA anticipates zero submissions. Additionally, FRA has yet to receive any submissions under this provision.				
229.129(c)(10)—Locomotive horn—Written Reports and Records of Locomotive Horn Testing.	The one-time testing requirement under this provision for locomotives built before September 18, 2016 has been fulfilled. However, any estimated burden for testing records will be covered under OMB control number 2130–0004 under 229.23.				
Total	754 railroads + 645 public authorities.	3,620 responses	N/A	7,253	452,585

Total Estimated Annual Responses: 3,620.

Total Estimated Annual Burden: 7,253 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $452,585.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that a respondent is not required to respond to, conduct, or sponsor a collection of information that does not display a currently valid OMB control number.

[3] The current inventory exhibits a total burden of 9,236 hours while the total burden of this notice is 7,254 hours. As part of its review of this ICR renewal, FRA determined some of the previous estimates were initial estimates, outdated, or duplicative. For instance, the burdens previously associated with Appendix B to Part 222 were zeroed because FRA has yet to receive, and does not anticipate receiving, any submissions under this provision. Additionally, the estimated paperwork burdens for §§ 222.25, 222.27, 222.35, 222.37, 222.38, 222.45, and 222.49(b) are covered under §§ 222.39 and 222.43.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Deputy Chief Counsel.

[FR Doc. 2022–00731 Filed 1–13–22; 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 U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: 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 Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On January 10, 2022, 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. DELGADO CASTELLON, Celina, Residencial Mira Bosques Casa C15, Managua, Nicaragua; DOB 08 May 1976; POB Esteli, Nicaragua; nationality Nicaragua; Gender Female; National ID No. 1610805760006T (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of Executive Order 13851 of November 27, 2018, ''Blocking Property of Certain Persons Contributing to the Situation in Nicaragua,'' 83 FR 61505, 3 CFR, 2018 Comp., p. 884 (''E.O. 13851''), for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

2. DIAZ FLORES, Nahima Janett, Residencial Lomas del Valle, Casa No. U–5, Managua, Nicaragua; DOB 28 Jun 1989; POB Managua, Nicaragua; nationality Nicaragua; Gender Female; National ID No. 0012806890047K (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

3. BARAHONA CASTRO, Rosa Adelina (a.k.a. BARAHONA DE RIVAS, Rosa Adelina), Zona Central, Matagalpa, Nicaragua; DOB 10 May 1957; POB Murra, Nueva Segovia, Nicaragua; nationality Nicaragua; Gender Female; National ID No. 4901005570000R (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

4. PULIDO ORTIZ, Bayardo de Jesus, Residencial Altos de Motastepe, Casa 746, Ciudad Sandino, Managua, Nicaragua; DOB 29 Oct 1960; POB Masaya, Nicaragua; nationality Nicaragua; Gender Male; National ID No. 001291060007C (Nicaragua); Diplomatic Passport E0022392 (Nicaragua) issued 12 Apr 2012 expires 12 Apr 2022 (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

5. RODRIGUEZ RUIZ, Bayardo Ramon, KM 9 Carretera Nueva A Leon Y 300 Mts Al Este, Casa 9, Managua, Nicaragua; DOB 12 Apr 1961; POB Managua, Nicaragua; nationality Nicaragua; Gender Male; National ID No. 0011204610031W (Nicaragua); Diplomatic Passport A0008886 (Nicaragua) issued 12 Feb 2012 expires 12 Feb 2022 (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

6. CALDERON VINDELL, Ramon Humberto, Kilometro Doce y Medio, Carretera Sur, Managua, Nicaragua; DOB 17 Oct 1959; POB San Juan de Limay, Esteli, Nicaragua; nationality Nicaragua; Gender Male; National ID No. 1641710590000J (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

Dated: January 10, 2022.

Bradley T. Smith,

Deputy Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–00637 Filed 1–13–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Requesting Comments on Forms CT–1 and CT–1X

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form CT–1, Employer's Annual Railroad Retirement Tax Return, and Form CT–1X, Adjusted Employer's Annual Railroad Retirement Tax Return or Claim for Refund.

DATES: Written comments should be received on or before March 15, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Jon Callahan, (737) 800–7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *jon.r.callahan@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Railroad Retirement Tax Act (Forms CT–1 and CT–1X).

OMB Number: 1545–0001.

Form Number: Forms CT–1 and CT–1X.

Abstract: Form CT–1 is used by railroad employers to report taxes imposed by the Railroad Retirement Tax Act (RRTA) and claim eligible employer tax credits. The IRS uses the information to ensure that the employer has paid the correct tax. Form CT–1X is used to correct previously filed Forms CT–1.

Current Actions: There are changes to the existing collection: The IRS has significantly revised the 2021 Forms CT–1 and CT–1X to allow for the reporting of new and extended employment tax credits allowed by the American Rescue Plan Act of 2021, Public Law 117–2, sections 9501, 9641, and 9651. The changes to the forms will result in an estimated burden increase of 11,534 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Responses: 2,400.

Estimated Time per Respondent: 26 hours, 5 minutes.

Estimated Total Annual Burden Hours: 62,589.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of

information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 10, 2022.

Jon R. Callahan,

Tax Analyst.

[FR Doc. 2022–00644 Filed 1–13–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. app. 2, 10(a)(2), that a meeting will take place via conference call on February 1, 2022 at 10:30 a.m. of the following debt management advisory committee: Treasury Borrowing Advisory Committee.

At this meeting, the Treasury is seeking advice from the Committee on topics related to the economy, financial markets, Treasury financing, and debt management. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. app. 2, 10(d) and Public Law 103–202, 202(c)(1)(B)(31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. app. 2, 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. app. 2, 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Fred Pietrangeli, Director for Office of Debt Management (202) 622–1876.

Dated: January 11, 2022.

Frederick E. Pietrangeli,

Director (for Office of Debt Management).

[FR Doc. 2022–00676 Filed 1–13–22; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

Dependency and Indemnity Compensation Cost of Living Adjustments

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the ''Veterans Compensation Cost-of-Living Adjustment Act of 2021,'' the Department of Veterans Affairs (VA) is hereby giving notice of Cost-of-Living Adjustments (COLA) in certain benefit rates. These COLAs affect the Dependency and Indemnity Compensation (DIC) program. The rate of the adjustment is tied to the increase in Social Security benefits effective December 1, 2021, as announced by the Social Security Administration (SSA). SSA has announced an increase of 5.9%.

DATES: The increases in amounts became effective December 1, 2021.

FOR FURTHER INFORMATION CONTACT: David Klusman, Lead Program Analyst, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, Telephone (202) 632–8862. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under the provisions of Public Law 117–45, VA is required to increase, effective December 1, 2021, the benefit rates of the DIC program by the same percentage as increases in the benefit amounts payable under title II of the Social Security Act. VA is required to publish a notice of the increased rates in the **Federal Register**.

SSA has announced a 5.9% COLA increase in Social Security benefits effective December 1, 2021. Therefore, applying the same percentage, the following increased rates and income limitations for the DIC program became effective December 1, 2021:

Dependency and Indemnity Compensation Monthly Payment Rates

DIC Payable to a Surviving Spouse—Veteran Death on or After January 1, 1993

Basic Monthly Rate: $1,437.66.

If at the time of the Veteran's death, the Veteran was in receipt of or entitled to receive compensation for a service-connected disability rated totally disabling (including a rating based on individual unemployability) for a continuous period of at least 8 years immediately preceding death and the surviving spouse was married to the Veteran for those same 8 years, add: $305.28.

For each dependent child under the age of 18, add: $356.16.

If the surviving spouse is entitled to Aid and Attendance benefits, add $356.16.

If the surviving spouse is entitled to Housebound benefits, add $166.85.

If the surviving spouse has one or more children under the age of 18 on the award per 38 U.S.C. 1311(f), add the 2-year transitional benefit of $306.00.

DIC Payable to a Surviving Spouse—Veteran Death Prior to January 1, 1993

Veteran paygrade	Amount payable
E–1(f)	$1,437.66
E–2(f)	1,437.66
E–3(a, f)	1,437.66
E–4(f)	1,437.66
E–5(f)	1,437.66
E–6(f)	1,437.66
E–7(g)	1,487.35
E–8(g)	1,570.20
E–9(g)	1,637.64
E–9(b)	1,767.80
W–1(g)	1,518.14
W–2(g)	1,578.47
W–3(g)	1,624.62
W–4(g)	1,719.28
O–1(g)	1,518.14
O–2(g)	1,570.20
O–3(g)	1,677.86
O–4	1,778.43
O–5	1,957.12

Veteran paygrade	Amount payable
O–6	2,206.80
O–7	2,381.89
O–8	2,616.20
O–9	2,798.41
O–10	3,069.37
O–10(c)	3,294.20

(a) The surviving spouse of an Aviation Cadet or other service not covered by this table is paid the DIC rate for enlisted E–3.

(b) Veterans who served as Sgt. Major of the Army or Marine Corps, Senior Enlisted Advisor of the Navy, Chief Master Sgt. of the Air Force, Sgt. Major of the Marine Corps, or as Major Chief Petty Officer of the Coast Guard.

(c) Veterans who served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army or Air Force, Chief of Naval Operations, Commandant of the Marine Corps, or as Commandant of the Coast Guard.

(d) If surviving spouse is entitled to aid and attendance, add $356.16; if entitled to housebound, add $166.85.

(e) Add $356.16 for each child under 18.

(f) Add $305.28 if Veteran rated totally disabled for eight continuous years prior to death and surviving spouse was married to Veteran those same eight years.

(g) The base rate is $1,742.94 if Veteran rated totally disabled for eight continuous years prior to death and surviving spouse was married to Veteran those same eight years.

DIC Payable to Children

Surviving Spouse Entitled

For each child over the age of 18 who is attending an approved course of education, the rate is $301.74.

For each child over the age of 18 who is helpless, the rate is $607.02.

No Surviving Spouse Entitled

Number of children	Total payable	Each child's share
1	$607.02	$607.02
2	873.24	436.62
3	1,139.49	379.83

For each additional child, add $216.54 to the total payable amount to be paid in equal shares to each child.

For each additional helpless child over 18, add $356.16 to the amount payable to the helpless child.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on January 10, 2022 and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

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

[FR Doc. 2022–00694 Filed 1–13–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Friday,

No. 10 January 14, 2022

Part II

Department of Energy

10 CFR Parts 429 and 431

Energy Conservation Program: Test Procedure for Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[EERE–2017–BT–TP–0020]

RIN 1904–AD94

Energy Conservation Program: Test Procedure for Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps

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 its test procedures for single package vertical air conditioners and single package vertical heat pumps. DOE is proposing to incorporate by reference the most recent version of the relevant industry test standard, AHRI 390–2021, and to amend certain provisions for representations for the subject equipment. DOE is also proposing definitions for ''single-phase single package vertical air conditioners with cooling capacity less than 65,000 Btu/h'' and for ''single-phase single package vertical heat pumps with cooling capacity less than 65,000 Btu/h.'' The proposed definitions would explicitly define this equipment as subsets of the broader single package vertical air conditioner and single package vertical heat pump equipment categories, and further distinguish such equipment from certain residential central air conditioners and heat pumps. DOE seeks comment from interested parties on this proposal.

DATES:

Comments: DOE will accept comments, data, and information regarding this proposal no later than March 15, 2022. See section V, ''Public Participation,'' for details.

Meeting: DOE will hold a webinar on Wednesday, February 9th, 2022, from 1:00 p.m. to 3:00 p.m. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

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–2017–BT–TP–0020, by any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* To *SPVACandHeatPumps2017TP0020@ee.doe.gov.* Include docket number EERE–2017–BT–TP–0020 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this 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 and 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/webinar 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 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-2017-BT-TP-0020.* 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:

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.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5827. Email: *Eric.Stas@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/webinar, 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 a previously approved incorporation by reference and incorporate by reference the following industry standards into parts 429 and 431:

AHRI Standard 390–2021 ''Performance Rating of Single Package Vertical Air-Conditioners and Heat Pumps,'' dated 2021.

ANSI/ASHRAE Standard 37–2009, ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment,'' ASHRAE approved June 24, 2009.

ANSI/ASHRAE Standard 41.2–1987 (RA 92), ''Standard Methods For Laboratory Airflow Measurement,'' ASHRAE approved October 1, 1987.

Copies of AHRI Standard 390–2021 can be obtained from the Air-conditioning, Heating, and Refrigeration Institute (AHRI), 2311 Wilson Blvd., Suite 400, Arlington, VA 22201, (703) 524–8800, or by going to *www.ahrinet.org/search-standards.aspx.*

Copies of ANSI/ASHRAE Standard 37–2009 and ANSI/ASHRAE Standard 41.2–1987 (RA 92) can be obtained from the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), 180 Technology Parkway NW, Peachtree Corners, GA 30092, (404) 636–8400, or by going to *https://www.ashrae.org/.*

See section IV.M for a further discussion of these standards.

Table of Contents

I. Authority and Background

Single package vertical air conditioners (''SPVACs'') and single package vertical heat pumps (''SPVHPs''), collectively referred to as single package vertical units (''SPVUs''), are a category of small, large, and very large commercial package air conditioning and heating equipment. Accordingly, SPVUs are included in the list of ''covered equipment'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6311(1)(B)–(D)) DOE's energy conservation standards and test procedures for SPVUs are currently prescribed at title 10 of the Code of Federal Regulations (''CFR'') section 97 to subpart F of part 431 and section 96 to subpart F of part 431, respectively. The following sections discuss DOE's authority to establish test procedures for SPVUs and relevant background information regarding DOE's consideration of test procedures for SPVUs.

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 C [2] of EPCA, added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes small, large, and very large commercial package air conditioning and heating equipment, including SPVUs. (42 U.S.C. 6311(1)(B)–(D))

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;42 U.S.C. 6311), test procedures (42 U.S.C. 6293; 42 U.S.C. 6314), labeling provisions (42 U.S.C. 6294; 42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6295; 42 U.S.C. 6313), and the authority to require information and reports from manufacturers. (42 U.S.C. 6296; 42 U.S.C. 6316)

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). DOE also uses these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA.

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d); 42 U.S.C. 6316(b)(2)D))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. 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. 6314 (a)(2))

As discussed earlier in this document, SPVUs are a category of commercial package air conditioning and heating equipment. EPCA requires that the test procedures for commercial package air conditioning and heating equipment be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (''ASHRAE''), as referenced in ASHRAE Standard 90.1, ''Energy Standard for Buildings Except Low-Rise Residential Buildings'' (''ASHRAE Standard 90.1''). (42 U.S.C. 6314(a)(4)(A)) Further, if such an industry test procedure is amended, DOE must amend its test procedure to be consistent with the amended industry test procedure, unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that such amended test procedure would not meet the requirements in 42 U.S.C. 6314(a)(2) and (3) related to representative use and test burden. (42 U.S.C. 6314(a)(4)(B))

EPCA also requires that, at least once every 7 years, DOE must evaluate the test procedures for each type of covered equipment, including SPVUs, 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. (42 U.S.C. 6314(a)(1)(A))

In addition, if the Secretary determines that a test procedure amendment is warranted, the Secretary must publish proposed test procedures in the **Federal Register** and afford interested persons an opportunity (of not less than 45 days duration) to present oral and written data, views, and arguments on the proposed test procedures. (42 U.S.C. 6314(b)) 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. 6314(a)(1)(A)(ii))

[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 C was redesignated Part A–1.

DOE is publishing this NOPR in satisfaction of its obligations under EPCA. (42 U.S.C. 6314(a)(4)(B); 42 U.S.C. 6314(a)(1)(A))

B. Background

DOE's existing test procedures for SPVUs are set forth at 10 CFR 431.96. The Federal test procedure currently incorporates ANSI/AHRI Standard 390–2003 (''ANSI/AHRI 390–2003''), ''Performance Rating of Single Package Vertical Air-Conditioners and Heat Pumps,'' (omitting section 6.4), and it also includes additional provisions in paragraphs (c) and (e) of 10 CFR 431.96 that provide for an optional break-in period and additional provisions for equipment set-up, respectively. DOE established its test procedure for SPVUs in a final rule for commercial heating, air conditioning, and water heating equipment published in the **Federal Register** on May 16, 2012. 77 FR 28928, 28932. ANSI/AHRI 390–2003 was the SPVU test standard referenced in the edition of ASHRAE Standard 90.1 current at that time.

On July 20, 2018, DOE published a request for information (''RFI'') in the **Federal Register** to collect information and data to consider amendments to DOE's test procedures for SPVUs. 83 FR 34499 (''July 2018 RFI''). As part of the July 2018 RFI, DOE identified and requested comment on several issues associated with the currently applicable Federal test procedures, in particular concerning incorporation by reference of the most recent version of the relevant industry standard; efficiency metrics and calculations; and clarification of test methods. *Id.* at 83 FR 3449. DOE also sought comment on any additional topics that may inform DOE's decisions in a future test procedure rulemaking, including methods to reduce regulatory burden while ensuring the test procedures' accuracy. *Id.*

DOE received a number of comments from interested parties in response to the July 2018 RFI. Table I–1 lists each commenter and the abbreviation for each used in this document. DOE considered these comments in the preparation of this NOPR. Discussion of the relevant comments, as well as DOE's responses, are provided in the appropriate sections of this document.

TABLE I–1—INTERESTED PARTIES PROVIDING COMMENT ON THE JULY 2018 RFI

Commenter(s)	Abbreviation	Commenter type
Air-Conditioning, Heating, and Refrigeration Institute	AHRI	IR.
Appliance Standards Awareness Project, Natural Resources Defense Council, American Council for an Energy-Efficient Economy.	ASAP, NRDC, and ACEEE.	EA.
GE Appliances, a Haier Company	GE	M.
Lennox International Inc	Lennox	M.
Northwest Energy Efficiency Alliance, and Northwest Power and Conservation Council	NEEA and NWPCC	EA and Interstate Compact Agency.
Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE); collectively the California Investor-Owned Utilities.	CA IOUs	U.

EA: Efficiency/Environmental Advocate; IR: Industry Representative; M: Manufacturer; U: Utility.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[3]

On June 24, 2021, AHRI published updates to its test procedure for SPVUs as AHRI Standard 390–2021, ''Performance Rating of Single Package Vertical Air-Conditioners and Heat Pumps'' (''AHRI 390–2021''). Among other things, AHRI 390–2021 maintains the existing efficiency metrics—energy efficiency ratio (''EER'') for cooling mode and coefficient of performance (''COP'') for heating mode—but it also added a seasonal metric that includes part-load cooling performance—the integrated energy efficiency ratio (''IEER'') metric. AHRI 390–2021 also includes additional specifications regarding the test methods and conditions.

II. Synopsis of the Notice of Proposed Rulemaking

In this NOPR, DOE is proposing to amend the test procedures for SPVUs to incorporate by reference AHRI 390–2021. DOE proposes to add a new appendix G, ''Uniform test method for measuring the energy consumption of single package vertical air conditioners and single package vertical heat pumps,'' (''appendix G'') that would include the relevant test procedure requirements for SPVUs for measuring the existing efficiency metrics: (1) EER for cooling mode and (2) COP for heating mode. DOE is also proposing add a new appendix G1 that would include the relevant test procedure requirements for SPVUs for measuring with updated efficiency metrics: (1) IEER for cooling mode and (2) COP for heating mode. Appendix G1 would provide the test procedure for representations based on IEER and would be mandatory only at such time as compliance is required with amended energy conservation standards based on IEER, should DOE adopt standards using such metrics.

Additionally, DOE is proposing to define ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h'' as subsets of the broader SPVAC and SPVHP equipment category, in order to clarify what kind of single-phase equipment with cooling capacity less than 65,000 Btu/h was contemplated in the broader definitions of SPVAC and SPVHP established by Congress. Single-phase equipment meeting these definitions would be subject to the applicable commercial equipment energy conservation standards for SPVACs and SPVHPs, while single-phase products not meeting these definitions would properly be classified as CAC and subject to the applicable consumer products energy conservation standards.

DOE is proposing to establish appendices for the relevant test procedures for SPVUs to better differentiate the specific testing requirements. Currently, the test requirements for all types of commercial air conditioners and heat pumps, including SPVUs, are codified at 10 CFR 431.96. In conjunction, DOE proposes to amend Table 1 to 10 CFR 431.96 to identify the newly added Appendices G and G1 as the applicable test procedures for testing SPVUs.

DOE's proposed actions are summarized in Table II–1 and addressed in detail in section III of this document.

[3] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to amend the test procedures for SPVUs (Docket No. EERE–2017–BT–TP–0020, which is maintained at *www.regulations.gov/#!docketDetail;D=EERE-2017-BT-TP-0020*). The references are arranged as follows: (Commenter name, comment docket ID number, page of that document).

TABLE II–1—SUMMARY OF CHANGES IN PROPOSED TEST PROCEDURE RELATIVE TO CURRENT TEST PROCEDURE

Current DOE TP	Proposed TP	Attribution
Incorporates by reference ANSI/AHRI 390–2003 (excluding section 6.4).	Incorporates by reference AHRI 390–2021, which includes the following changes —Includes a new energy efficiency descriptor, IEER, which incorporates part-load performance. —Provides direction and accompanying definitions for determining whether a unit is tested as a ducted or non-ducted unit. —Directs that the outdoor air-side attachments used for testing must be specified by the manufacturer in the supplemental testing instructions. —Includes refrigerant charging instructions for cases where they are not provided by the manufacturer. —Specifies tolerances for achieving the rated airflow and/or minimum external static pressure (''ESP'') during testing and specifies how to set indoor airflow if airflow and ESP tolerances cannot be simultaneously met. —Incorporates specifications for measuring outdoor air conditions. —Requires data be recorded at equal intervals of 5 minutes or less over a 30-minute measurement period. —Clarifies that test results for outdoor air enthalpy method are based on results without test apparatus connected. —Defines the term ''manufacturer's installation instructions'' and includes hierarchy of precedence if multiple instructions are included.	Adopt industry test procedure.
Only includes definitions for the equipment categories; ''Single Package Vertical Air Conditioner'' and ''Single Package Vertical Heat Pump''.	Includes additional definitions: ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h''.	Explicitly delineate SPVUs from other covered products.
Does not include provisions for certain components.	Includes provisions for testing when certain components are present	Establish provisions for testing with certain components.

DOE has tentatively determined that the proposed amendments would not be unduly burdensome. Furthermore, DOE has tentatively determined that the proposed amendments described in section III of this NOPR would not alter the measured efficiency of SPVUs or require retesting solely as a result of DOE's adoption of the proposed amendments to the test procedure, if made final. Use of the updated industry test procedure provisions as proposed in Appendix G1 and the related proposed amendments to representation requirements in 10 CFR 429.43 would not be required until the compliance date of any amended standards denominated in terms of IEER. Additionally, DOE has tentatively determined that the proposed amendments, if made final, would not increase the cost of testing. Discussion of DOE's proposed actions are addressed in detail in section III of this NOPR.

III. Discussion

A. Scope of Applicability

EPCA, as amended by the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140 (Dec. 19, 2007), defines ''single package vertical air conditioner'' and ''single package vertical heat pump'' at 42 U.S.C. 6311(22) and (23), respectively. In particular, these units can be single- or three-phase; must have major components arranged vertically; must be an encased combination of components; and must be intended for exterior mounting on, adjacent interior to, or through an outside wall. DOE codified the statutory definitions into its regulations at 10 CFR 431.92. Additionally, EPCA established initial equipment classes for SPVUs with a capacity less than 65,000 Btu/h based on phase. (42 U.S.C. 6313(a)(10)(A)(i)–(ii) and (v)–(vi))

DOE currently defines an SPVAC as air-cooled commercial package air conditioning and heating equipment that: (1) Is factory-assembled as a single package that: (i) Has major components that are arranged vertically; (ii) is an encased combination of cooling and optional heating components; and (iii) is intended for exterior mounting on, adjacent interior to, or through an outside wall; (2) is powered by a single- or 3-phase current; (3) may contain 1 or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and (4) has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means. 10 CFR 431.92. Additionally, DOE defines an SPVHP as a single package vertical air conditioner that: (1) Uses reverse cycle refrigeration as its primary heat source; and (2) may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas. *Id.* The Federal test procedures are applicable to SPVUs with a cooling capacity less than 760,000 Btu/h. (42 U.S.C. 6311(8)(D))

DOE is proposing to add specific definitions for ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h'' to explicitly delineate such equipment from certain covered consumer products, such as central air conditioners, based on design characteristics. On April 24, 2020, DOE published in the **Federal Register** a request for information (''RFI'') with regards to SPVU energy conservation standards (85 FR 22958). In response to this RFI, Lennox commented that misunderstanding the distinction between CACs and SPVUs remains an outstanding issue on which DOE should take action. (Docket No. EERE–2019–BT–STD–0033–0008 at pp. 1–2))

EPCA defines a ''central air conditioner'' as a product, other than a packaged terminal air conditioner,[4] which is powered by single-phase electric current, air-cooled, rated below 65,000 Btu per hour, is not contained within the same cabinet as a furnace with a rated capacity above 225,000 Btu per hour, and is a heat pump or a cooling only unit. (42 U.S.C. 6291(21)) DOE has incorporated this definition in 10 CFR 430.2.

Reading the two definitions of SPVUs and CACs in isolation, certain single-phase air conditioners and heat pumps with cooling capacity less than 65,000

[4] ''Packaged terminal air conditioner'' is defined in 10 CFR 430.92 as a wall sleeve and a separate un-encased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall, and that is industrial equipment. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability by builder's choice of hot water, steam, or electricity.

Btu/h and with their components arranged vertically could be understood to be SPVUs, as opposed to CACs. DOE has previously explained that the definitions of SPVUs and CACs must be read in the context of DOE's authority to regulate certain consumer products (*i.e.,* covered products) and certain industrial equipment (*i.e.,* covered equipment). 79 FR 78614, 78625 (April 11, 2014). Industrial equipment under EPCA generally excludes ''covered products.'' (42 U.S.C. 6311(2)(A)(iii)) ''Covered products'' are certain consumer products explicitly set forth in the statute, as well as consumer products which have been classified as a covered product under 42 U.S.C. 6292(b). EPCA defines ''consumer product,'' in part, as an article which, to any significant extent, is distributed in commerce for personal use or consumption by individuals. (42 U.S.C. 6291(1)(B)) CACs are covered products. A product can only be classified as an SPVU, and, therefore, industrial equipment under EPCA, if it does not meet the definition of any covered product, including CACs. 79 FR 78614, 78625 (April 11, 2014).

To clarify the distinction between SPVUs as industrial equipment and CACs as covered consumer products, DOE proposes to define in 10 CFR 431.92 ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h.'' The current definitions of SPVAC and SPVHP at 10 CFR 431.92 allow for both wall-mounted and floor-mounted units, and either may use single-phase or three-phase power. DOE proposes to include certain characteristics as part of these definitions that will evidence that these equipment would likely not be distributed to any significant extent in commerce for personal use or consumption by individuals. These characteristics would distinguish SPVU equipment from CACs, which are consumer products.

DOE has identified specific technical features that differentiate floor-mounted, single-phase units intended only for commercial applications (*i.e.,* meaning they are SPVUs) from ones intended for consumer applications, such as multi-family type floor-mounted, single-phase units (*i.e.,* meaning they are CACs). DOE has preliminarily determined that, in order to meet commercial building ventilation requirements [5] (an indication that a unit is industrial equipment and not a consumer product), floor-mounted, single-phase units on the market have the ability for outdoor air intake. This is evidenced by the existence of outdoor air intake dampers and associated controls. These ventilation air provisions make the unit capable of drawing in and conditioning outdoor air for delivery to the conditioned space (with or without first mixing the outdoor air with return air). Technical specifications for these floor-mounted, single-phase units detail both the incremental and maximum outdoor air flow rates available to meet the specific indoor air quality needs of building occupants. Of the maximum outdoor air flow rates that DOE identified for each unit on the market, the unit with the lowest maximum outdoor air flow rate identified was capable of providing a maximum of 400 cubic feet per minute (''CFM'') of outdoor air, with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment (as required for submittal to DOE by 10 CFR 429.43(b)(4)(xi)).

Conversely, DOE preliminarily has found that the multi-family type floor-mounted, single-phase units that are consumer products because they are distributed in commerce for personal use or consumption by individuals (*i.e.,* CACs) have little to no ability to provide outdoor air to the conditioned space. Based on DOE's review of manufacturer literature, for those consumer products that do provide outdoor air, none could provide more than 120 CFM of outdoor air to the conditioned space. Building ventilation codes may require specific levels of outdoor air flow for multi-family type structures, but the outdoor ventilation airflow requirements for such living spaces are substantially lower than those for the spaces generally served by the market for floor-mounted, single-phase SPVUs.[6] Thus, DOE initially has determined that, at the present time and in most cases, these outdoor ventilation airflow requirements are adequately met using ventilation techniques other than the outdoor air provisions incorporated in single-package units.[7] In addition, DOE notes that in other applications in areas where ventilation standards exist specifically for residences, the required outdoor air flow levels for these structures are similar to those for multi-family type structures.[8]

Based on the discussion in the prior paragraphs, DOE has preliminarily determined that a key physical characteristic demonstrating that floor-mounted, single-phase SPVUs are not ''of a type'' distributed in commerce for personal use or consumption by individuals is the ability to provide outdoor air sufficient for commercial applications. Equipment with the ability to provide 400 CFM or greater of outdoor air, which significantly exceeds the outdoor air requirements for residences and multi-family applications, would likely not be distributed to any significant extent in commerce for personal use or consumption by individuals and, therefore, is not a consumer product. (*See* 42 U.S.C. 6291(1))

DOE's review of the market for wall-mounted configurations did not find that there was a threshold capability of providing outdoor air to distinguish between wall-mounted, single-phase units for use in commercial applications

[5] ASHRAE Standard 62.1–2019 details ventilation standards for a variety of commercial building spaces, including educational spaces, which are the primary market for floor-mounted, single-phase SPVUs. Specifically, for standard classrooms occupied with persons between the ages of 5 and 8, 10 CFM of outdoor air flow per person is required at a default occupancy of 25 individuals per 1,000 square feet. This translates to a requirement of 250 CFM per 1,000 square feet under default occupancy. For standard classrooms occupied by persons 9 years and older, 10 CFM of outdoor air per person is required at a default occupancy of 35 individuals per 1,000 square feet. This translates to a requirement of 350 CFM per 1,000 square feet under default occupancy. For specialty classrooms (lecture rooms, art, science, college laboratories, wood/metal shops, computer labs, media centers, music/theater/dance), specific outdoor air requirements range from 250 CFM to 350 CFM per 1,000 square feet under default occupancy. (For further details, see ANSI/ASHRAE Standard 62.1–2019, Table 6–1.)

[6] For the multi-family applications of hotels, motels, resorts, and dormitories, ASHRAE Standard 62.1–2019 requires outdoor air flow rates of 5 CFM per person at a default occupancy of 10 individuals per 1,000 square feet. This translates to a requirement of 50 CFM per 1,000 square feet under default occupancy. (For further details, *see* ANSI/ASHRAE Standard 62.1–2019, Table 6–1.)

[7] Ventilation in high-rise multi-family apartment buildings is typically achieved using a combination of natural and mechanical ventilation. The preferred mechanical ventilation method is a central system, which uses ventilation ducts oriented vertically through stacks of apartments, with make-up air sourced from air conditioning/heating units located on the roof and supplied via vertical ducts. For more information *see: A Guide to Energy Efficient Ventilation in Apartment Buildings.* U.S. Department of Energy (DOE/EE–0196). 1999 (Available at: *eetd.lbl.gov/node/50537*).

[8] Table N1104.2 of the ''Minnesota Rules, Chapter 1322 Residential Energy Code'' specifies ventilation rates for residences based on a range of square footages and numbers of bedrooms. For residences with a conditioned space between 1,000 and 1,500 square feet in area, ventilation rates are similar to those listed in ASHRAE Standard 62.1–2013 per 1,000 square feet for the multi-family applications of hotels, motels, resorts, and dormitories. Specifically, for residences with a conditioned space between 1,000 and 1,500 square feet in area, total ventilation rates range from 60 CFM (for a single-bedroom residence) to 135 CFM (for a six-bedroom residence).

(SPVUs) and multi-family-type floor-mounted, single-phase units (CACs). However, based on DOE's review, all wall-mounted units marketed for commercial applications identified by DOE were weatherized (*i.e.,* designed for outdoor use) and denoted on their nameplate that they are for ''Outdoor Use'' or ''Suitable for Outdoor Use.'' Conversely, all units marketed for multi-family-type floor-mounted applications identified by DOE were non-weatherized units. Based on this review, DOE also proposes that whether a model is weatherized or non-weatherized is a criterion for distinguishing between single-phase SPVUs and consumer CACs.

Therefore, DOE proposes to define in 10 CFR 431.92 ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h'' as SPVACs and SPVHPs, respectively, that are either (1) weatherized, or (2) non-weatherized and have the ability to provide a minimum of 400 CFM of outdoor air. Single-phase single package products with cooling capacity less than 65,000 Btu/h not meeting these definitions would be properly classified as CACs, not SPVUs.

DOE recognizes that the confusion with the appropriate classification of CACs and SPVUs may have been compounded by DOE's definition of ''space-constrained'' CACs and ASHRAE Standard 90.1's definition of ''nonweatherized space constrained single-package vertical unit.'' Nonetheless, because a space-constrained product is a central air conditioner or heat pump, it is properly classified as a consumer product. In 10 CFR 430.2, DOE defines ''space constrained product'' as a central air conditioner or heat pump with certain characteristics including rated cooling capacity no greater than 30,000 Btu/hr and an outdoor or indoor unit with dimensions or displacement substantially smaller than those of other units and that if increased would increase installation cost or reduce utility, and which was available for purchase in the United States as of December 1, 2000. As with CACs more broadly, if a unit meets DOE's definition of ''space constrained product,'' it is not an SPVU.

In contrast, ASHRAE Standard 90.1–2013 created a new equipment class for SPVACs and SPVHPs used in space-constrained applications, with a definition for ''nonweatherized space constrained single-package vertical unit'' and specified efficiency standards for the associated equipment class. In a Notice of Data Availability addressing energy conservation standards for certain commercial heating, air conditioning, and water heating equipment, including SPVUs, published in the **Federal Register** on April 11, 2014, DOE explicitly addressed ''nonweatherized space constrained single-package vertical units'' and tentatively concluded that there was no need to establish a separate space-constrained class for SPVUs. 79 FR 20114, 20123. In that document, DOE stated that certain models currently listed by manufacturers as SPVUs, most of which would have met the ASHRAE space-constrained definition, were being misclassified and should be classified as central air conditioners (in most cases, space-constrained central air conditioners). *Id.* DOE reaffirmed this position in a NOPR addressing energy conservation standards for SPVUs, published in the **Federal Register** on December 30, 2014, emphasizing that a product can only be considered commercial/industrial equipment under EPCA if it does not meet the definition of a consumer product. 79 FR 78614, 78625. In the subsequent final rule addressing energy conversation standards for SPVUs, DOE did not adopt definitions in response to this issue and stated it would consider the matter in a subsequent rulemaking. 80 FR 57438, 57448 (Sept. 23, 2015).

DOE has now tentatively determined that the characteristics included in the proposed definitions earlier in this section of ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h'' appropriately distinguish such equipment from consumer products and address any potential confusion as to the application of the DOE definition of ''space constrained products'' to SPVUs.

In regard to determining if a unit is capable of providing 400 CFM of outdoor air, DOE is proposing to include provisions in 10 CFR 429.134 that specify the method of measurement of the maximum outdoor ventilation airflow rate. DOE is proposing to specify that the outdoor ventilation airflow rate should be set up and measured in accordance with ASHRAE 41.2–1987, ''Standard Methods for Laboratory Airflow Measurement,'' and Section 6.4 of ASHRAE 37–2009. DOE notes that the proposed method for measuring outdoor ventilation airflow is generally consistent with the test methods specified in AHRI 390–2021 (*i.e.,* AHRI 390–2021 incorporates by reference ASHRAE 37–2009, including Section 6.4, which in turn incorporates by reference ASHRAE 41.2–1987, which specify the method of airflow measurement.) DOE is proposing additional specifications in this NOPR to clarify how these provisions are applied to measure the outdoor ventilation airflow rate. First, DOE is proposing to specify that all references to the inlet in ASHRAE 41.2–1987 and Section 6.4 of ASHRAE 37–2009 refer to the outdoor air inlet. Second, DOE is proposing to specify that the measurement should take place at the conditions specified for Full Load Standard Rating Capacity Test, Cooling in Table 3 of AHRI 390–2021, except for the minimum external static pressure (ESP). The minimum ESP for all validations shall be 0.00 in. H_2O measured from inlet to outlet, with a tolerance of $-0.00/+0.05$ in. H_2O. Finally, DOE is proposing that the outdoor air inlet pressure shall be 0.00 in. H_2O, with a tolerance of $-0.00/+0.05$ in. H_2O when measured against the room ambient. These additional provisions would improve the representativeness, repeatability, and reproducibility of the test methods for validating the outdoor ventilation airflow rate.

Issue 1: DOE requests comment on its proposal to define ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h'' as subsets of the broader SPVAC and SPVHP equipment category. DOE requests feedback on the proposed characteristics that would distinguish this equipment as SPVUs (*i.e.,* ''weatherized'' or capable of utilizing a maximum of 400 CFM of outdoor air). Additionally, DOE requests comment on the proposed method to validate that a unit is capable of providing 400 CFM of outdoor air.

B. Updates to Industry Standards

1. Updates to AHRI 390

As described in section I.A of this NOPR, with respect to SPVUs, EPCA directs DOE to use industry test methods developed or recognized by AHRI or ASHRAE, as referenced in ASHRAE Standard 90.1. (42 U.S.C. 6314(a)(4)(A)) If such an industry test procedure is amended, EPCA requires that DOE amend its test procedure as necessary to be consistent with the amended industry test method unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that the

amended test procedure would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, and estimated operating costs of that equipment during a representative average use cycle. (42 U.S.C. 6314(a)(4)(B))

As mentioned, the DOE test procedure at 10 CFR 431.96 references ANSI/AHRI 390–2003 (excluding Section 6.4) for testing SPVUs, and ASHRAE Standard 90.1 references this same industry test standard. In response to the July 2018 RFI, GE commented that DOE should continue to incorporate by reference the ASHRAE, ANSI, and AHRI test procedures for SPVUs, including new editions when published by the standards-setting bodies. (GE, No. 3 at p. 1) [9] AHRI and Lennox encouraged DOE's continued participation in the process to revise AHRI 390. (AHRI, No. 5 at p. 2; Lennox, No. 6 at pp. 1–2) AHRI and Lennox recommended that DOE adopt the revised industry test standard as the DOE test procedure. (AHRI, No. 5 at p. 2; Lennox, No. 6 at p. 1)

On June 24, 2021, AHRI published AHRI 390–2021, which supersedes ANSI/AHRI 390–2003. AHRI 390–2021, which was developed as part of an industry consensus process, includes revisions that DOE has initially determined improve the representativeness, repeatability, and reproducibility of the test methods. These revisions include, among other things, the following: (1) A new energy efficiency descriptor, IEER, which incorporates part-load cooling performance; (2) additional specification to the testing requirements for ducted and non-ducted units; (3) refrigerant charging instructions for cases where they are not provided by the manufacturer; (4) additional specification for setting the airflow rates and external static pressure for testing; (5) additional specification for the measurement of air conditions; (6) additional specification for the secondary capacity measurement using the outdoor air enthalpy method; (7) guidance on the filter to be used during test; (8) specification of a maximum compressor break-in period; (9) further specificity for atmospheric pressure measurement requirements; (10) additional detail regarding the installation of outdoor air-side attachments; (11) additional direction on the use of applicable manufacturer instructions; and (12) a list of components that must be present for testing. DOE carefully reviewed the changes in AHRI 390–2021 in consideration of this NOPR. In this NOPR, DOE proposes to incorporate by reference the latest version of the industry test procedure for SPVUs, AHRI 390–2021, per 42 U.S.C. 6314(a)(4)(A) and (B).

2. ASHRAE 37

ANSI/ASHRAE 37–2009, a method of test for many categories of air conditioning and heating equipment, is referenced by AHRI 390–2021 for testing SPVUs. In particular, Appendix E of AHRI 390–2021 specifies the method of test for SPVUs, including the use of specified provisions of ANSI/ASHRAE 37–2009. Consistent with AHRI 390–2021, DOE is proposing to incorporate by reference ANSI/ASHRAE 37–2009 in its test procedure for SPVUs. Specifically, in Section 1.2 of the proposed test procedure for SPVUs in the proposed Appendices G and G1 of subpart F of 10 CFR part 431, DOE is proposing to utilize the applicable sections of ANSI/ASHRAE 37–2009—all sections except sections 1, 2 and 4. DOE also is proposing that in the event of any conflicts between the DOE test procedure, AHRI 390–2021 and ASHRAE 37–2009, the DOE test procedure takes highest precedence, followed by AHRI 390–2021, followed by ASHRAE 37–2009.

C. Proposed Organization of the SPVU Test Procedure

DOE is proposing to relocate and centralize the current test procedure for SPVUs to a new Appendix G to subpart F of part 431. Appendix G will incorporate by reference AHRI 390–2021, but DOE will exclude from use those sections pertaining to the calculation of IEER (section 6.2). Correspondingly, DOE is proposing to update the existing incorporation by reference of ANSI/AHRI 390–2003 at 10 CFR 431.95 so that the incorporation by reference applies to Appendix G rather than 10 CFR 431.96. As proposed, SPVUs would be tested according to Appendix G unless and until DOE adopts an amended energy conservation standard that relies on the IEER metric.

DOE also is proposing to amend the test procedure for SPVUs by adopting the updated version of AHRI 390–2021, including use of the sections pertaining to IEER (section 6.2) in a new Appendix G1 to subpart F of part 431, as discussed in the following sections. As proposed, SPVUs would not be required to test according to the test procedure in proposed Appendix G1 unless and until DOE adopts an amended energy conservation standard that relies on the IEER metric.

D. Energy Efficiency Descriptor

For SPVUs, DOE currently prescribes EER as the cooling mode metric and COP as the heating mode metric. 10 CFR 431.96. These energy efficiency descriptors are consistent with those included in ASHRAE 90.1–2019 for SPVUs. EER is the ratio of the produced cooling effect of the SPVU to its net work input, expressed in Btu/watt-hour and measured at standard rating conditions. COP is the ratio of the produced heating effect of the SPVU to its net work input, expressed in W/W, and measured at standard rating conditions.

1. Efficiency Metrics

EER measures efficiency at full-load conditions. DOE's current test procedure for SPVUs does not include a seasonal metric that measures part-load performance. A seasonal metric is a weighted average of the performance of cooling or heating systems at different rating points intended to represent average efficiency over a full cooling or heating season.

DOE noted in the July 2018 RFI that several other categories of commercial package air conditioning and heating equipment are rated using a seasonal metric, such as IEER for air-cooled commercial unitary air conditioners (''CUACs''), as presented in Section 6.2 of AHRI 340/360–2019, ''Performance Rating of Commercial and Industrial Unitary Air-conditioning and Heat Pump Equipment.'' 83 FR 34499, 34503 (July 20, 2018). IEER is a weighted average of efficiency at the four load levels representing 100, 75, 50, and 25 percent of full-load capacity, each measured at an outdoor air condition representative of field operation at the given load level.

DOE noted in the July 2018 RFI that ANSI/AHRI 390–2003 includes a seasonal part-load metric for SPVUs (*i.e.,* integrated part-load value (''IPLV'')). 83 FR 34499, 34503 (July 20, 2018). IPLV integrates unit performance at each capacity step provided by the refrigeration system. The IPLV tests are conducted at constant outdoor air conditions of 80 °F dry-bulb temperature and 67 °F wet-bulb temperature. *Id.* DOE is aware that some manufacturers make representations of part-load performance of SPVUs in product literature using IPLV. DOE has noted that IPLV was formerly used for rating CUACs but has since been removed from AHRI 340/360 in favor of IEER. *Id.*

[9] A notation in the form ''GE, No. 3 at p. 1'' identifies a written comment: (1) Made by GE; (2) recorded in document number 3 that is filed in the docket of the SPVU test procedure rulemaking (Docket No. EERE–2017–BT–TP–0020) and available for review at *www.regulations.gov;* and (3) that appears on page 1 of document number 3.

As part of the July 2018 RFI, DOE requested comment on whether it should consider adopting for SPVUs a cooling-mode metric that integrates part-load performance to better represent full-season efficiency, and whether a part-load metric such as IEER or IPLV would be appropriate for SPVUs. 83 FR 34499, 34503 (July 20, 2018).

AHRI and GE both commented that DOE should not consider adopting a part-load cooling metric at this time, stating that doing so would increase test burden for a specialized product sold in a comparatively small market. (AHRI, No. 5 at p. 6; GE, No. 3 at p. 2) GE noted that for SPVUs with single-speed compressors, the EER test method requires only a single test with an average of 8 hours to complete and validate test data, whereas an IEER test method would require four tests, which entails additional testing time and cost. (GE, No. 3 at p. 2) GE stated that for dual-voltage units, the IEER test method would increase test time to approximately 64 hours per unit, and that the time to test 3 units for a given model would increase testing time from 48 hours to 192 hours under the IEER test method. *Id.*

AHRI commented that a part-load metric may be appropriate for some equipment, such as two-stage or variable-capacity SPVUs, but only for certain applications. (AHRI, No. 5 at p. 6) AHRI and Lennox commented that as part of the revisions to AHRI 390, industry is assessing whether IEER or IPLV would better represent part-load performance for units other than single-stage products. (AHRI, No. 5 at p. 6; Lennox. No. 6 at p. 5) Lennox commented that while a part-load metric may be a favorable option for SPVUs in the long term, there was not sufficient data at that time to evaluate the impacts on performance and the increase in test burden versus potential consumer benefits of optimized part-load performance. (Lennox. No. 6 at p. 5)

The CA IOUs commented that the IEER metric was developed for CUACs with greater than 65,000 Btu/h cooling capacity using office, retail, and larger permanent school space loads as the basis for the part-load weighting factors. (CA IOUs, No. 2 at p. 3) They noted that SPVUs are generally used in smaller settings, such as electronic sheds and relatively small relocatable classrooms. *Id.* The CA IOUs stated that, while there may be some shortcomings with the IEER metric, it results in ratings more reflective of annual energy efficiency than those produced by IPLV. *Id.* The CA IOUs commented that IPLV, on the other hand, has a strong potential to misrepresent efficiency ratings because it does not rate all units at identical capacity points, leading to a difference in the weighting factors used for various equipment. *Id.* In addition, the CA IOUs commented that all part-load ratings are measured at an ambient outdoor temperature of 80 °F. *Id.* The CA IOUs asserted that these two factors often cause tested units with fewer capacity reduction stages to have higher measured efficiencies than those with more stages, whereas in reality, units with more stages tend to be more efficient. *Id.*

The CA IOUs stated that while the IEER metric provides a valuable measure of annual efficiency, the EER metric is important for achieving reductions in peak loads. (CA IOUs, No. 2 at p. 3) The CA IOUs stated that because the IEER metric uses a low weighting (*i.e.,* 2 percent) of the full-load condition, a standard based only on the IEER metric would incentive manufacturers to optimize equipment at the part-load conditions and could potentially result in equipment that is designed with lower full-load EERs than the current standards for this equipment. *Id.* The CA IOUs supported using both the IEER metric that measures part-load efficiencies in conjunction with the currently regulated full-load EER metric as a means to prevent poor equipment performance at full-load conditions. *Id.*

ASAP, NRDC, and ACEEE commented that DOE should develop a new cooling efficiency metric for SPVUs that reflects annual energy consumption, including part-load operation. (ASAP, NRDC, and ACEEE, No. 4 at p. 1–2) They stated that the current EER metric reflects only full-load, steady-state operation, but that SPVUs rarely operate at full-load in the field. *Id.* at 1. In addition, ASAP, NRDC, and ACEEE stated that the current metric is not able to demonstrate potential improved efficiency of SPVUs with variable-speed or thermostatic and electronic expansion valve technologies. *Id.*

ASAP, NRDC, and ACEEE also commented that the IEER metric is not representative of locations and usage patterns for SPVUs and encouraged DOE to investigate a part-load performance metric that better reflects SPVU usage. (ASAP, NRDC, and ACEEE, No. 4 at pp. 1–2) They commented that DOE should consider its analysis from the most recent SPVU standards rulemaking, which included building simulation models for modular classrooms, modular offices, and telecommunication shelters, to inform the development of load points and weightings for a part-load metric. *Id.* at 2.

In response, DOE recognizes that SPVUs often operate at part-load (*i.e.,* less than designed full-load capacity) in the field, depending on the application and location. As discussed in section III.B, AHRI 390–2021 includes a new part-load cooling metric, IEER. To the extent that AHRI expressed concerns regarding the IEER test method in response to the July 2018 TP RFI, DOE presumes that AHRI's original position on this issue changed during the course of developing AHRI 390–2021. The test conditions and weighting factors for this IEER metric in AHRI 390–2021 were developed specifically for SPVUs based on an annual building load analysis and temperature data for buildings representative of SPVU installations, including modular classrooms, modular offices, and telecommunication shelters.[10] The test conditions and weighting factors for the four load levels representing 100, 75, 50, and 25 percent of full-load capacity are different than those used in the IEER metric in AHRI 340/360–2019, which were developed based on CUAC building types. As a result, DOE considers the IEER metric representative of the cooling efficiency for SPVUs on an annual basis, and more representative than the current EER metric.

In this NOPR, DOE is proposing to incorporate by reference AHRI 390–2021, which maintains the existing full-load cooling mode metric, EER, and adds the IEER metric for SPVUs. More specifically, DOE is proposing to add a new Appendix G that would include the relevant test procedure requirements for SPVUs for measuring efficiency using the existing efficiency metrics (*i.e.,* EER for cooling mode and COP for heating mode) and to add a new Appendix G1 that would incorporate the provisions for measuring efficiency using IEER and COP.

Issue 2: DOE requests comment on its proposal to adopt the test methods specified in AHRI 390–2021 for calculating IEER for SPVUs.

As discussed, DOE's current standards for SPVUs at 10 CFR 431.97 specify minimum efficiency requirements based on the full-load cooling metric, EER, and the heating metric, COP. The current DOE standards levels are the same as those specified in the current version of ASHRAE Standard 90.1 (ASHRAE 90.1–2019).

[10] Based on EnergyPlus analysis developed for the previous energy conservation standards rulemaking for SPVUs. 80 FR 57438, 57462 (Sept. 23, 2015). EnergyPlus is a whole building energy simulation program (Available at: *http://apps1.eere.energy.gov/buildings/energyplus/*).

Any future energy conservation standards based on IEER would evaluate differences in the measured energy efficiency based on the IEER metric relative to EER (*i.e.,* by developing an appropriate ''crosswalk,'' as necessary), and would consider data and/or analysis that compares the ratings of SPVUs under the two metrics.

Issue 3: DOE requests comment and data on ratings under the current EER metric specified in 10 CFR 431.97 and ASHRAE 90.1–2019 based on ANSI/AHRI 390–2003, as compared to ratings using the IEER metric under AHRI 390–2021.

ASAP, NRDC, and ACEEE, as well as NEEA and NWPCC, commented in response to the July 2018 RFI that DOE should consider a dynamic, load-based test procedure to measure both cooling and heating efficiency of SPVUs, similar to the test procedure for residential central air conditioners developed by the Canadian Standards Association (''CSA'') Group. (ASAP, NRDC, and ACEEE, No. 4 at p. 2; NEEA and NWPCC, No. 7 at p. 3) NEEA and NWPCC commented that a load-based test procedure, such as the CSA test procedure, could measure energy use of the equipment at 25, 50, 75 and 100-percent load without overriding equipment controls, as opposed to the current IEER test specified in AHRI 340/360 for CUACs that locks equipment controls to 25, 50, 75 and 100 percent of capacity. (NEEA and NWPCC, No. 7 at p. 3) They commented that a load-based test would allow manufacturers to design equipment controls and thermostats that would reduce unnecessary cycling and improve humidity control. *Id.* According to NEEA and NWPCC, the current IEER test method specified in AHRI 340/360 uses an artificially low maximum cycling loss that does not provide incentive for manufacturers to reduce cycling losses. *Id.* ASAP, NRDC, and ACEEE, as well as NEEA and NWPCC, commented that a load-based test would better capture how SPVUs perform in the field under varying loads, including capturing the impact of cycling losses, the potential benefits of variable-speed operation, and the importance of control strategies. (ASAP, NRDC, and ACEEE, No. 4 at p. 2; NEEA and NWPCC, No. 7 at p. 3)

DOE is currently not aware of data showing that any dynamic load-based test procedure produces repeatable and reproducible test results. Furthermore, DOE is not aware of data showing that the CSA test procedure recommended by NEEA and NWPCC produces repeatable and reproducible results for central air conditioners (''CACs'') and heat pumps, and that procedure has not yet been evaluated for SPVUs. Therefore, DOE is not proposing any dynamic load-based test procedures at this time.

2. Test Conditions Used for Efficiency Metrics

Under 42 U.S.C. 6314(d)(1), EPCA requires that representations with respect to the energy consumption of SPVUs must be based on the DOE test procedure. DOE notes that the heating mode test used to calculate COP and determine compliance with standards for SPVHPs is conducted at 47 °F outdoor air dry-bulb temperature and 43 °F outdoor air wet-bulb temperature, and is designated as the ''Full Load Standard Rating Capacity Test, Heating'' in Table 3 of AHRI 390–2021. DOE is proposing to also utilize Table 3 of AHRI 390–2021, which includes an optional ''Low Temperature Operation'' heating application rating test that manufacturers may use to make representations of energy consumption for SPVUs. That test is based on an outdoor air dry-bulb temperature of 17 °F and outdoor air wet-bulb temperature of 15 °F.

To allow manufacturers to make voluntary representations at the lower temperature condition, DOE is proposing to specify in Appendices G and G1 that the low temperature operation heating mode test conditions specified in Table 3 of AHRI 390–2021 are optional. This would clarify that additional representations for SPVHPs at a lower temperature condition are optional, but that if such representations are made, they must be based on testing conducted in accordance with the DOE test procedure using the specified low temperature operation heating mode test conditions in addition to those made at the full-load standard heating conditions.

Issue 4: DOE requests comment on its proposal to clarify that COP representations using the ''Low Temperature Operation, Heating'' conditions in Table 3 of AHRI 390–2021 are optional.

3. Fan Energy Use

As part of the July 2018 RFI, DOE requested comment on whether changes to the SPVU test procedure are needed to properly characterize a representative average use cycle, including changes to more accurately represent fan energy use in field applications. 83 FR 34499, 34503 (July 20, 2018). DOE also requested information as to the extent that accounting for the energy use of fans in commercial equipment such as SPVUs would be additive of other existing accountings of fan energy use. *Id.* The Appliance Standards and Rulemaking Federal Advisory Committee (''ASRAC'') Commercial and Industrial Fans and Blowers Working Group (''Working Group'') had earlier provided recommendations regarding the energy conservation standards, test procedures, and efficiency metrics for commercial and industrial fans and blowers in a term sheet. (Docket No. EERE–2013–BT–STD–0006–0179 at p. 1) Specifically, recommendation #3 discussed the need for DOE's test procedures and related efficiency metrics to account more fully for the energy consumption of fan use in regulated commercial air-conditioning equipment. (Docket No. EERE–2013–BT–STD–0006–0179 at pp. 3–4) The Working Group recommended that DOE consider revising efficiency metrics that include energy use of supply and condenser fans in order to include the energy consumption during all relevant operating modes, including ventilation and part-load operation, in the next round of test procedure rulemakings. The Working Group included SPVUs in its list of regulated equipment for which fan energy use should be considered. (Docket No. EERE–2013–BT–STD–0006–0179 at pp. 3–4, 16)

In response to the 2018 RFI, ASAP, NRDC, and ACEEE, as well as NEEA and NWPCC, commented that DOE should amend the test procedure to account for fan energy use outside of mechanical cooling and heating for fans in regulated equipment to more fully capture fan energy use. (ASAP, NRDC, and ACEEE, No. 4 at p. 1; NEEA and NWPCC, No. 7 at pp. 1–3) ASAP, NRDC, and ACEEE asserted that by failing to capture fan operation for economizing, ventilation, and other functions outside of cooling mode, the test procedure may be significantly underestimating fan energy consumption. (ASAP, NRDC, and ACEEE, No. 4 at p. 1) NEEA and NWPCC added that these amendments would encourage the adoption of features such as variable-speed fans, which provide additional control and flexibility for building owners and operators in addition to reducing energy waste. (NEEA and NWPCC, No. 7 at p. 2)

NEEA and NWPCC commented that the commercial prototype building models used in the analysis in support of ASHRAE Standard 90.1 include information on the operation of fans in ventilation mode and economizer mode, and these models could be used to develop national average fan operating hours outside of heating and cooling modes. (NEEA and NWPCC, No. 7 at p. 4) NEEA and NWPCC commented that the vast majority of SPVUs are

installed in commercial buildings requiring a building permit and that the ASHRAE Standard 90.1 requirements are reflective of building code requirements. *Id.* NEEA and NWPCC stated that, as a result, the energy models used in support of ASHRAE Standard 90.1 are representative of how the equipment is installed and used across the United States. *Id.*

NEEA and NWPCC commented that one potential approach to represent fan energy use in regulated equipment more accurately would be to use IEER to assess the efficiency of the refrigeration cycle of SPVUs, and to use an alternative metric to assess the performance of embedded fans in SPVUs. (NEEA and NWPCC, No. 7 at pp. 3–4) NEEA and NWPCC suggested that ANSI/AMCA 208–18, ''Calculation of the Fan Energy Index,'' provides a potential way to measure embedded fan performance in SPVUs by using the fan energy index (''FEI''). *Id.* NEEA and NWPCC stated that DOE could, therefore, develop a revised IEER-type metric that weights together cooling performance based on the traditional IEER test and an FEI-based metric for fan efficiency. *Id.* NEEA and NWPCC stated that accounting for the energy use of fan operation in SPVUs does not need to alter measured efficiency, and that DOE could align the FEI and IEER metrics such that manufacturers would have multiple viable design option pathways to achieve the minimum IEER efficiency standard without improving the embedded fan efficiency above the minimum FEI efficiency standard. *Id.*

AHRI and Lennox commented that the current metrics for SPVUs (EER and COP) account for fan power and that there is no need to double count fan contribution, asserting that standards based on these metrics will likely already require the need for improved fan motor efficiency. (AHRI, No. 5 at pp. 6, 7; Lennox, No. 6 at p. 6) AHRI commented that adding a requirement to measure fan energy use during economizing or electric heating would increase testing burden. (AHRI, No. 5 at p. 6)

AHRI and Lennox further commented that while most SPVUs can provide some level of ventilation, their primary function is cooling and heating. (AHRI, No. 5 at p. 7; Lennox, No. 6 at p. 6) AHRI asserted that DOE is limited to one metric per covered product, and, therefore, the representative average use cycle for SPVUs should concentrate on the bulk of energy used during cooling and heating, rather than the occasional and ancillary fan-only ventilation utility. (AHRI, No. 5 at p. 7) In addition, AHRI asserted that a key goal in prohibiting separate component standards was to allow the manufacturer to innovate to meet energy use standards. *Id.*

AHRI commented that DOE has the authority to include certain fans and blowers, by rule, as ''covered equipment'' if such products meet all the requirements of 42 U.S.C. 6311(2), but the commenter stated that it would not be appropriate to apply such standard to fans embedded in regulated equipment. (AHRI, No. 5 at p. 8) AHRI asserted that 42 U.S.C. 6312 limits DOE's authority to regulate as covered industrial equipment certain articles that are also components of consumer products. *Id.* AHRI commented that because the fans in SPVUs are built only for the product and cannot be purchased on the open market and applied as ''stand alone fans,'' the fans in SPVUs are protected from double-regulation under EPCA. *Id.* AHRI also commented that DOE's authority under 42 U.S.C. 6312(b) and (c) to regulate components is based on necessity, and that adding a fan metric to the current EER requirement is not necessary because SPVUs already have an overall energy efficiency requirement. *Id.* AHRI and Lennox commented that the fact that Congress was compelled to grant a specific provision of authority for a consumer furnace ventilation metric affirms that DOE lacks general authority to create overlapping ventilation requirements for other regulated products. (AHRI, No. 5 at pp. 8–9; Lennox, No. 6 at p. 6)

In response to these comments, DOE does not have sufficient information at this time regarding the operation of fans outside of mechanical heating and cooling during an average use cycle (*e.g.,* economizing, ventilation) specific to SPVU installations as would allow it to consider changing the existing efficiency metric(s) to include this aspect of energy use. DOE recognizes that the current metrics for SPVUs do not include fan energy use during all relevant operation modes. Provisions to measure fan energy use when there is no heating or cooling being provided, and when performing ancillary functions (*e.g.,* economizing, ventilation, filtration, and auxiliary heat), are not included in ANSI/AHRI 390–2003 and have not been included in the updated industry consensus standard, AHRI 390–2021. Further, DOE lacks sufficient information on the number of units capable of operating in these modes, total energy use in these operating modes, and information regarding the frequency of operation of these modes during field conditions, which the Department would need to determine whether such testing would be appropriate for SPVUs and/or to develop a metric representing the national average fan operating hours for SPVUs. DOE notes further that the commercial prototype building models used in the analysis in support of ASHRAE Standard 90.1 that NEEA and NWPCC recommended do not include information on building types typical to SPVU installations (*i.e.,* modular and telecommunications). If additional information becomes available as would allow DOE to consider incorporation of fan energy use during other relevant SPVU operating modes for all relevant building types into the test method and metric for SPVUs, DOE may consider such information in a subsequent rulemaking proceeding. With regards to comments concerning fan energy use metrics and regulation of fan energy use being double-counting, DOE will consider its authority under EPCA when and if developing such test procedures.

E. Test Method

This section discusses the various issues that DOE identified in the test methods for SPVUs, including those raised in the July 2018 RFI and considered as part of DOE's review of AHRI 390–2021. These issues include: (1) Provisions for testing ducted and non-ducted units; (2) outdoor air-side airflow rate; (3) refrigerant charging instructions; (4) voltage requirements; (5) filter requirements; (6) airflow and external static pressure requirements; (7) air temperature measurements; (8) defrost energy use; and (9) provisions for the outdoor air enthalpy method.

In addition, in DOE's existing regulations, Table 1 to 10 CFR 431.96 specifies the applicable industry test procedure for each category of commercial package air conditioning and heating equipment, and it identifies additional testing requirements that also apply. In this NOPR, DOE is proposing to reorganize subpart F to 10 CFR part 431 so that the test procedure requirements for SPVUs are included in separate appendices (Appendix G and G1). DOE proposes that Table 1 to 10 CFR 431.96 identify only the applicable appendix to use for testing SPVUs (Appendix G or G1) and that 10 CFR 431.96 would no longer include any additional test requirements for SPVUs.

1. Unit Set-Up

a. Testing Ducted and Non-Ducted Units

DOE noted in the July 2018 RFI that ANSI/AHRI 390–2003 specifies different ESP requirements for ducted and non-ducted units. 83 FR 34499, 34501 (July 20, 2018). Specifically, Section 5.2.2 of

ANSI/AHRI 390–2003 requires that non-ducted units be tested at zero ESP, and it specifies ESP requirements in Table 4 of ANSI/AHRI 390–2003 for ducted equipment. However, whether an SPVU is ducted may depend on the installation rather than the model. A given SPVU model could be installed either with or without a duct, thereby resulting in its status as ducted or non-ducted being determined in the field. In the July 2018 RFI, DOE stated that it is not aware of physical characteristics that would readily distinguish SPVUs as either ducted or non-ducted models and that several models advertise the capability for use in both ducted and non-ducted installations. DOE noted that ANSI/AHRI 390–2003 does not specify how to determine whether an SPVU model is to be tested using the ducted or non-ducted provisions. As part of the July 2018 RFI, DOE requested comment on characteristics for determining whether SPVU models would be installed as ducted or non-ducted and on how equipment sold for both configurations are currently tested. 83 FR 34499, 34501 (July 20, 2018).

AHRI commented that many, if not all, SPVUs on the market allow for installation with or without a duct, and that it is standard practice to test all SPVUs in the ducted configuration. (AHRI, No. 5 at pp. 2) AHRI stated that the (then-draft) revised version of AHRI 390 sought to standardize industry practice by defining a non-ducted unit as an air conditioner or heat pump that is not designed and marketed to deliver conditioned air to the indoor space through a duct(s), and that a factory-installed wall sleeve(s) would not be considered as a duct. (AHRI, No. 5 at pp. 2–3) AHRI also noted that the draft version of AHRI 390 specified that if a duct cannot be attached and the unit is marketed as non-ducted only, then testing would be performed in the non-ducted configuration, and that all other units would be tested as ducted. *Id.* Lennox commented that any model marketed for ducted applications should be tested in a ducted configuration, and that testing in a non-ducted configuration would be appropriate if a model does not provide provisions for duct attachment and the unit is marketed as non-ducted only. (Lennox, No. 6 at p. 2)

DOE notes that the draft definition and provisions referenced by AHRI are included in AHRI 390–2021, along with a definition for ducted units. DOE preliminarily agrees that the definition of a non-ducted unit and associated provisions included in AHRI 390–2021 provide additional specification for testing ducted and non-ducted SPVUs. DOE understands that these definitions and provisions are consistent with how units are currently classified by industry and tested, as indicated by AHRI's comments and the inclusion in AHRI 390–2021. DOE is proposing to adopt these definitions found in Sections 3.4 and 3.10 of AHRI 390–2021 and associated provisions specified in section 5.7 of AHRI 390–2021, as enumerated in section 0 of the proposed Appendix G and in section 0 of the proposed Appendix G1.

b. Outdoor Air-Side Airflow Rate

The current DOE test procedure for SPVUs requires that the unit be set up for test in accordance with the manufacturer installation and operation manuals. 10 CFR 431.96(e). In addition, Section 5.2.3 of ANSI/AHRI 390–2003 specifies that for SPVUs with an outdoor air-side fan drive that is adjustable, standard ratings are determined at the outdoor-side airflow rate specified by the manufacturer. Section 5.2.3 of ANSI/AHRI 390–2003 also specifies that, where the outdoor air-side fan drive is non-adjustable, standard ratings are determined at the outdoor airflow rate inherent to the equipment when operated with all of the resistance elements associated with inlets, louvers, and any ductwork and attachments considered by the manufacturer as normal installation practice.

However, Section 5.2.3 of ANSI/AHRI 390–2003 does not further specify what attachments the manufacturer considers ''normal installation practice.'' For externally-mounted SPVUs, provisions for transferring outdoor air through an external wall are not necessary, but it may be possible that alternative ''resistance elements'' could be offered as options (*i.e.,* louvers instead of grills). Furthermore, for internally-mounted SPVUs, there may be multiple options for the specific geometry for external wall pass-through, as well as the option for louvers instead of grills.

As part of the July 2018 RFI, DOE requested comments on the variations in outdoor air-side attachments (*e.g.,* grills, louvers, wall sleeve) that could affect performance during testing and test procedure provisions to standardize outdoor air flow for both externally and internally mounted SPVUs. 83 FR 34499, 34501 (July 20, 2018). On this topic, ASAP, NRDC, and ACEEE commented that DOE should standardize which resistive elements should be present for testing to ensure that the test is representative of field installations and to improve repeatability and reproducibility of test results. (ASAP, NRDC, and ACEEE, No. 4 at p. 3) AHRI stated that options for different outdoor air-side attachments do exist and could impact the performance during testing. (AHRI, No. 5 at p. 3) AHRI and Lennox commented that, to mitigate this issue, the attachments to be used for testing should be specified by the manufacturer in the supplemental testing instructions submitted to DOE. (AHRI, No. 5 at p. 3; Lennox, No. 6 at p. 2) AHRI added that information regarding the installation of plenums, grills, or other outdoor air-side attachments is provided by manufacturers for testing conducted as part of the AHRI certification program. (AHRI, No. 5 at p. 3)

DOE notes that Section 5.8.4 of AHRI 390–2021 explicitly specifies use of the outdoor air-side attachments specified in the manufacturer's supplemental testing instructions. DOE expects this practice would improve the representativeness in that the unit is tested in a configuration more similar to that of the unit as installed in the field.[11] DOE also expects that the more specific test set-up instruction would improve the reproducibility of test results by reducing potential variation in the configuration of the unit when tested. DOE understands that some equipment may be offered for sale with multiple outdoor air-side attachment options, including an option to ship the unit without any attachments. Based on its review of manufacturer materials, DOE has found that in such cases most manufacturer's instructions or marketing materials indicate that use of outdoor air-side attachments are recommended or necessary for installation. Based on the manufacturer instructions, use of outdoor air-side attachments is standard practice in field use for units for which they are offered for sale.

AHRI 390–2021 states that if a unit includes multiple outdoor air-side attachment options, including an option for the unit to ship without any attachments, an outdoor air-side attachment must be specified in the supplemental testing instructions. DOE would expect that this instruction helps ensure testing is representative of how a unit would be installed and operated in the field. DOE is proposing to adopt these provisions regarding the outdoor air-side attachments, as specified in Section 5.8.4 of AHRI 390–2021,

[11] Section 3.8.2 of AHRI 390–2021 specifies that the supplemental testing instructions shall include no instructions that deviate from the manufacturer's installation instructions unless necessary to comply with steady-state requirements (in which case the steady operation must match, to the extent possible, the average performance obtained without deviating from the manufacturer's installation instructions).

enumerated in section 0 of the proposed Appendix G and section 0 of the proposed Appendix G1.

c. Refrigerant Charging Instructions

The amount of refrigerant can have a significant impact on the system performance of air conditioners and heat pumps. DOE's current test procedures for commercial package air conditioners and heat pumps, including the test procedures for SPVUs, require that units be set up for test in accordance with the manufacturer installation and operation manuals. 10 CFR 431.96(e). In addition, the current DOE test procedures state that if the manufacturer specifies a range of superheat, sub-cooling, and/or refrigerant pressures in the installation and operation manual, any value within that range may be used to determine refrigerant charge, unless the manufacturer clearly specifies a rating value in its installation or operation manual, in which case the specified value shall be used. 10 CFR 431.96(e)(1). However, the current DOE test procedures do not provide charging instructions to be used if the manufacturer does not provide instructions in the manual that is shipped with the unit or if the provided instructions are unclear or incomplete.

DOE noted in the July 2018 RFI that ANSI/AHRI 390–2003 does not provide any specific guidance on setting and verifying the refrigerant charge of a unit. 83 FR 34499, 34501 (July 20, 2018). DOE also noted in the July 2018 RFI that the test procedure final rule for central air conditioners and heat pumps (''CAC/HPs'') published in the **Federal Register** on June 8, 2016 (81 FR 36992; ''June 2016 CAC TP final rule'') established a comprehensive approach for refrigerant charging to improve test reproducibility. *Id.* The approach specifies which set of installation instructions to use for charging, explains what to do if there are no instructions, specifies that target values of parameters are the centers of the ranges allowed by installation instructions, and specifies tolerances for the measured values. 10 CFR part 430, subpart B, appendix M, section 2.2.5. This approach also requires that refrigerant line pressure gauges be installed for single-package units, unless otherwise specified in manufacturer instructions. *Id.*

As part of the July 2018 RFI, DOE sought comment on whether it would be appropriate to adopt an approach for charging requirements for SPVUs similar to the approach adopted in the June 2016 CAC TP final rule. 83 FR 34499, 34501 (July 20, 2018). DOE also requested data demonstrating how sensitive the performance of an SPVU is to changes in the various charge indicators used for different charging methods, specifically the method based on sub-cooling. *Id.*

ASAP, NRDC, and ACEEE commented that while most manufacturers appear to ship SPVUs with the refrigerant already charged, DOE should still develop consistent and comprehensive charging instructions to ensure repeatable and reproducible test results, and to account for the possibility of products offering different charging instructions in the future. (ASAP, NRDC, and ACEEE, No. 4 at p. 3) NEEA and NWPCC commented that DOE should review how often SPVUs are charged with refrigerant at the site when installed, and that if refrigerant charge is often modified at installation, they support adopting charging requirements consistent with the June 2016 CAC TP final rule. (NEEA, NWPCC, No. 7 at p. 2)

AHRI commented that the charging requirements adopted in the June 2016 CAC TP final rule are not appropriate for SPVUs. (AHRI, No. 5 at p. 3) AHRI stated that SPVUs are shipped charged with refrigerant and no charging should be required. *Id.* AHRI added that many units do not have service ports, and those that do are charged by weight to the specification on the unit's nameplate. *Id.* Lennox stated that all of its models are shipped with a full refrigerant charge, and no further charge adjustments are required. (Lennox, No. 6 at p. 3) Lennox also stated that if there is any discrepancy regarding charge quantity, the unit should be charged by weight to the specification on the unit nameplate. *Id.* Similarly, the CA IOUs commented that because SPVUs are factory-sealed, package units, many charging requirements that were adopted in the June 2016 CAC TP final rule would not apply to SPVUs. (CA IOUs, No. 2 at p. 1) The CA IOUs did state that some language from the June 2016 CAC TP final rule would be beneficial to adopt; in particular, provisions related to pressure gauges for single-package units and language banning refrigerant charge adjustment during testing. (*Id.* at pp. 1–2)

Based on a review of equipment available on the market, DOE finds that SPVUs are typically shipped from the factory charged with refrigerant, consistent with comments received. DOE observed that while the majority of units are charged by weight, at least one manufacturer's instructions specified that if the refrigerant charge needs to be adjusted (*e.g.,* due to leaks), the charge should be adjusted based on the manufacturer's specified values for sub-cooling and superheat.

Section 5.6 of AHRI 390–2021 includes instructions for charging to be used if sufficient information is not provided in the manufacturer's installation instructions, similar to the provisions for CACs adopted in the June 2016 CAC TP final rule. Specifically, AHRI 390–2021 directs that charging be performed at the conditions specified in the manufacturer's installation instructions or, if not specified, at the full-load cooling Standard Rating Conditions. AHRI 390–2021 directs that if the manufacturer's installation instructions specify a range for superheat, sub-cooling, or refrigerant pressure, the average of the range is used to determine the refrigerant charge. AHRI 390–2021 also specifies a hierarchy of charging parameters to follow (with charge weight being the highest priority) if different requirements provided in the manufacturer's installation instructions cannot be simultaneously met. DOE proposes to adopt section 5.6 in AHRI 390–2021 for refrigerant charging, as enumerated in section 0 of the proposed Appendix G and in section 0 of the proposed Appendix G1.

The proposed refrigerant charging instructions provide additional specification to the Federal test method that would produce more repeatable and reproducible results. DOE notes that as proposed, these refrigerant charging provisions would only apply if the manufacturer installation instructions do not provide sufficient guidance regarding refrigerant charging. As a result, these provisions would not restrict the flexibility that manufacturers currently have in providing refrigerant charging instructions, so long as the provided instructions are sufficient.

d. Voltage Requirements

In the July 2018 RFI, DOE noted that Section 5.2.1 of ANSI/AHRI 390–2003 requires that, for units rated with 208/230 dual nameplate voltages, the test be performed at 230 volts (V). 83 FR 34499, 34501 (July 20, 2018). For all other dual nameplate voltage units, the test standard requires that the test be performed at both voltages, or at the lower voltage if only a single rating is to be published. *Id.* DOE also noted that voltage can affect the measured efficiency of air conditioners, and requested data demonstrating the effect of voltage on air conditioning equipment. *Id.* DOE requested comment on whether certain voltages within common dual nameplate voltage ratings (*e.g.,* 208/230 V) are more representative of a typical field installation. *Id.*

Lennox commented that the voltage requirements specified in ANSI/AHRI 390–2003 are consistent with other similar industry test procedures and are appropriate for this equipment. (Lennox, No. 6 at p. 3) AHRI acknowledged that voltage can affect the measured efficiency of air conditioners, but it stated that these variations tend to be insignificant and do not correlate to a specific voltage. (AHRI, No. 5 at pp. 2–3) AHRI also commented that the majority of SPVUs are applied at 230 V, and, therefore, the current test procedure is appropriate. *Id.*

In response, DOE first points out that Section 5.8.1 of AHRI 390–2021 maintains the same voltage requirements for SPVUs as specified in the current DOE test procedure and in ANSI/AHRI 390–2003. DOE notes that these voltage requirements are generally consistent with industry test procedures for other commercial air conditioning and heat pump equipment. Accordingly, DOE is proposing to adopt the voltage requirements in Section 5.8.1 AHRI 390–2021, consistent with the existing voltage requirements, as enumerated in section 0 of the proposed Appendix G and in section 0 of the proposed Appendix G1.

e. Filter Requirements

DOE noted in the July 2018 RFI that Section 5.2.2.a of ANSI/AHRI 390–2003 requires that non-filtered ducted equipment be tested at the minimum ESP specified in Table 4 of ANSI/AHRI 390–2003 plus an additional 0.08 inches of water column (''in H_2O'') of ESP. 83 FR 34499, 34501 (July 20, 2018). DOE further noted that ANSI/AHRI 390–2003 does not define ''non-filtered equipment.'' *Id.* As part of the July 2018 RFI, DOE requested comment on whether any SPVUs are designed to be installed without a filter. *Id.* at 83 FR 34499, 34502. DOE also requested comment on the typical effectiveness (*i.e.,* minimum efficiency reporting value (''MERV'') rating) of filters provided with SPVUs. *Id.* DOE requested comment on whether non-ducted SPVUs intended for installation with a filter are ever tested without a filter installed and, if so, how such testing has accounted for the filter pressure drop to better represent actual performance. *Id.*

AHRI and Lennox commented that all SPVUs on the market are designed to be installed with a filter, are shipped with a filter, and should be tested with the supplied filter. (AHRI, No. 5 at p. 4; Lennox, No. 6 at p. 3) AHRI added that the effectiveness of the filter can vary based on application. (AHRI, No. 5 at p. 4) AHRI also stated that all SPVUs on the market are tested with a filter. *Id.* NEEA and NWPCC commented that SPVUs are used primarily in commercial buildings, and that ASHRAE Standard 52.2, ''Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size,'' recommends MERV 8 filters for commercial buildings. Consequently, NEEA and NWPCC recommended that SPVUs be tested with a MERV 8 filter rating to be representative of equipment use in the field. (NEEA, NWPCC, No. 7 at p. 2) GE commented that any test procedure change requiring the addition of a filter would increase test burden and product development cost. (GE, No. 3 at p. 2) GE stated that filter types, sometimes specified by local or State requirements, differ and that there is a risk of unintended test variation depending upon the filter specified. *Id.* GE stated that such variation could result in erroneous enforcement test results. *Id.* GE also commented that it opposes any test procedure change that potentially could dictate product design requirements, such as filter selection. *Id.*

Section 3.19 of AHRI 390–2021 includes a definition for the term ''Standard Filter'' and requires that an SPVU must be tested with the filter designated by the manufacturer in the marketing materials for the model as the ''default'' or ''standard'' filter in Table 2, and does not allow for testing without a filter. Section 5.7.3.1 of AHRI 390–2021 states that if the manufacturer does not specify a ''default'' or ''standard'' filter option, then the Standard Filter is the filter with the lowest level of filtration, as specified in the marketing materials for the model. If the marketing materials do not specify a Standard Filter, or do not specify which filter option has the lowest filtration level, then the Standard Filter is any filter shipped by the manufacturer for that model.

In light of the above, DOE preliminarily concludes that a 0.08 in H_2O increase in the minimum ESP for units tested without a filter is not necessary in the SPVU test procedure because, based on a review of equipment on the market and supported by the comments from AHRI and Lennox, DOE finds that all SPVUs are designed to be installed with a filter, are shipped with a filter, and are tested with a filter. In response to NEEA and NWPCC, DOE identified many SPVUs that offered filters with lower filtration than MERV 8 filters, so requiring them may not be representative of all field applications. In addition, based on a review of equipment on the market, different manufacturers might specify different filters as ''standard'' (*i.e.,* there is not a single filter type recognized as ''standard'' by the industry). Manufacturers might also market an SPVU with multiple filter options from which the consumer can choose.

DOE has, therefore, initially determined that the requirement to test with a filter and the provisions on filter selection would provide more representative results by testing with a filter that is more likely to be used by a consumer in the field and is consistent with how manufacturers are currently testing. In this NOPR, DOE proposes to adopt the provisions in Section 3.19 and Table 2 in AHRI 390–2021 for testing with the Standard Filter, as enumerated in section 0 of the proposed Appendix G and section 0 of the proposed Appendix G1.

f. External Static Pressure and Airflow Requirements

SPVUs include fans that circulate indoor air over a heat exchanger and provides heating or cooling either through ductwork or directly to the conditioned space. To deliver sufficient conditioned air to the intended space, the airflow provided by the unit must overcome pressure losses throughout duct work (if present), and to a smaller degree, within the unit itself. Pressure losses are the result of directional changes in the ductwork, friction between the moving air and surfaces of the ductwork, and possible appurtenances in the airflow path. Further, different modes of operation may require different amounts of airflow. Therefore, indoor fan speed is typically adjustable to assure that the provided airflow rate is appropriate for the field-installed ductwork system serving the building in which the unit is installed. The performance of an SPVU can be significantly affected by variation in ESP or operation with an indoor airflow that is different from the intended or designed airflow. To ensure that a test procedure provides results that are representative of an average-use cycle, appropriate airflow settings for testing and ESP requirements are needed to reflect the typical pressure losses. Such specifications would also contribute to the repeatability of the test procedure.

i. External Static Pressure

As part of the July 2018 RFI, DOE noted that Table 4 of ANSI/AHRI 390–2003 specifies the minimum ESP required for testing ducted SPVUs based on capacity range. DOE sought comments on whether the minimum ESP requirements in ANSI/AHRI 390–2003 are representative of field

operation for ducted SPVUs, and if not, comment and data on what representative minimum ESP levels would be. 83 FR 34499, 34502 (July 20, 2018).

The CA IOUs, as well as ASAP, NRDC, and ACEEE, commented that the minimum ESP requirements in the test procedure may be significantly lower than typical ESPs in the field, which would significantly underestimate fan power consumption. (CA IOUs, No. 2 at pp. 2–3; ASAP, NRDC, and ACEEE, No. 4 at p. 3) ASAP, NRDC, and ACEEE commented that DOE should ensure that the minimum ESP requirements specified in the SPVU test procedure adequately reflect conditions in the field. (ASAP, NRDC, and ACEEE, No. 4 at p. 3) NEEA and NWPCC added that the ASRAC Working Group for commercial package air conditioners recommended that DOE develop minimum ESP requirements for SPVUs that adequately represent performance in the field and that provide accurate information to consumers to make purchasing decisions. (NEEA and NWPCC, No. 7 at pp. 1–2)

NEEA and NWPCC stated that for CUACs, there is inconsistency between the range of ESPs specified in the test procedure (0.2 to 0.75 in H_2O) compared to the range of ESPs used for the analysis for the standards rulemaking (0.75 and 1.25 in H_2O). (NEEA and NWPCC, No. 7 at p. 2) NEEA and NWPCC stated that if the ESP requirements in the test procedure are lower than those typically found in the field, the ratings of SPVUs will provide neither an adequate representation of actual efficiency nor accurate information to consumers. *Id.* NEEA and NWPCC added that the ESP requirements should have no impact on test burden since there would be no change to how the test is conducted. *Id.*

The CA IOUs referenced the minimum ESP requirement of 0.5 in H_2O for residential central air conditioners and heat pumps with capacities less than 65,000 Btu/h, as specified in 10 CFR part 430, subpart B, appendix M1, ''Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners and Heat Pumps,'' and commented that DOE should align all other heating, ventilating, and air conditioning (''HVAC'') equipment, including SPVUs, with the values specified in Appendix M1, which increase in ESP based on corresponding increases in cooling capacity. (CA IOUs, No. 2 at pp. 2–3)

AHRI commented that based on conversations with company application engineers, the minimum ESP requirements specified in ANSI/AHRI 390–2003 are representative of field operation for ducted SPVUs installed with 10 feet of ductwork or less. (AHRI, No. 5 at p. 4) Lennox also stated that the current ESP requirements are representative of field operation for ducted SPVUs. (Lennox, No. 6 at p. 4) No commenter provided data as to the ESPs experienced in field operation.

In response, DOE notes the range of comments received as to the appropriate ESP for testing. AHRI 390–2021 maintained the same minimum ESP requirements as specified in ANSI/AHRI 390–2003. DOE does not have data indicating that these minimum ESP requirements are unrepresentative of field operation for ducted SPVUs. DOE also recognizes that SPVUs are typically installed in smaller modular buildings with different duct configurations. As a result, DOE notes that minimum ESP requirements for other equipment (*e.g.,* CACs, CUACs) may not be relevant for SPVUs. DOE also notes that in the previous standards rulemaking the ESP values were aligned with the values used in the test procedure. As a result, DOE does not expect there to be inconsistency between the test procedure and the analysis conducted for the standards rulemaking. Based on this, DOE is tentatively not proposing to revise the ESP requirements in the DOE test procedure for SPVUs but to instead remain consistent with AHRI 390–2021.

Issue 5: DOE welcomes data and information on ESP conditions experienced in field operation of ducted SPVUs.

ii. Airflow Rate

Full-Load Cooling Test

DOE noted in the July 2018 RFI that ANSI/AHRI 390–2003 does not specify tolerances on achieving the rated airflow or the minimum ESP during testing. As discussed previously, the performance of an air conditioner or heat pump can be affected by variations in airflow and ESP. In the July 2018 RFI, DOE noted that the current DOE test procedure for CUACs requires that the indoor airflow for the full-load cooling test be within ±3 percent of the rated airflow and specifies a tolerance of $-0.00/+0.05$ in H_2O for the ESP requirements. 83 FR 34499, 34502 (July 20, 2018). DOE also noted that in DOE's test procedure for CAC/HPs, the method for setting indoor air volume rate for ducted units without variable-speed constant-air-volume-rate indoor fans is a multi-step process that addresses the discrete-step fan speed control of these units. *Id.* In this method, (a) the air volume rate during testing may not be higher than the certified air volume rate, but may be up to 10 percent less, and (b) the ESP during testing may not be lower than the minimum specified ESP, but may be higher than the minimum if this is required to avoid having the air volume rate overshoot its certified value. 10 CFR part 430, subpart B, appendix M, section 3.1.4.2.a. As part of the July 2018 RFI, DOE requested information on the different types of indoor air fan drive systems that are used for SPVUs and information on appropriate tolerances for setting airflow and ESP. 83 FR 34499, 34502 (July 20, 2018).

On this topic, AHRI stated that SPVUs use permanent split-capacitor motors with discrete speed settings or electronically-commutated motors with variable speed settings; and that in either case, the unit leaves the factory with the fan and motor set at a specific speed to provide the rated performance. (AHRI, No. 5 at p. 4) Lennox commented that its equipment uses motors and controls with speed/airflow settings developed for each specific product and mode of operation, which are factory pre-set to optimize performance. (Lennox, No. 6 at p. 4) Lennox stated that for its equipment, the manufacturer-specified airflow setting should allow the ability to set the airflow to the specified value while meeting the ESP requirements for testing. *Id.* Lennox further commented that the manufacturer settings should be used for testing. *Id.* Lennox stated that if the minimum ESP cannot be maintained, the airflow should be set to the maximum airflow while maintaining the required ESP. *Id.*

AHRI commented that the then-draft version of AHRI 390 directed use of the manufacturer-specified fan control settings for all tests for which they are provided. (AHRI, No. 5 at p. 4) AHRI also commented that the draft version of AHRI 390 directed use of the full-load cooling fan control settings specified by the manufacturer for all tests for which fan control settings are specified, and if there are no specified fan control settings for any tests, use the as-shipped fan control settings for all tests. *Id.* AHRI added that for testing, the priority is setting the correct airflow speed, and the ESP is adjusted to match the required airflow. *Id.* AHRI noted that the draft version of AHRI 390 provided that the airflow-measuring apparatus should be adjusted to maintain ESP within $-0/+0.05$ in H_2O of the required minimum ESP and to maintain the airflow within ±3 percent of the manufacturer-specified full-load cooling airflow. *Id.*

DOE notes that AHRI 390–2021 specifies an airflow tolerance of ±3

percent of the full-load cooling airflow. This would be consistent with the test procedure for other commercial air conditioning and heat pump equipment, and it would ensure that the rated airflow remains representative of field use during testing. Therefore, DOE has tentatively concluded that the ±3 percent airflow tolerance included in AHRI 390–2021 is appropriate for testing SPVUs. Accordingly, DOE proposes to adopt the full-load cooling airflow tolerance specified in Section 5.7 of AHRI 390–2021.

AHRI 390–2021 also includes additional instructions for how to set indoor airflow if the airflow and ESP tolerances cannot be maintained simultaneously. For non-ducted units, ducting is not installed in the field; therefore, increasing ESP (which simulates the resistance to airflow from longer duct length in the field) beyond the specified tolerance of −0/+0.05 in H_2O during testing would not be representative of field application. Consequently, if both the ESP and airflow cannot be maintained within tolerance during the test, Section 5.7.3.3.4 of AHRI 390–2021 specifies that the ESP be maintained within the required tolerance and an airflow as close to the certified value as possible be used.

For ducted units, if ESP and/or airflow are higher than the tolerance range at the lowest fan control setting (*e.g.,* lowest fan speed), maintaining airflow within tolerance should take precedence over maintaining ESP within tolerance. This is because operating with an airflow higher than the certified value would likely result in an airflow (and thus measured efficiency) that is unrepresentative of field operation. Section 5.7.3.4.1.2 of AHRI 390–2021 specifies that the airflow-measuring apparatus be adjusted to maintain airflow within tolerance and to operate with the lowest possible ESP that meets the minimum requirement. If ESP or airflow are lower than the tolerance range at the maximum fan control setting (*e.g.,* highest fan speed), maintaining ESP at or above the minimum value should take precedence over maintaining airflow within tolerance because operating with an ESP lower than the minimum value does not reflect typical duct lengths (or measured efficiency) in field application. In such a case, Section 5.7.3.4.1.3 of AHRI 390–2021 specifies that the airflow-measuring apparatus be adjusted to maintain ESP within tolerance and to operate with an airflow as close as possible to the certified value.

DOE understands the provisions regarding tolerances and priority for adjustment of fan speed and ESP in AHRI 390–2021 are consistent with the methodology in the draft version of AHRI 390, as evidenced by the excerpt provided in AHRI's comments (AHRI, No. 5 at p. 5). DOE preliminarily finds that these provisions would not conflict with any provisions in the current DOE test procedure, and would improve test repeatability and provide test conditions that are more representative of those during operation in the field. Based on this, DOE is proposing to adopt the provisions specified in Section 5.7.3 of AHRI 390–2021 for setting indoor airflow if the airflow and ESP tolerances cannot be maintained simultaneously, as enumerated in section 0 of the proposed Appendix G and section 0 of the proposed Appendix G1.

Heating Test

DOE noted in the July 2018 RFI that ANSI/AHRI 390–2003 does not distinguish between cooling and heating airflow rates required for testing. 83 FR 34499, 34502 (July 20, 2018). For SPVHPs with multiple-speed or variable-speed indoor fans, the indoor airflow rate in heating operation could be different from that in cooling operation. *Id.* Different airflow rates may be used for heating and cooling operation because of different indoor comfort needs in the heating season, and there may be a minimum heating airflow rate for electrical resistance heating safety that exceeds the cooling airflow rate. *Id.* DOE also noted in the July 2018 RFI that, for CUAC heat pumps, DOE's current test procedure requires that indoor airflow and ESP first be established within required tolerances for the full-load cooling test condition by adjusting both the unit under test and the test facility's airflow-measuring apparatus (*see* 10 CFR part 431, subpart F, appendix A, section 6(ii)). 83 FR 34499, 34502 (July 20, 2018)) The CUAC test procedure further provides that, unless the unit is designed to operate at different airflow rates for cooling and heating modes, if necessary, the airflow-measuring apparatus (but not the unit under test) may be adjusted to achieve an airflow in heating mode equal to the cooling full-load airflow rate within the specified tolerance, without regard to changes in ESP (*see* 10 CFR part 431, subpart F, appendix A, section 6(ii)). 83 FR 34499, 34502 (July 20, 2018).

As part of the July 2018 RFI, DOE requested comment on whether provisions similar to those required for CUACs would be appropriate for determining airflow rate and minimum ESP for heating mode tests for SPVHPs. 83 FR 34499, 34502 (July 20, 2018). NEEA and NWPCC commented that if SPVHPs operate at different airflow speeds for heating and cooling, then SPVUs should be tested similar to CUACs, for which the heating efficiency is evaluated at the unique heating airflow rate. (NEEA and NWPCC, No. 7 at p. 3) Lennox commented that SPVHP airflow rates for heating and cooling are generally the same, but that the test procedure should not preclude using different airflow rates that could provide benefits in performance. (Lennox, No. 6 at p. 4) AHRI added that the draft version of AHRI 390 included procedures that provide for a difference in the manufacturer-specified heating airflow and full-load cooling airflow. (AHRI, No. 5 at pp. 4–5)

In response, DOE notes that AHRI 390–2021 includes provisions for setting the heating airflow rate that are consistent with the excerpt of the draft version of AHRI 390 provided in AHRI's comments, (AHRI, No. 5 at p. 5), which allows for testing with a manufacturer-specified heating airflow that is different than the full-load cooling airflow. These provisions reflect that units may be designed to operate in the field at a different heating airflow rate as compared to the cooling airflow rate. Therefore, DOE is proposing to adopt Sections 5.7.2.3 and 5.7.3.4.2 of AHRI 390–2021 with regards to setting the airflow and ESP for heating tests (as applicable), as enumerated in section 0 of the proposed Appendix G and section 0 of proposed Appendix G1.

2. Air Temperature Measurements

Measurement of air conditions is a critical aspect of performance testing for air-conditioning and heat pump equipment generally. The air conditions affect performance (both capacity and power input), and the primary methods for determination of capacity rely on measurements of air temperature and humidity. ANSI/ASHRAE 390–2003 references ANSI/ASHRAE Standard 37–1988, ''Methods of Testing for Rating Unitary Air-Conditioning and Heat Pump Equipment'' (''ANSI/ASHRAE 37–1988'') for methods of testing SPVUs. As relevant here, ANSI/ASHRAE 37–1988 provides specifications for temperature sensors (section 5.1), as well as for ensuring measurement uniformity (section 8.5).

DOE noted in the July 2018 RFI that, for air-cooled and evaporatively-cooled CUACs, AHRI 340/360–2015 provides more extensive direction for condenser air temperature measurement in its Appendix C, including specifications to use air sampling trees and psychrometers, temperature measurement accuracy requirements,

and other specifications to ensure that the measured conditions are representative of average condenser air inlet conditions. 83 FR 34499, 34503 (July 20, 2018). In the July 2018 RFI, DOE requested comment on whether requirements similar to AHRI 340/360–2015 should be adopted for testing SPVUs. *Id.*

DOE also noted in the July 2018 RFI that while Appendix C of AHRI 340/360–2015 provides detailed direction for measurement of entering outdoor air temperature, it provides no such direction for measurement of entering indoor air temperature, indoor leaving air temperature, or outdoor leaving air temperature. 83 FR 34499, 34503 (July 20, 2018). However, these parameters have a significant impact on performance of an SPVU as measured by the indoor air enthalpy method and the outdoor air enthalpy method. *Id.* Therefore, in the July 2018 RFI, DOE also requested comment on whether the requirements contained in Appendix C of AHRI 340/360–2015 would be appropriate for measurement of these parameters when testing SPVUs. *Id.*

The CA IOUs, NEEA and NWPCC supported using provisions similar to Appendix C of AHRI 340/360–2015 to measure indoor air entering and leaving temperatures, as well as outdoor air entering and leaving temperatures. (CA IOUs, No. 2 at p. 2; NEEA and NWPCC, No. 7 at p. 3) NEEA and NWPCC added that this would result in the most accurate and repeatable test measurement. (NEEA and NWPCC, No. 7 at p. 3) AHRI commented that adding measurement requirements for indoor air entering and leaving temperatures, as well as outdoor air entering and leaving temperatures for water slinger systems (*i.e.,* units that use condensate from the evaporator to enhance condenser cooling), similar to those in Appendix C of AHRI Standard 340/360–2015 would be appropriate. (AHRI, No. 5 at p. 6) Lennox commented that further evaluation of various SPVU configurations is needed to determine appropriateness of the provisions in Appendix C of AHRI 340/360–2015. (Lennox, No. 6 at p. 5)

In the interim, AHRI 390–2021 has addressed this issue. Specifically, Appendix D of AHRI 390–2021 includes a comprehensive set of provisions to measure air temperatures, including the measurement of entering indoor temperature, indoor leaving temperature, entering outdoor temperature, and outdoor leaving temperature. DOE notes that these additional requirements were also included in the revised AHRI 340/360–2019. Specifically, AHRI 390–2021 includes the following requirements:

- Measurements of indoor and outdoor air entering dry-bulb temperatures and water vapor conditions. In addition, measurement of the indoor air leaving dry-bulb temperatures and water vapor conditions if the indoor air enthalpy method is used, and outdoor air leaving dry-bulb temperatures and water vapor conditions if the outdoor air enthalpy method is used;
- Temperature measurement accuracies and display resolutions for dry-bulb and wet-bulb temperatures, as well as thermopile temperatures;
- Methods of water vapor measurement using either an aspirating psychrometer or a dew point hygrometer;
- Air sampling tree specifications, including construction provisions, hole density requirements, average air velocity of the flow area, and thermopile arrangement;
- Description of the test set-up for air sampling trees, which includes defining the arrangement of the face area, the number of aspirating psychrometers per unit side, the location of the air sampling trees and their coverage of the entrance to the unit, and the number of sampling trees per aspirating psychrometer;
- Dry-bulb temperature measurement using psychrometer dry-bulb sensors;
- Wet-bulb or dew point temperature measurements to determine air water vapor content using psychrometers or hygrometers;
- Measurements of temperature change and pressure drop across the conduit used to transfer air from air samplers to psychrometers and, if certain thresholds are exceeded, provisions for determining dry-bulb temperature and atmospheric pressure (used to calculate humidity ratio);
- Specifications for dry-bulb and wet-bulb temperature uniformity;
- Additional specifications for measuring air conditions entering the indoor coil, including provisions for returning sampled air to the room, conditions for temperature uniformity specifications, and directions if air is sampled within a duct; and
- Additional specifications for measuring both indoor coil and outdoor coil leaving air conditions, including conditions for temperature uniformity requirements, provisions for returning sampled air to the duct leaving the coil, provisions if the coil has a blow-through fan, and additional requirements for the air sampling tree.

DOE has tentatively determined that the air measurement provisions of AHRI 390–2021 in Appendix D address the lack of specificity in the current DOE test procedure for SPVUs, improve temperature uniformity and ensure accurate and repeatable temperature measurements for SPVUs, and ensure that representative conditions are maintained during testing. Therefore, DOE is proposing to adopt the provisions for measurement of air conditions in Appendix D of AHRI 390–2021 both into section 1 of the proposed Appendix G and into section 1 of the proposed Appendix G1. Inclusion in AHRI 390–2021 and AHRI's comments in support indicate that the proposed air measurement specifications are considered best practice by industry and reflect current industry practice. As such, DOE would expect that adoption of the air measurement specifications in AHRI 390–2021 would present minimal, if any, increase in test burden for manufacturers.

3. Defrost Energy Use

In the July 2018 RFI, DOE noted that SPVHPs generally include a defrost cycle to periodically defrost the outdoor coil when operating in outdoor ambient conditions in which frost collects on it during heating operation. 83 FR 34499, 34504 (July 20, 2018). Based on preliminary DOE review of product literature, the time between defrost cycles can be between 30 and 90 minutes, and typical defrost cycle duration is approximately 10 minutes. *Id.* During the defrost cycle, the SPVHP is consuming energy but is not providing heat to the conditioned space, unless it also energizes auxiliary heat during defrost. *Id.*

The current Federal test procedure for SPVUs is based on testing in outdoor air conditions for which defrost is not necessary (*i.e.,* 47 °F outdoor air dry-bulb temperature). This means that any differences in defrost cycle performance between different SPVHP models is not reflected in the heating mode metric (*i.e.,* COP). DOE noted in the July 2018 RFI that the DOE test procedure for CACs/HPs includes measurement of average delivered heat and total energy use (including for defrost cycles) during operation in outdoor conditions for which frost forms on the outdoor coil. *Id.* In contrast, DOE's test procedures for commercial heat pumps do not include consideration of defrost. *Id.* In the July 2018 RFI, DOE requested information regarding the types of buildings most commonly served by SPVHPs, as well as the annual heating and cooling loads for such buildings. *Id.* DOE also requested information on the impact on heating mode efficiency associated with the defrost cycle for SPVHPs, including

impacts associated with the potential use of resistance heating during defrost. *Id.*

On this topic, the CA IOUs stated that relocatable classrooms commonly utilize SPVUs. The CA IOUs suggested that DOE should consider the CA Public Utilities Commission building prototype for relocatable classrooms.[12] This prototype provides typical dimensions, plug loads, lighting, occupancy schedule, envelope characteristics, and thermostat set points of relocatable classrooms which allows for the modeling of annual cooling and heating loads. (CA IOUs, No. 2 at p. 4) The CA IOUs stated that this building prototype was based on the Lawrence Berkeley National Laboratory study titled ''High-Performance Commercial Buildings Project'' from 2003.[13] *Id.*

ASAP, NRDC, and ACEEE commented that DOE should incorporate defrost and performance at lower ambient temperatures in the heating efficiency metric. (ASAP, NRDC, and ACEEE, No. 4 at p. 2) ASAP, NRDC, and ACEEE stated that incorporating defrost would allow the test procedure to better reflect actual heating capacity and efficiency in the field, thereby providing better information to consumers and encouraging manufacturers to develop innovative defrost strategies. *Id.* ASAP, NRDC, and ACEEE also encouraged DOE to incorporate performance at lower ambient temperatures into the metric for heating efficiency. *Id.* SPVHPs typically include back-up electric resistance heating, which is used when the heat pump cannot meet the heating load. ASAP, NRDC, and ACEEE stated that because the test procedure only requires testing SPVHPs at 47 °F outdoor air dry-bulb temperature for heating mode, it does not differentiate the ability of equipment to maintain good heating capacity using the heat pump cycle at low ambient temperatures, as opposed to shutting the heat pump cycle off and switching to electric resistance heating. *Id.* According to ASAP, NRDC, and ACEEE, incorporating performance at lower ambient temperatures in the heating efficiency metric would encourage equipment designs that maintain efficiency performance at low ambient temperatures, which will ultimately benefit consumers. *Id.*

NEEA and NWPCC commented that the frequency of defrost cycles varies between manufacturers and that the defrost cycle typically stays on for approximately 10 minutes. (NEEA and NWPCC, No. 7 at p. 4) NEEA and NWPCC recommended decreasing the efficiency rating by a given increment based on average annual defrost energy use for the default defrost cycle frequency setting. *Id.* NEEA and NWPCC stated that this would likely lead to manufacturers reducing the frequency of their default defrost cycles, which would result in energy savings for building applications that do not need frequent defrost cycles. *Id.*

AHRI and Lennox commented that they respectively estimated that fewer than 30 and 20 percent of SPVUs are heat pumps, and they argued that DOE's proposal to include provisions to measure the average delivered heat and total energy use, including for defrost cycles, during operation in outdoor conditions for which frost forms on the outdoor coil is not necessary for this equipment. (AHRI, No. 5 at p. 9; Lennox, No. 6 at p. 6) AHRI added that the electric heat used during defrost is small in comparison to electric heat use when the heat pump cannot keep up to meet the heating load. (AHRI, No. 5 at p. 9)

DOE notes that AHRI 390–2021 does not include provisions for measuring defrost energy for SPVHPs. Consistent with ANSI/AHRI 390–2003, AHRI 390–2021, and DOE's test procedures for other commercial heat pumps, DOE is not proposing to include provisions for including the defrost energy of SPVHPs. DOE notes that the study the CA IOUs cited only monitored relocatable classrooms within the State of California and does not encompass the different types of SPVU installations or operating conditions. At this time, DOE lacks sufficient information on the number of SPVHP installations by building type and geographical region, as well as information regarding the frequency of operation of defrost cycles or representative low ambient conditions during field use and the annual heating and cooling loads in those installations, which would be needed to determine whether such testing conditions would be appropriate for SPVUs and to develop a metric representing the national average for SPVUs.

Issue 6: DOE requests comment and data on the number of SPVHP installations by building type and geographical region and the annual heating and cooling loads for such buildings. DOE also requests data on the frequency of operation of defrost cycles and representative low ambient conditions for those buildings and installations.

4. Outdoor Air Enthalpy Method

As discussed previously, the current DOE test procedure, which incorporates by reference ANSI/AHRI 390–2003, also references ANSI/ASHRAE 37–1988 for methods of testing SPVUs. Section 7.2 of ANSI/ASHRAE 37–1988 specifies primary and secondary capacity measurements for equipment with cooling capacities less than 135,000 Btu/h. Specifically, the indoor air enthalpy method must be used as the primary method for capacity measurement, and Table 3 of ANSI/ASHRAE 37–1988 specifies the applicable options for selecting a secondary method. The two test methods must agree within 6 percent (*see* Section 10.1.2 of ANSI/ASHRAE 37–1988).

DOE noted in the July 2018 RFI that the outdoor air enthalpy test method is commonly used as the secondary test method for determining capacity for SPVUs. 83 FR 34499, 34502–34503 (July 20, 2018). The outdoor air enthalpy method specified in ANSI/ASHRAE 37–1988 specified the use of an air-side test apparatus that is connected to the unit under test. However, the airflow and operating conditions achieved with the outdoor air-side test apparatus connected may differ from those achieved without the apparatus connected. Therefore, Section 8.5 of ANSI/ASHRAE 37–1988 (which is referenced by ANSI/AHRI 390–2003) specifies testing both with and without the air-side test apparatus connected. *Id.* at 83 FR 34503. ANSI/ASHRAE 37–1988 specifies first conducting a one-hour preliminary test without the outdoor air-side test apparatus connected, followed by a second one-hour test with the outdoor air-side test apparatus connected. *Id.* The second test (with the outdoor air-side test apparatus connected) serves as the official test. *Id.* ANSI/ASHRAE 37–1988 further provides that there must be agreement of the evaporating and condensing temperatures between the two tests for a valid test. *Id.*

DOE further noted in the July 2018 RFI that in a test procedure final rule for CACs/HPs (82 FR 1426 (Jan. 5, 2017)), DOE amended its test procedure requirements for use of the outdoor air enthalpy method as the secondary test method for capacity measurement for CAC/HPs. 83 FR 34499, 34503 (July 20, 2018). DOE's test procedure for CAC/HPs had previously included provisions similar to those in ANSI/ASHRAE 37–

[12] The CA Public Utilities Commission (CPUC) building prototype for relocation classrooms is available as part of the CPUC's Database for Energy Efficiency Resources, available at: *http://www.deeresources.com/.*

[13] Selkowitz, Stephen, *High Performance Commercial Building Systems.* Prepared by the Lawrence Berkeley National Laboratory for the California Energy Commission. LBNL–53538 (October 2003) (Available at: *https://www.osti.gov/servlets/purl/821762*).

1988: The preliminary test was conducted without the outdoor air-side test apparatus connected, and the official test was conducted with the outdoor air-side test apparatus connected, with a requirement to achieve agreement of the evaporating and condensing temperatures between the two tests. For CAC/HPs, DOE determined that testing with the outdoor air-side test apparatus connected introduced more variability to the test results when compared to testing without the apparatus connected, and that test variability could be reduced by shifting to an approach in which the official test is the one without the apparatus connected. *See* 82 FR 1426, 1508–1509 (Jan. 5. 2017). As part of the July 2018 RFI, DOE requested comment on whether modifications to the requirements for using the outdoor air enthalpy method as the secondary method for testing SPVUs (similar to those made for CAC/HPs) would be appropriate, including that the official test be conducted without the outdoor air-side test apparatus connected. 83 FR 34499, 34503 (July 20, 2018).

The CA IOUs commented that the outdoor air enthalpy method should be used as the secondary method for testing SPVUs and agreed that the official test should be conducted without the outdoor air-side test apparatus connected. (CA IOUs, No. 2 at p. 2) AHRI commented that the AHRI 390 committee was reviewing the secondary capacity measurement methods. (AHRI, No. 5 at p. 6) AHRI stated that after that evaluation is complete, it would recommend conducting the official test without the outdoor air-side test apparatus connected. *Id.* Lennox commented that further evaluation of the secondary capacity measurements is needed, but it stated that secondary methods using refrigerant flow require altering the system to place the flowmeter into the refrigerant system and, therefore, could significantly alter performance. (Lennox, No. 6 at p. 5)

Since the time of the July 2018 RFI, AHRI 390–2021 was adopted, and that test method includes provisions in Section E5 consistent with those adopted in the January 2017 CAC/HP TP final rule. More specifically, AHRI 390–2021 requires that the official test be the one in which the outdoor air side test apparatus is not connected. For the same reasons DOE presented in the January 2017 CAC/HP TP final rule and discussed previously, DOE has preliminarily determined that the provisions in AHRI 390–2021 would better represent field use of SPVUs and improve test repeatability and reproducibility. For these reasons, DOE proposes to adopt the capacity measurements specified in Section E5 of AHRI 390–2021, into section 1 of the proposed Appendix G and into section 1 of the proposed Appendix G1. DOE has tentatively determined that this proposal would impose only minimal additional burden to manufacturers and would not require retesting of units because the existing test results contain the data necessary for the capacity measurements as specified in Section E5 of AHRI 390–2021.

F. Configuration of Unit Under Test

1. Specific Components

An ASRAC working group for certain commercial heating, ventilating, and air conditioning (''HVAC'') equipment (''Commercial HVAC Working Group''),[14] which included SPVUs, submitted a term sheet (''Commercial HVAC Term Sheet'') providing the Commercial HVAC Working Group's recommendations. (Docket No. EERE–2013–BT–NOC–0023, No. 52) [15] The Commercial HVAC Working Group recommended that DOE issue guidance under current regulations on how to test certain equipment features when included in a basic model, until such time as the testing of such features can be addressed through a test procedure rulemaking. The Commercial HVAC Term Sheet listed the subject features under the heading ''Equipment Features Requiring Test Procedure Action.'' (*Id* at pp. 3–9) The Commercial HVAC Working Group also recommended that DOE issue an enforcement policy stating that DOE would exclude certain equipment with specified features from Departmental testing, but only when the manufacturer offers for sale at all times a model that is identical in all other features; otherwise, the model with that feature would be eligible for Departmental testing. These features were listed under the heading ''Equipment Features Subject to Enforcement Policy.'' (*Id.* at pp. 9–15)

On January 30, 2015, DOE issued a Commercial HVAC Enforcement Policy addressing the treatment of specific features during Departmental testing of commercial HVAC equipment. (*See www.energy.gov/gc/downloads/commercial-equipment-testing-enforcement-policies.*) The Commercial HVAC Enforcement Policy stated that—for the purposes of assessment testing pursuant to 10 CFR 429.104, verification testing pursuant to 10 CFR 429.70(c)(5), and enforcement testing pursuant to 10 CFR 429.110—DOE would not test a unit with one of the optional features listed for a specified equipment type if a manufacturer distributes in commerce an otherwise identical unit that does not include one of the optional features. (*Id* at p. 1) The objective of the Commercial HVAC Enforcement Policy is to ensure that each basic model has a commercially-available version eligible for DOE testing, meaning that each basic model includes either a model without the optional feature(s) or a model with the optional features that is eligible for testing. *Id.* The features in the Commercial HVAC Enforcement Policy for SPVUs (*Id.* at pp. 3–4) align with the Commercial HVAC Term Sheet's list designated ''Equipment Features Subject to Enforcement Policy.''

AHRI 390–2021 includes Appendix F, ''Unit Configuration for Standard Efficiency Determination—Informative.'' Section F1.3 of AHRI 390–2021 includes a list of features that are optional for testing. Section F1.3 of AHRI 390–2021 further specifies the following general provisions regarding testing of units with optional features:

- If an otherwise identical model (within the basic model) without the feature is not distributed in commerce, conduct tests with the feature according to the individual provisions specified in Section F1.3 of AHRI 390–2021.
- For each optional feature, Section F1.3 of AHRI 390–2021 includes explicit instructions on how to conduct testing for equipment with the optional feature present.

The optional features provisions in AHRI 390–2021 are generally consistent with DOE's Commercial HVAC Enforcement Policy, but the optional features in Section F1.3 of AHRI 390–2021 do not entirely align with the list of features included for SPVUs in the Commercial HVAC Enforcement Policy. The list of optional features in section F1.3 includes five features that are not present in the Commercial HVAC Enforcement Policy for SPVUs: (1) Fresh air dampers; (2) barometric relief dampers; (3) power correction capacitors; (4) hail guards, and (5) UV lights. All five of these features in Section F1.3 are included for SPVUs in the ''Equipment Features Requiring Test Procedure Action'' section of the Commercial HVAC Term Sheet. Therefore, DOE has tentatively concluded that their inclusion as

[14] In 2013, ASRAC formed the Commercial HVAC Working Group to engage in a negotiated rulemaking effort regarding the certification of certain commercial HVAC equipment, including SPVUs. The Commercial HVAC Working Group's recommendations are available at *www.regulations.gov* under Docket No. EERE–2013–BT–NOC–0023–0052.

[15] Available at *www.regulations.gov/document/EERE-2013-BT-NOC-0023-0052*.

optional features for SPVUs is appropriate.

DOE notes that the list of features and provisions in Section F1.3 of Appendix F of AHRI 390–2021 conflates features that can be addressed by testing provisions with features that warrant enforcement relief (*i.e.,* features that, if present on a unit under test, could have a substantive impact on test results and that cannot be disabled or otherwise mitigated). This differentiation was central to the Commercial HVAC Term Sheet, which as noted previously, included separate lists for ''Equipment Features Requiring Test Procedure Action'' and ''Equipment Features Subject to Enforcement Policy,'' and remains central to providing clarity in DOE's regulations. Further, provisions more explicit than included in Section F1.3 of AHRI 390–2021 are warranted to clarify the differences between how specific components must be treated when manufacturers are making representations as opposed to when DOE is conducting enforcement testing.

In order to provide clarity between test procedure provisions (*i.e.,* how to test a specific unit) and certification and enforcement provisions (*e.g.,* which model to test), DOE is not proposing to adopt Appendix F of AHRI 390–2021 and instead is proposing related provisions in 10 CFR 429.43, 10 CFR 429.134, and 10 CFR part 431, subpart F, Appendix G1. Specifically, in Appendix G1, DOE proposes test provisions for specific components, including all of the components listed in Section F1.3 which there is a neutralizing test procedure action (*i.e.,* test procedure provisions specific to the component that are not addressed by general provisions in AHRI 390–2021 that negates the components impact on performance).[16] These provisions would specify how to test a unit with such a component—*i.e.,* for a unit with hail guards, remove hail guards for testing. These proposed test provisions are consistent with the provision in Section F1.3 of AHRI 390–2021, but include revisions for further clarity and specificity (*e.g.,* adding clarifying provisions for how to test units with modular economizers as opposed to units shipped with economizers installed).

Consistent with the Commercial HVAC Term Sheet and the Commercial HVAC Enforcement Policy, DOE is proposing provisions that would allow determination of represented values of a model equipped with a particular component to be based on an individual model distributed in commerce without the component in specific cases. The provisions apply to certain components for which the test provisions for testing a unit with the component may result in differences in ratings compared to testing a unit without the component.[17] For these such components, DOE proposes in 10 CFR 429.43(a)(4) that:

- If a basic model includes only individual models distributed in commerce with a specific component, or does not include any otherwise identical individual models without the specific component, the manufacturer must determine represented values for the basic model based on performance of an individual model with the component present (and consistent with any relevant proposed test procedure provisions in Appendix G1).
- If a basic model includes both individual models distributed in commerce with a specific component and otherwise identical individual models without the specific component, the manufacturer may determine represented values for the basic model based on performance of an individual model either with the component present (and consistent with any relevant proposed test procedure provisions in Appendix G1) or without the component present.

DOE notes that in some cases, individual models may include more than one of the specified components (*i.e.,* both an economizer and dehumidification components) or there may be individual models within a basic model that include various dehumidification components that result in more or less energy use. In these cases, the represented values of performance must be representative of the lowest efficiency found within the basic model.

Also consistent with the Commercial HVAC Term Sheet and the Commercial HVAC Enforcement Policy, DOE is proposing provisions in 10 CFR 429.134(s)(1) regarding how DOE would assess compliance for basic models that include individual models distributed in commerce with air economizers or dehumidification components. Specifically:

- If a basic model includes only individual models distributed in commerce with a specific component, or does not include any otherwise identical individual models without the specific component, DOE may assess compliance for the basic model based on testing an individual model with the component present (and consistent with any relevant proposed test procedure provisions in Appendix G1).
- If a basic model includes both individual models distributed in commerce with a specific component and otherwise identical individual models without the specific component, DOE will assess compliance for the basic model based on testing of an otherwise identical model within the basic model that does not include the component; except if DOE is not able to obtain such a model for testing. In such a case, DOE will assess compliance for the basic model based on testing of an individual model with the specific component present (and consistent with any relevant proposed test procedure provisions in Appendix G1).

Were DOE to adopt the provisions in 10 CFR 429.43, 10 CFR 429.134, and 10 CFR part 431, subpart F, appendix G1 as proposed, DOE would rescind the Commercial HVAC Enforcement Policy to the extent it is applicable to SPVUs. In a separate certification rulemaking, DOE may consider certification reporting requirements such that manufacturers would be required to certify which otherwise identical models are used for making representations of basic models that include individual models with specific components.

Issue 7: DOE requests comment on its proposal regarding specific components in 10 CFR 429.43, 10 CFR 429.134, and 10 CFR part 431, subpart F, Appendices G and G1.

G. Represented Values

1. Multiple Refrigerants

DOE recognizes that some commercial package air conditioning and heating equipment may be sold with more than one refrigerant option (*e.g.,* R–410A or R–407C). Typically, manufacturers specify a single refrigerant in their literature for each unique model, but in its review, DOE has identified at least one commercial package air conditioning and heating equipment manufacturer that provides two refrigerant options under the same model number. The refrigerant chosen

[16] For the following components listed in Section F1.3 of AHRI 390–2021, DOE has tentatively concluded that there is not a neutralizing test procedure action specified in Section F1.3 of AHRI 390–2021 for testing a unit with the component present, and is, therefore, not proposing to include test procedure actions specific to these components in Appendix G1: Powered Exhaust/Powered Return Air Fans and Hot Gas Bypass.

[17] DOE has tentatively concluded that for the following features included in Section F1.3 of AHRI 390–2021, testing a unit with these components in accordance with the proposed test provisions would not result in differences in ratings compared to testing a unit without these components; therefore, DOE is not proposing to include these features in 10 CFR 429.43(a)(4): UV lights, Power Correction Capacitors, Hail Guards, Barometric Relief Dampers, and Fresh Air Dampers.

by the customer in the field installation may impact the energy efficiency of a unit. For this reason, DOE is proposing representation requirements specific for models approved for use with multiple refrigerants. So that the proposals in this NOPR would only require manufacturers to update representations once, DOE proposes to align the compliance date for these representation requirements with the proposed metric change (*i.e.,* these proposals would only be required when certifying to amended standards denominated in terms of IEER, if adopted).

Use of a refrigerant (such as R–407C as compared to R–410A) that requires different hardware (*i.e.,* compressors, heat exchangers, or air moving systems that are not the same or comparably performing) would represent a different basic model, and according to the current CFR, separate representations of energy efficiency are required for each basic model. 10 CFR 429.43(a). On the other hand, some refrigerants (such as R–422D and R–427A) would not require different hardware, and a manufacturer may consider them to be the same basic model, per DOE's current definition for ''basic model at 10 CFR 431.92. In the latter case of an SPVU with multiple refrigerant options that do not require different hardware, DOE proposes that a manufacturer determine the represented values (for example, IEER, COP, and cooling capacity) based on the refrigerant(s)—among all refrigerants listed on the unit's nameplate—that results in the lowest cooling efficiency. These represented values would apply to the basic model with the use of all refrigerants specified by the manufacturer.

Issue 8: DOE requests comment on its proposal regarding representations for SPVU models approved for use with multiple refrigerants.

2. Cooling Capacity

For SPVUs, cooling capacity determines equipment class, which in turn determines the applicable energy conservation standard. 10 CFR 431.97. While cooling capacity is a required represented value for SPVUs, DOE does not currently specify provisions for SPVUs regarding how close the represented value of cooling capacity must be to the tested or alternative energy-efficiency determination method (''AEDM'') simulated cooling capacity, or whether DOE will use measured or certified cooling capacity to determine equipment class for enforcement testing. In contrast, at paragraphs (a)(1)(iv) and (a)(2)(ii) of 10 CFR 429.43 and paragraph (g) of 10 CFR 429.134, DOE specifies such provisions regarding the cooling capacity for air-cooled CUACs. Again, because energy conservation standards for SPVUs are dependent on cooling capacity, inconsistent approaches to the application of cooling capacity between basic models could result in inconsistent determinations of equipment class and, in turn, inconsistent applications of the energy conservation standards.

For these reasons, DOE is proposing to add to its regulations the following provisions regarding cooling capacity for SPVUs: (1) A requirement that the represented cooling capacity be between 95 percent and 100 percent of the tested or AEDM-simulated cooling capacity; and (2) an enforcement provision stating that DOE would use the mean of measured cooling capacity values from testing, rather than the certified cooling capacity, to determine the applicable standards.

First, DOE proposes to require in 10 CFR 429.43(a)(3)(v)(B) that the represented value of cooling capacity must be between 95 percent and 100 percent of the mean of the cooling capacity values measured for the units in the sample (if determined through testing), or between 95 percent and 100 percent of the cooling capacity output simulated by an AEDM. This tolerance would help to ensure that equipment is capable of performing at the cooling capacity for which it is represented to commercial consumers, while also enabling manufacturers to conservatively rate the cooling capacity to allow for minor variations in the capacity measurements from different units tested at different laboratories.

Second, DOE is proposing in its product-specific enforcement provisions at 10 CFR 429.134(s)(1) that the cooling capacity of each tested unit of the basic model will be measured pursuant to the test requirements of part 431 and that the mean of the measurement(s) will be used to determine the applicable standard with which the model must comply.

As discussed in this section, applicable energy conservation standards for SPVUs are dependent on the rated cooling capacity. DOE has tentatively concluded that these proposals would result in more accurate ratings of cooling capacity, and ensure appropriate application of the energy conservation standards, while still providing flexibility for manufacturers to conservatively rate cooling capacity so that they can be confident the equipment is capable of delivering the cooling capacity represented to commercial consumers.

Issue 9: DOE requests comment on its proposals related to represented values and verification testing of cooling capacity for SPVUs.

H. Test Procedure Costs and Impact

As stated, EPCA requires that the test procedures for commercial package air conditioning and heating equipment, which includes SPVUs, be those generally accepted industry testing procedures or rating procedures developed or recognized by AHRI or by ASHRAE, as referenced in ASHRAE Standard 90.1. (42 U.S.C. 6314(a)(4)(A)) Further, if such an industry test procedure is amended, DOE must amend its test procedure to be consistent with the amended industry test procedure, unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that such amended test procedure would not meet the requirements in 42 U.S.C. 6314(a)(2) and (3) related to representative use and test burden. (42 U.S.C. 6314(a)(4)(B))

In this NOPR, DOE proposes to amend the existing test procedure for SPVUs by: (1) Incorporating by reference the updated version of the applicable industry test method, AHRI 390–2021, including the energy efficiency descriptors; (2) adding definitions for ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h'' to clarify which single-phase equipment with cooling capacity less than 65,000 Btu/h are properly classified as SPVU rather than CAC; (3) specifying provisions for specific components; and (4) further specifying the requirements for determination of represented values for cooling capacity and for models approved for use with multiple refrigerants.

DOE has tentatively determined that these proposed amended test procedures would be representative of an average use cycle and would not be unduly burdensome for manufacturers to conduct. Based on review of AHRI 390–2021, DOE expects that the proposed test procedure in Appendix G for measuring EER and COP would not increase testing costs per unit compared to the current DOE test procedure, which DOE estimates to be $3,100 for SPVACs and $3,700 for SPVHPs per unit for third-party lab testing. DOE estimates that the cost for third-party lab testing according to the proposed Appendix G1 for measuring IEER and COP to be $4,900 for SPVACs and $5,500 for SPVHPs per unit.

DOE further notes that manufacturers are not required to perform laboratory testing on all basic models. In

accordance with 10 CFR 429.70 of DOE's regulations, SPVU manufacturers may elect to use AEDMs. An AEDM is a computer modeling or mathematical tool that predicts the performance of non-tested basic models. These computer modeling and mathematical tools, when properly developed, can provide a means to predict the energy usage or efficiency characteristics of a basic model of a given covered product or equipment and reduce the burden and cost associated with testing. DOE estimates the per-manufacturer cost to develop and validate an AEDM for SPVU equipment to be $15,800. DOE estimates an additional cost of approximately $50 per basic model [18] for determining energy efficiency using the validated AEDM.

As discussed in section II of this NOPR, the proposed test procedure provisions regarding IEER would not be mandatory unless and until DOE adopts energy conservation standards that specify IEER as the regulatory metric and compliance with such standards is required. Given that most SPVU manufacturers are AHRI members and that DOE is referencing the prevailing industry test procedure that was established for use in AHRI's certification program (which DOE presumes will be updated to include IEER), DOE expects that manufacturers will already be testing using the IEER test method. Based on this, DOE has tentatively determined that the proposed test procedure amendments would not be expected to increase the testing burden on most SPVU manufacturers. Additionally, DOE has tentatively determined that the test procedure amendments, if finalized, would not require manufacturers to redesign any of the covered equipment, would not require changes to how the equipment is manufactured, and would not impact the utility of the equipment.

Issue 10: DOE requests comment on its understanding of the impact of the test procedure proposals in this NOPR, specifically DOE's initial conclusion that the proposed DOE test procedure amendments, if finalized, would not increase testing burden on SPVU manufacturers, as compared to current industry practice indicated by AHRI 390–2021.

I. Reserved Appendices for Test Procedures for Commercial Air Conditioning and Heating Equipment

DOE proposes to amend its test procedures for SPVUs and to relocate those test procedures to new Appendix G and Appendix G1 to 10 CFR part 431, subpart F. This proposed reorganization of the SPVU test procedures would be consistent with the organization of the test procedures for other covered equipment and covered products. DOE has tentatively concluded that providing the test procedures for specific equipment in a designated appendix would improve the readability of the test procedure. Further, DOE proposes to make the provisions currently in 10 CFR 431.96(c) and (e) specific to SPVUs in 10 CFR part 431, subpart F, Appendices G and G1, thereby eliminating the references to test procedures for other equipment. To provide for future consideration of a similar reorganization for other commercial package air conditioning and heating equipment test procedures, DOE is proposing to reserve Appendices B through F under 10 CFR part 431, subpart F. The reserved appendices are presented to facilitate any future reorganization of the regulations and are not an indication of any substantive changes to the respective test procedures at this time. Any such reorganization of test procedures for the equipment identified in the proposed reserved appendices would be addressed in separate rulemakings.

J. Compliance Dates

EPCA prescribes that, if DOE amends its test procedure for covered commercial package air-conditioning and heating equipment (including SPVUs), 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 360 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6314(d)(1))

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 to amend the test procedures for SPVUs 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 SPVUs. DOE must update the Federal test procedures to be consistent with the updated industry consensus test procedure, unless DOE determines by rule published in the **Federal Register** and supported by clear and convincing evidence, that the industry update would not be representative of an average use cycle or would be unduly burdensome to conduct. (42 U.S.C. 6314(a)(4)(B))

2. Objective of, and Legal Basis for, Rule

EPCA, as amended, requires that the test procedures for commercial package air conditioning and heating equipment, which includes SPVUs, be those generally accepted industry testing procedures or rating procedures developed or recognized by AHRI or by ASHRAE, as referenced in ASHRAE Standard 90.1. (42 U.S.C. 6314(a)(4)(A)) Further, if such an industry test procedure is amended, DOE must amend its test procedure to be consistent with the amended industry test procedure, unless DOE determines,

[18] DOE estimated initial costs to validate an AEDM assuming 80 hours of general time to develop an AEDM based on existing simulation tools and 16 hours to validate two basic models within that AEDM at the cost of an engineering technician wage of $50 per hour plus the cost of third-party physical testing of two units per validation class (as required in 10 CFR 429.70(c)(2)(iv)). DOE estimated the additional per basic model cost to determine efficiency using an AEDM assuming 1 hour per basic model at the cost of an engineering technician wage of $50 per hour.

by rule published in the **Federal Register** and supported by clear and convincing evidence, that such amended test procedure would not meet the requirements in 42 U.S.C. 6314(a)(2) and (3) related to representative use and test burden. (42 U.S.C. 6314(a)(4)(B))

EPCA also requires that, at least once every 7 years, DOE must evaluate test procedures for each type of covered equipment including SPVUs, 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. (42 U.S.C. 614(a)(1)(A))

Once completed, the current rulemaking will satisfy both of these legal requirements of EPCA.

3. Description and Estimate of Small Entities Regulated

DOE uses the Small Business Administration (''SBA'') small business size standards to determine whether manufacturers qualify as ''small businesses,'' which are listed by the North American Industry Classification System (''NAICS'').[19] The SBA considers a business entity to be small business if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121.

SPVU manufacturers, who produce the equipment covered by this rule, are classified under NAICS code 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' In 13 CFR 121.201, the SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category. This employee threshold includes all employees in a business's parent company and any other subsidiaries.

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. The Department conducted a focused inquiry into small business manufacturers of the equipment covered by this rulemaking. DOE used publicly available information to identify potential small businesses that manufacture SPVUs domestically. DOE identified manufacturers using DOE's Compliance Certification Database (''CCD''),[20] the California Energy Commission's Modernized Appliance Efficiency Database System (''MAEDbS''),[21] and prior rulemakings. Additionally, DOE used publicly-available information and subscription-based market research tools (*e.g.,* reports from Dun & Bradstreet [22]). As a result of this inquiry, DOE identified a total of eight companies that are manufacturers or private labelers of SPVUs in the United States. DOE screened out companies that do not meet the definition of a ''small business'' or are foreign-owned and operated. Of these eight SPVU manufacturers or private labelers, DOE identified three potential small businesses.

Two of the three small businesses are original equipment manufacturers (''OEM'') of the SPVUs each small business sells. The third small business is not an OEM of the SPVUs they sell. Instead, it rebrands its SPVU models which are supplied by a different OEM (*i.e.,* making the small business a private labeler). Of the two OEM small businesses, one is a member of AHRI and the other is not a member of AHRI. The private labeler small business is not a member of AHRI.

4. Description and Estimate of Compliance Requirements

DOE assumed each small business would have different potential regulatory costs depending on if they are an OEM and if they are a member of AHRI. DOE assumed all AHRI members, including small businesses, will be testing their SPVU models in accordance with AHRI 390–2021, the industry test procedure DOE is proposing to reference, and using AHRI's certification program, which DOE presumes will be updated to include the IEER metric. Therefore, the proposed test procedure amendments would not add testing burden to SPVU manufacturers that are or will be using the AHRI 390–2021 test procedure for their SPVU models, including one of the identified small businesses.

DOE assumed the small business that is not an OEM of the SPVU models they sell (*i.e.,* the private labeler) does not pay for the testing costs for the rebranded SPVU models they sell because the test performance of the rebranded SPVU models is identical to the SPVU models the OEM sells. Therefore, DOE does not anticipate that any non-OEMs, including this small business, incur any testing burden to sell rebranded SPVU models.

Lastly, while DOE assumed that all SPVU manufacturers will be using the industry test procedure, AHRI 390–2021, DOE estimated the potential testing costs for the small business that is an OEM but is not an AHRI member. This small business would only incur additional testing costs if that small business will not be using the AHRI 390–2021 to test their SPVU models. This one small business manufactures six SPVU basic models.

As previously stated in section III.H of this NOPR, DOE estimated that the cost for third-party lab testing according to the proposed appendix G1 for measuring IEER and COP to be $4,900 for SPVACs and $5,500 for SPVHPs per unit. If SPVU manufacturers conduct physical testing to certify a SPVU basic model, two units are required to be tested per basic model. However, manufacturers are not required to perform laboratory testing on all basic models, as SPVU manufacturers may elect to use AEDMs.[23] An AEDM is a computer modeling or mathematical tool that predicts the performance of non-tested basic models. These computer modeling and mathematical tools, when properly developed, can provide a means to predict the energy usage or efficiency characteristics of a basic model of a given covered product or equipment and reduce the burden and cost associated with testing.

When developing cost estimates, DOE considered the cost to develop an AEDM, the costs to validate the AEDM through physical testing, and the cost per model to determine ratings using the AEDM. DOE estimated the cost to develop and validate an AEDM for SPVUs to be approximately $15,800, which includes physical testing of two models per validation class.[24] Additionally, DOE estimated a cost of approximately $50 per basic model for determining energy efficiency using the validated AEDM. In the case of the single small, non-AHRI member, the estimated cost to rate the remaining four basic models with the AEDM would be

[19] Available at: *www.sba.gov/document/support-table-size-standards.*

[20] DOE's Compliance Certification Database is available at: *www.regulations.doe.gov/ccms* (last accessed September 1, 2021).

[21] California Energy Commission's MAEDbS is available at *cacertappliances.energy.ca.gov/Pages/ApplianceSearch.aspx* (last accessed September 1, 2021).

[22] Dun & Bradstreet reports are available at: *app.dnbhoovers.comI* (last access September 1, 2021).

[23] In accordance with 10 CFR 429.70.

[24] $4,800 (AEDM development and validation costs) + $5,500 (per-unit physical testing costs) × (units required for physical testing per validation class) = $15,800. AEDM development ad validation costs are based on 96 hours of development and testing using an engineering technician wage of $50 per hour. This estimate utilizes the more costly SPVHP testing cost of $5,500 per unit.

$200.[25] Based on these estimates, the small SPVU manufacturer that is an OEM and not a member of AHRI would incur $16,000 to test and rate all six of its SPVU models.

Market research tools report that company's annual revenue to be approximately $1.3 million. The cost to re-rate all model would be approximately 1.2 percent of annual revenue for that small manufacturer.[26]

Issue 11: DOE requests comment on the number of small businesses DOE identified. DOE also requests comment on the potential cost estimates for each small business identified, compared to current industry practice, as indicated by AHRI 390–2021.

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.

6. Significant Alternatives to the Rule

DOE proposes to reduce burden on manufacturers, including small businesses, by allowing AEDMs in lieu of physically testing all basic models. The use of AEDMs is less costly than physical testing for SPVUs. Without AEDMs, the cost for the small, non-AHRI-member to rate all basic models would increase to $66,000.[27]

Additionally, DOE considered alternative test methods and modifications to the AHRI 390–2021 test procedure for SPVUs. However, DOE has tentatively determined that there are no better alternatives than the existing industry test procedures, in terms of both meeting the agency's objectives and reducing burden on manufacturers. Therefore, DOE is proposing to amend the existing DOE test procedure for SPVUs through incorporation by reference of AHRI 390–2021.

Additional compliance flexibilities may be available through other means. Manufacturers subject to DOE's energy efficiency standards may apply to DOE's Office of Hearings and Appeals for exception relief under certain circumstances. Manufacturers should refer to 10 CFR part 1003 for additional details.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of SPVUs 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 SPVUs. (*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

DOE is analyzing this proposed regulation in accordance with the National Environmental Policy Act of 1969 (''NEPA'') and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. 10 CFR part 1021, subpart D, appendix A5. DOE anticipates that this rulemaking qualifies for categorical exclusion A5 because it is an interpretive rulemaking that does not change the environmental effects of the rule and otherwise meets the requirements for application of a categorical exclusion. *See* 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements for 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

[25] $50 (per-unit rating cost) × 4 (remaining units) = $200.

[26] $16,000 (costs) ÷ $1,300,000 (annual revenue) = 1.2% of annual revenue.

[27] $5,500 (per-unit test cost) × 2 (units tested per model) × 6 (number of SPVU models) = $66,000. This estimate utilizes the more costly SPVHP testing cost of $5,500 per unit.

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 *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 SPVUs 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.

The proposed amendments to the Federal test procedure for SPVUs are primarily in response to modifications to the applicable industry consensus test standards (*i.e.,* AHRI 390–2021 and ANSI/ASHRAE 37–2009). 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 it was 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 these test procedures on competition, prior to prescribing a final rule.

M. Description of Materials Incorporated by Reference

In this NOPR, DOE proposes to incorporate by reference the test standard published by AHRI, titled ''Performance Rating of Single Package Vertical Air-Conditioners and Heat Pumps,'' AHRI Standard 390–2021. Specifically, the Federal test procedure proposed in this NOPR would adopt sections 3 (except 3.1, 3.2, 3.5, 3.12, and 3.15), 5 (except section 5.8.5), 6 (except 6.1.1, 6.2, 6.3, 6.4, and 6.5), Appendices A, D, and E of the industry test method. AHRI 390–2021 is an industry-accepted

test procedure for measuring the performance of SPVUs. AHRI Standard 390–2021 is available online at *www.ahrinet.org/search-standards.aspx.*

In this NOPR, DOE also proposes to incorporate by reference the test standard published by ASHRAE, titled ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment,'' ANSI/ASHRAE Standard 37–2009. ANSI/ASHRAE Standard 37–2009 is an industry-accepted test procedure for measuring the performance of electrically driven unitary air-conditioning and heat pump equipment. ANSI/ASHRAE Standard 37–2009 is available on ANSI's website at *https://webstore.ansi.org/RecordDetail.aspx?sku=ANSI%2FASHRAE+Standard+37-2009.*

In this NOPR, DOE also proposes to incorporate by reference the test standard published by ASHRAE, titled ''Standard Methods For Laboratory Airflow Measurement,'' ANSI/ASHRAE Standard 41.2–1987 (RA 92). ANSI/ASHRAE Standard 41.2–1987 (RA 92) is an industry-accepted test procedure for consistent measurement procedures for use in the preparation of other ASHRAE standards. Procedures described are used in testing air-moving, air-handling, and air-distribution equipment and components. ANSI/ASHRAE Standard 41.2–1987 (RA 92) is available on ANSI's website at *https://webstore.ansi.org/Standards/ASHRAE/ANSIASHRAE411987RA92.*

The following standards, which appear in the regulatory text, were previously approved for IBR and no changes are proposed: AHRI 210/240–2008, AHRI 340/360–2007, AHRI 1230–2010, ASHRAE 127–2007, and ISO Standard 13256–1 (1998).

V. Public Participation

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this notice, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar/public meeting. Such persons may submit requests to speak via email to the Appliance and Equipment Standards Program at: *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar/public meeting. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar/public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar/public meeting and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present summaries of comments received before the webinar/public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions posed by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the webinar/public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar/public meeting.

A transcript of the webinar/public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. 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.

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.

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. 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. No telefacsimiles (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 two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

Issue 1: DOE requests comment on its proposal to define ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h'' as subsets of the broader SPVAC and SPVHP equipment category. DOE requests feedback on the proposed characteristics that would distinguish this equipment as SPVUs (*i.e.,* ''weatherized'' or capable of utilizing a maximum of 400 CFM of outdoor air). Additionally, DOE requests comment on the proposed method to validate that a unit is capable of providing 400 CFM of outdoor air.

Issue 2: DOE requests comment on its proposal to adopt the test methods specified in AHRI 390–2021 for calculating IEER for SPVUs.

Issue 3: DOE requests comment and data on ratings under the current EER metric specified in 10 CFR 431.97 and ASHRAE 90.1–2019 based on ANSI/AHRI 390–2003 as compared to ratings using the IEER metric under AHRI 390–2021.

Issue 4: DOE requests comment on its proposal to clarify that COP representations using the ''Low Temperature Operation, Heating'' conditions in Table 3 of AHRI 390–2021 are optional.

Issue 5: DOE welcomes data and information on ESP conditions experienced in field operation of ducted SPVUs.

Issue 6: DOE requests comment and data on the number of SPVHP installations by building type and geographical region and the annual heating and cooling loads for such buildings. DOE also requests data on the frequency of operation of defrost cycles and representative low ambient conditions for those buildings and installations.

Issue 7: DOE requests comment on its proposal regarding specific components in 10 CFR 429.43, 10 CFR 429.134, and 10 CFR part 431, subpart F, appendices G and G1.

Issue 8: DOE requests comment on its proposal regarding representations for SPVU models approved for use with multiple refrigerants.

Issue 9: DOE requests comment on its proposals related to represented values and verification testing of cooling capacity for SPVUs.

Issue 10: DOE requests comment on its understanding of the impact of the test procedure proposals in this NOPR, specifically DOE's initial conclusion that the proposed DOE test procedure amendments, if finalized, would not increase testing burden on SPVU manufacturers, as compared to current industry practice indicated by AHRI 390–2021.

Issue 11: DOE requests comment on the number of small businesses DOE

identified. DOE also requests comment on the potential cost estimates for each small business identified, compared to current industry practice, as indicated by AHRI 390–2021.

DOE also seeks comment on any other matter concerning the proposed test procedures for SPVUs not already addressed by the specific areas identified in this document. DOE particularly seeks information that would ensure that the test procedure measures energy efficiency during a representative average use cycle, as well as information that would help DOE create a procedure that is not unduly burdensome to conduct.

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, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by reference, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on December 28, 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 December 30, 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 431 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. Amend § 429.4 by:
■ a. Revising paragraph (a);
■ b. Redesignating paragraph (c)(2) as paragraph (c)(3);
■ c. Adding new paragraph (c)(2);
■ d. Redesignating paragraphs (d), (e), and (f) as paragraphs (e), (f), and (g); and
■ e. Adding new paragraph (d).

The revisions and additions read as follows.

§ 429.4 Materials incorporated by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, DOE must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–9127, *Buildings@ee.doe.gov, https://www.energy.gov/eere/buildings/building-technologies-office,* and may be obtained from the other sources in this section. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

(c) * * *

(2) AHRI Standard 390–2021, (''AHRI 390–2021''), 2021 Standard for Performance Rating of Single Package Vertical Air-conditioners and Heat Pumps, IBR approved for § 429.134.

* * * * *

(d) *ASHRAE.* The American Society of Heating, Refrigerating and Air-Conditioning Engineers. 180 Technology Parkway NW, Peachtree Corners, GA 30092, (404) 636–8400, *https://www.ashrae.org.*

(1) ANSI/ASHRAE 37–2009, ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment'', ASHRAE approved June 24, 2009. IBR approved for § 429.134.

(2) ANSI/ASHRAE 41.2–1987 (RA 92), ''Standard Methods For Laboratory Airflow Measurement'', ASHRAE approved October 1, 1987. IBR approved for § 429.134.

* * * * *

■ 3. Amend § 429.43 by adding paragraphs (a)(3) and (4) to read as follows:

§ 429.43 Commercial heating, ventilating, air conditioning (HVAC) equipment.

(a) * * *

(3) *Product-specific provisions for determination of represented values.*

(i)–(vi) [Reserved]

(vii) *Single Package Vertical Units.* When certifying to standards in terms of IEER, the following provisions apply.

(A) If a basic model is distributed in commerce and approved for use with multiple refrigerants, a manufacturer must determine all represented values for that basic model (for example, IEER, COP and cooling capacity) based on the refrigerant that results in the lowest cooling efficiency. A refrigerant is considered approved for use if it is listed on the nameplate of the outdoor unit. Per the definition of basic model in 10 CFR 431.92 of this chapter, use of a refrigerant that requires different hardware (*i.e.,* compressors, heat exchangers, or air moving systems that are not the same or comparably performing), would represent a different basic model, and separate representations would be required for each basic model.

(B) The represented value of cooling capacity must be between 95 percent and 100 percent of the mean of the capacities measured for the units in the sample selected as described in paragraph (a)(1)(ii) of this section, or between 95 percent and 100 percent of the net sensible cooling capacity output simulated by the AEDM as described in paragraph (a)(2) of this section.

(C) Represented values must be based on performance (either through testing or by applying an AEDM) of individual models with components and features that are selected in accordance with section 3 of appendix G1 to subpart F of part 431 of this chapter.

(4) *Determination of represented values for individual models with specific components for SPVUs.*

(i) If a manufacturer distributes in commerce individual models with one of the components listed in the following table, determination of represented values is dependent on the selected grouping of individual models into a basic model, as indicated in paragraphs (a)(4)(ii) through (a)(4)(v) of this section. For the purposes of this paragraph, ''otherwise identical'' means differing only in the presence of specific components listed in table 1 to this paragraph (a)(4)(i).

TABLE 1—TO PARAGRAPH (a)(4)(i)

Component	Description
Desiccant Dehumidification Components	An assembly that reduces the moisture content of the supply air through moisture transfer with solid or liquid desiccants.
Air Economizers	An automatic system that enables a cooling system to supply outdoor air to reduce or eliminate the need for mechanical cooling during mid or cold weather.
Ventilation Energy Recovery System (VERS)	An assembly that preconditions outdoor air entering the equipment through direct or indirect thermal and/or moisture exchange with the exhaust air, which is defined as the building air being exhausted to the outside from the equipment.
Steam/Hydronic Heat Coils	Coils used to provide supplemental heating.
Hot Gas Reheat	A heat exchanger located downstream of the indoor coil that heats the Supply Air during cooling operation using high pressure refrigerant in order to increase the ratio of moisture removal to Cooling Capacity provided by the equipment.
Fire/Smoke/Isolation Dampers	A damper assembly including means to open and close the damper mounted at the supply or return duct opening of the equipment.
Powered Exhaust/Powered Return Air Fans	A powered exhaust fan is a fan that transfers directly to the outside a portion of the building air that is returning to the unit, rather than allowing it to recirculate to the indoor coil and back to the building. A powered return fan is a fan that draws building air into the equipment.
Sound Traps/Sound Attenuators	An assembly of structures through which the supply air passes before leaving the equipment or through which the return air from the building passes immediately after entering the equipment for which the sound insertion loss is at least 6 dB for the 125 Hz octave band frequency range.
Hot Gas Bypass	A method to adjust the cooling delivered by the equipment in which some portion of the hot high-pressure refrigerant from the discharge of the compressor(s) is diverted from its normal flow to the outdoor coil and is instead allowed to enter the indoor coil to modulate the capacity of a refrigeration circuit or to prevent evaporator coil freezing.

(ii) If a basic model includes only individual models distributed in commerce without a specific component listed in paragraph (a)(4)(i) of this section, the manufacturer must determine represented values for the basic model based on performance of an individual model distributed in commerce without the component.

(iii) If a basic model includes only individual models distributed in commerce with a specific component listed in paragraph (a)(4)(i) of this section, the manufacturer must determine represented values for the basic model based on performance of an individual model with the component present (and consistent with any component-specific test provisions specified in section 3 of appendix G1 to subpart F of part 431 of this chapter).

(iv) If a basic model includes both individual models distributed in commerce with a specific component listed in paragraph (4)(i) of this section and individual models distributed in commerce without that specific component, and none of the individual models distributed in commerce without the specific component are otherwise identical to any individual model distributed in commerce with the specific component, the manufacturer must consider the performance of individual models with the component present when determining represented values for the basic model (and consistent with any component-specific test provisions specified in section 3 of appendix G1 to subpart F of part 431 of this chapter).

(v) If a basic model includes both individual models distributed in commerce with a specific component listed in paragraph (a)(4)(i) of this section and individual models distributed in commerce without that specific component, and at least one of the individual models distributed in commerce without the specific component is otherwise identical to any given individual model distributed in commerce with the specific component, the manufacturer may determine represented values for the basic model either:

(A) Based on performance of an individual model distributed in commerce without the specific component, or

(B) Based on performance of an individual model with the specific component present (and consistent with any component-specific test provisions specified in section 3 of appendix G1 to subpart F of part 431 of this chapter).

(vi) In any of the cases specified in paragraphs (a)(4)(ii) through (a)(4)(v) of this section, the represented values for a basic model must be determined through either testing (paragraph (a)(1) of this section) or an AEDM (paragraph(a)(2) of this section).

* * * * *

■ 4. Amend § 429.134 by adding paragraph (s) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(s) *Single package vertical air conditioners and heat pumps.* The following provisions apply for assessment and enforcement testing of models subject to standards in terms of IEER.

(1) *Verification of cooling capacity.* The cooling capacity of each tested unit of the basic model will be measured pursuant to the test requirements of appendix G1 to subpart F of part 431 of this chapter. The mean of the measurement(s) will be used to determine the applicable standards for purposes of compliance.

(2) *Specific Components.* For basic models that include individual models distributed in commerce with any of the specific components listed at

§ 429.43(a)(4)(i), the following provisions apply. For the purposes of this paragraph, ''otherwise identical'' means differing only in the presence of specific components listed at § 429.43(a)(4)(i).

(i) If the basic model includes only individual models distributed in commerce with a specific component, or does not include any otherwise identical individual models without the specific component, DOE may assess compliance for the basic model based on testing of an individual model with the component present (and consistent with any component-specific test provisions specified in section 3 of appendix G1 to subpart F of part 431 of this chapter).

(ii) If the basic model includes both individual models distributed in commerce with a specific component and otherwise identical individual models without the specific component, DOE will assess compliance for the basic model based on testing an otherwise identical model within the basic model that does not include the component, unless DOE is not able to obtain an individual model for testing that does not include the component. In such a situation, DOE will assess compliance for the basic model based on testing of an individual model with the specific component present (and consistent with any component-specific test provisions specified in section 3 of appendix G1 to subpart F of part 431 of this chapter).

(3) *Validation of outdoor ventilation airflow rate.* The outdoor ventilation airflow rate in cubic feet per minute (''CFM'') of the basic model will be measured in accordance with ASHRAE 41.2–1987 (incorporated by reference, see § 429.4) and Section 6.4 of ASHRAE 37–2009. All references to the inlet shall be determined to mean the outdoor air inlet.

(i) The outdoor ventilation airflow rate validation shall be conducted at the conditions specified in Table 3 of AHRI 390–2021 (incorporated by reference, see § 429.4), Full Load Standard Rating Capacity Test, Cooling, except for the following:

(A) The outdoor ventilation airflow rate shall be determined at 0 in. H_2O external static pressure with a tolerance of $-0.00/+0.05$ in. H_2O.

(B) Reserved.

(ii) When validating the outdoor ventilation airflow rate, the outdoor air inlet pressure shall be 0.00 in. H_2O, with a tolerance of $-0.00/+0.05$ in. H_2O when measured against the room ambient pressure.

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 5. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 6. Amend § 431.92 by:
■ a. Revising the definitions of ''Single package vertical air conditioner'' and ''Single package vertical heat pump.''
■ b. Adding the definitions of ''Single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''Single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h'' in alphabetical order; and

The additions and revisions read as follows:

§ 431.92 Definitions concerning commercial air conditioners and heat pumps.

* * * * *

Single package vertical air conditioner means:

(1) Air-cooled commercial package air conditioning and heating equipment that—

(i) Is factory-assembled as a single package that—

(A) Has major components that are arranged vertically;

(B) Is an encased combination of cooling and optional heating components; and

(C) Is intended for exterior mounting on, adjacent interior to, or through an outside wall;

(ii) Is powered by a single-or 3-phase current;

(iii) May contain 1 or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and

(iv) Has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse-cycle refrigeration as a heating means; and

(2) Includes single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h, as defined in this section.

Single package vertical heat pump means:

(1) A single package vertical air conditioner that—

(i) Uses reverse-cycle refrigeration as its primary heat source; and—

(ii) May include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas;

(2) Includes single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h, as defined in this section.

Single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h means air-cooled commercial package air conditioning and heating equipment that meets the criteria in paragraphs (1)(i) through (iv) of the definition of a single package vertical air conditioner; that is single-phase; has a cooling capacity less than 65,000 Btu/h, and that:

(1) Is weatherized, determined by a model being denoted for ''Outdoor Use'' or marked as ''Suitable for Outdoor Use'' on the equipment nameplate; or

(2) Is non-weatherized and is a model that has optional ventilation air provisions available. When such ventilation air provisions are present on the unit, the unit must be capable of drawing in and conditioning outdoor air for delivery to the conditioned space at a rate of at least 400 cubic feet per minute, as determined in accordance with § 429.134(s)(3), while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment (as required for submittal to DOE by § 429.43(b)(4)(xi)).

Single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h means air-cooled commercial package air conditioning and heating equipment that meets the criteria in paragraphs (1)(i) through (ii) of the definition of a single package vertical heat pump; that is single-phase; has a cooling capacity less than 65,000 Btu/h, and that:

(1) Is weatherized, determined by a model being denoted for ''Outdoor Use'' or marked as ''Suitable for Outdoor Use'' on the equipment nameplate; or

(2) Is non-weatherized and is a model that has optional ventilation air provisions available. When such ventilation air provisions are present on the unit, the unit must be capable of drawing in and conditioning outdoor air for delivery to the conditioned space at a rate of at least 400 cubic feet per minute, as determined in accordance with § 429.134(s)(3), while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment (as required for submittal to DOE by § 429.43(b)(4)(xii)).

* * * * *

■ 7. Amend § 431.95 by revising paragraphs (a), (b)(5) and (c)(2) to read as follows:

§ 431.95 Materials incorporated by reference.

(a) Certain material is incorporated by reference into this part with the

approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, DOE must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–9127, *Buildings@ee.doe.gov, https://www.energy.gov/eere/buildings/building-technologies-office,* and may be obtained from the other sources in this section. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) * * *

(5) AHRI Standard 390–2021, ''2021 Standard for Performance Rating of Single Package Vertical Air-Conditioners and Heat Pumps,'' dated 2021, (AHRI 390–2021), IBR approved for appendices G and G1 to this subpart.

* * * * *

(c) * * *

(2) ANSI/ASHRAE Standard 37–2009, (''ANSI/ASHRAE 37–2009''), ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment,'' ASHRAE approved June 24, 2009, IBR approved for § 431.96 and appendices A, G, and G1 to this subpart.

* * * * *

■ 8. Amend § 431.96 by revising paragraph (b)(1), table 1 to § 431.96, and paragraph (c) to read as follows:

§ 431.96 Uniform test method for the measurement of energy efficiency of commercial air conditioners and heat pumps.

* * * * *

(b) *Testing and calculations.* (1) Determine the energy efficiency and capacity of each category of covered equipment by conducting the test procedure(s) listed in Table 1 of this paragraph (b) along with any additional testing provisions set forth in paragraphs (c) through (g) of this section and appendices A through G1 to this subpart, that apply to the energy efficiency descriptor for that equipment, category, and cooling capacity. The omitted sections of the test procedures listed in Table 1 must not be used. For equipment with multiple appendices listed in Table 1, consult the notes at the beginning of those appendices to determine the applicable appendix to use for testing.

(2) * * *

TABLE 1 TO PARAGRAPH (b)(2)—TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONERS AND HEAT PUMPS

Equipment type	Category	Cooling capacity	Energy efficiency descriptor	Use tests, conditions, and procedures [1] in	Additional test procedure provisions as indicated in the listed paragraphs of this section
Small Commercial Package Air-Conditioning and Heating Equipment.	Air-Cooled, 3-Phase, AC and HP.	<65,000 Btu/h	SEER and HSPF	AHRI 210/240–2008 (omit section 6.5).	Paragraphs (c) and (e).
	Air-Cooled AC and HP	≥65,000 Btu/h and <135,000 Btu/h.	EER, IEER, and COP	Appendix A to this subpart.	None.
	Water-Cooled and Evaporatively-Cooled AC.	<65,000 Btu/h	EER	AHRI 210/240–2008 (omit section 6.5).	Paragraphs (c) and (e).
		≥65,000 Btu/h and <135,000 Btu/h.	EER	AHRI 340/360–2007 (omit section 6.3).	Paragraphs (c) and (e).
	Water-Source HP	<135,000 Btu/h	EER and COP	ISO Standard 13256–1 (1998).	Paragraph (e).
Large Commercial Package Air-Conditioning and Heating Equipment.	Air-Cooled AC and HP	≥135,000 Btu/h and <240,000 Btu/h.	EER, IEER and COP	Appendix A to this subpart.	None.
	Water-Cooled and Evaporatively-Cooled AC.	≥135,000 Btu/h and <240,000 Btu/h.	EER	AHRI 340/360–2007 (omit section 6.3).	Paragraphs (c) and (e).
Very Large Commercial Package Air-Conditioning and Heating Equipment.	Air-Cooled AC and HP	≥240,000 Btu/h and <760,000 Btu/h.	EER, IEER and COP	Appendix A to this subpart.	None.
	Water-Cooled and Evaporatively-Cooled AC.	≥240,000 Btu/h and <760,000 Btu/h.	EER	AHRI 340/360–2007 (omit section 6.3).	Paragraphs (c) and (e).
Packaged Terminal Air Conditioners and Heat Pumps.	AC and HP	<760,000 Btu/h	EER and COP	Paragraph (g) of this section.	Paragraphs (c), (e), and (g).
Computer Room Air Conditioners.	AC	<65,000 Btu/h	SCOP	ASHRAE 127–2007 (omit section 5.11).	Paragraphs (c) and (e).
		≥65,000 Btu/h and <760,000 Btu/h.	SCOP	ASHRAE 127–2007 (omit section 5.11).	Paragraphs (c) and (e).
Variable Refrigerant Flow Multi-split Systems.	AC	<65,000 Btu/h (3-phase)	SEER	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
		≥65,000 Btu/h and <760,000 Btu/h.	EER	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
Variable Refrigerant Flow Multi-split Systems, Air-cooled.	HP	<65,000 Btu/h (3-phase)	SEER and HSPF	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
		≥65,000 Btu/h and <760,000 Btu/h.	EER and COP	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
Variable Refrigerant Flow Multi-split Systems, Water-source.	HP	<760,000 Btu/h	EER and COP	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps.	AC and HP	<760,000 Btu/h	EER and COP	Appendix G to this subpart [2].	None.
			EER, IEER, and COP	Appendix G1 to this subpart [2].	None.

[1] Incorporated by reference; see § 431.95.

[2] For equipment with multiple appendices listed in Table 1, consult the notes at the beginning of those appendices to determine the applicable appendix to use for testing.

(c) Optional break-in period for tests conducted using AHRI 210/240–2008, AHRI 1230–2010, and ASHRAE 127–2007. Manufacturers may optionally specify a ''break-in'' period, not to exceed 20 hours, to operate the equipment under test prior to conducting the test method specified by AHRI 210/240–2008, AHRI 1230–2010, or ASHRAE 127–2007 (incorporated by reference; see § 431.95). A manufacturer who elects to use an optional compressor break-in period in its certification testing should record this information (including the duration) in the test data underlying the certified ratings that is required to be maintained under 10 CFR 429.71.

* * * * *

Appendix B to Subpart F of Part 431 [Reserved]

■ 9. Add and reserve appendix B to subpart F of part 431.

Appendix C to Subpart F of Part 431 [Reserved]

■ 10. Add and reserve appendix C to subpart F of part 431.

Appendix D to Subpart F of Part 431 [Reserved]

■ 11. Add and reserve appendix D to subpart F of part 431.

Appendix E to Subpart F of Part 431 [Reserved]

■ 12. Add and reserve appendix E to subpart F of part 431.

Appendix F to Subpart F of Part 431 [Reserved]

■ 13. Add and reserve appendix F to subpart F of part 431.

■ 14. Add appendix G to subpart F of part 431 to read as follows:

Appendix G to Subpart F of Part 431—Uniform Test Method for Measuring the Energy Consumption of Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps

Note: Prior to [DATE 360 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] manufacturers must use the results of testing under either this appendix or § 431.96 as it appeared in the 10 CFR parts 200–499 edition revised as of January 1, 2021, to determine compliance with the relevant standard from § 431.97 as that standard appeared in the January 1, 2021 edition of 10 CFR parts 200–499. On or after [*date 360 days after date of publication of the final rule in the* **Federal Register**] manufacturers must use the results of testing generated under this appendix to demonstrate compliance with the relevant standard from § 431.97 as that standard appeared in the January 1, 2021 edition of 10 CFR parts 200–499.

Beginning [DATE 360 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], if manufacturers make voluntary representations with respect to the integrated energy efficiency ratio (IEER) of single packaged vertical air conditioners and single package vertical heat pumps, such representations must be based on testing conducted in accordance with appendix G1 of this subpart.

For any amended standards for single packaged vertical air conditioners and single package vertical heat pumps based on IEER published after January 1, 2021, manufacturers must use the results of testing under appendix G1 to determine compliance. Representations related to energy consumption must be made in accordance with the appropriate appendix that applies (*i.e.,* this appendix or appendix G1) when determining compliance with the relevant standard. Manufacturers may also use appendix G1 to certify compliance with any amended standards prior to the applicable compliance date for those standards.

0. DOE incorporated by reference the entire standard for AHRI 390–2021 and ASHRAE 37–2009 in § 431.95. However, only enumerated provisions of AHRI 390–2021 and ASHRAE 37–2009 apply to this appendix, as follows:

0.1 AHRI 390–2021:

(a) Section 3—Definitions (omitting sections 3.1, 3.2, 3.5, 3.12, and 3.15)
(b) Section 5—Test Requirements (omitting section 5.8.5)
(c) Section 6—Rating Requirements (omitting sections 6.1.1 and 6.2 through 6.5)
(d) Appendix A. ''References—Normative''
(e) Appendix D. ''Indoor and Outdoor Air Condition Measurement—Normative''
(f) Appendix E. ''Method of Testing Single Package Vertical Units—Normative''

0.2 All provisions of ANSI/ASHRAE 37–2009 apply except for the following provisions:

(a) Section 1—Purpose
(b) Section 2—Scope
(c) Section 4—Classifications

1. General.

Determine cooling capacity (Btu/h) and energy efficiency ratio (EER) for all single package vertical air conditioners and heat pumps and coefficient of performance (COP) for all single package vertical heat pumps, in accordance with the specified sections of AHRI 390–2021 ''Performance Rating of Single Package Vertical Air-conditioners And Heat Pumps'' and the specified sections of ANSI/ASHRAE 37–2009 ''Methods of Testing for Rating Electronically Driven Unitary Air-Conditioning and Heat-Pump Equipment''. Only enumerated provisions of AHRI 390–2021 and ANSI/ASHRAE 37–2009 are applicable, as set forth in section 0 of this appendix.

In addition, the instructions in section 2 of this appendix apply to determining EER and COP. In cases where there is a conflict, the language of this appendix takes highest precedence, followed by AHRI 390–2021, followed by ANSI/ASHRAE 37–2009. Any subsequent amendment to a referenced document by a standard-setting organization will not affect the test procedure in this appendix, unless and until the test procedure is amended by DOE. Material is incorporated as it exists on the date of the approval, and a notice of any change in the incorporation will be published in the **Federal Register**.

2. *Test Conditions.* The ''Standard Rating Full Load Capacity Test, Cooling'' conditions for cooling mode tests and ''Standard Rating Full Load Capacity Test, Heating'' conditions for heat pump heating mode tests specified in Table 3 of AHRI 390–2021 shall be used.

2.1 *Optional Representations.* Representations of COP for single package vertical heat pumps made using the ''Low Temperature Operation, Heating'' condition specified in Table 3 of AHRI 390–2021 are optional and are determined according to the applicable provisions in section 1 of this appendix.

■ 15. Add appendix G1 to subpart F of part 431 to read as follows:

Appendix G1 to Subpart F of Part 431—Uniform Test Method for Measuring the Energy Consumption of Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps

Note: Beginning [DATE 360 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], if manufacturers make voluntary representations with respect to the integrated energy efficiency ratio (IEER) of single packaged vertical air conditioners and single package vertical heat pumps, such representations must be based on testing conducted in accordance with this appendix.

Manufacturers must use the results of testing under this appendix to determine compliance with any amended standards for single packaged vertical air conditioners and single package vertical heat pumps based on IEER provided in § 431.97 that are published after January 1, 2021. Representations related to energy consumption must be made in accordance with the appropriate appendix that applies (*i.e.,* appendix G or this appendix) when determining compliance with the relevant standard. Manufacturers may also use this appendix to certify compliance with any amended standards prior to the applicable compliance date for those standards.

0. DOE incorporated by reference the entire standard for AHRI 390–2021 and ASHRAE 37–2009 in § 431.95. However, only enumerated provisions of AHRI 390–2021 and ASHRAE 37–2009 apply to this appendix, as follows:

0.1 AHRI 390–2021:

(a) Section 3—Definitions (omitting sections 3.1, 3.2, 3.5, 3.12, and 3.15)
(b) Section 5—Test Requirements (omitting section 5.8.5)
(c) Section 6—Rating Requirements (omitting sections 6.1.1 and 6.3 through 6.5)
(d) Appendix A. ''References—Normative''
(e) Appendix D. ''Indoor and Outdoor Air Condition Measurement—Normative''
(f) Appendix E. ''Method of Testing Single Package Vertical Units—Normative''

0.2 All provisions of ANSI/ASHRAE 37–2009 apply except for the following provisions:

(a) Section 1—Purpose
(b) Section 2—Scope
(c) Section 4—Classifications

1. General.

Determine cooling capacity (Btu/h) and integrated energy efficiency ratio (IEER) for all single package vertical air conditioners and heat pumps and coefficient of performance (COP) for all single package vertical heat pumps, in accordance with the specified sections of AHRI 390–2021 ''Performance Rating of Single Package Vertical Air-conditioners And Heat Pumps'' and the specified sections of ANSI/ASHRAE 37–2009 ''Methods of Testing for Rating Electronically Driven Unitary Air-Conditioning and Heat-Pump Equipment''. Only enumerated provisions of AHRI 390–2021 and ANSI/ASHRAE 37–2009 are applicable, as set forth in section 0 of this appendix.

In addition, the instructions in section 2 of this appendix apply to determining IEER and COP. In cases where there is a conflict, the language of this appendix takes highest precedence, followed by AHRI 390–2021, followed by ANSI/ASHRAE 37–2009. Any subsequent amendment to a referenced document by a standard-setting organization will not affect the test procedure in this appendix, unless and until the test procedure is amended by DOE. Material is incorporated as it exists on the date of the approval, and a notice of any change in the incorporation will be published in the **Federal Register**.

2. *Test Conditions.* The ''Part-Load Standard Rating Conditions'' conditions for cooling mode tests and ''Standard Rating Full Load Capacity Test, Heating'' conditions for heat pump heating mode tests specified in Table 3 of AHRI 390–2021 shall be used.

2.1 *Optional Representations.* Representations of COP for single package vertical heat pumps made using the ''Low Temperature Operation, Heating'' condition specified in Table 3 of AHRI 390–2021 are optional and are determined according to the applicable provisions in section 1 of this appendix.

3. *Set-Up and Test Provisions for Specific Components.* When testing an SPVU that includes any of the features listed in Table 3.1 of this appendix, test in accordance with the set-up and test provisions specified in Table 3.1.

TABLE 3.1—TEST PROVISIONS FOR SPECIFIC COMPONENTS

Component	Description	Test provisions
Desiccant Dehumidification Components.	An assembly that reduces the moisture content of the supply air through moisture transfer with solid or liquid desiccants.	Disable desiccant dehumidification components for testing.
Air Economizers	An automatic system that enables a cooling system to supply outdoor air to reduce or eliminate the need for mechanical cooling during mid or cold weather.	For any air economizer that is factory-installed, place the economizer in the 100% return position and close and seal the outside air dampers for testing. For any modular air economizer shipped with the unit but not factory-installed, do not install the economizer for testing.
Fresh Air Dampers	An assembly with dampers and means to set the damper position in a closed and one open position to allow air to be drawn into the equipment when the indoor fan is operating.	For any fresh air dampers that are factory-installed, close and seal the dampers for testing. For any modular fresh air dampers shipped with the unit but not factory-installed, do not install the dampers for testing.
Hail Guards	A grille or similar structure mounted to the outside of the unit covering the outdoor coil to protect the coil from hail, flying debris and damage from large objects.	Remove hail guards for testing.
Power Correction Capacitors	A capacitor that increases the power factor measured at the line connection to the equipment.	Remove power correction capacitors for testing.
Ventilation Energy Recovery System (VERS).	An assembly that preconditions outdoor air entering the equipment through direct or indirect thermal and/or moisture exchange with the exhaust air, which is defined as the building air being exhausted to the outside from the equipment.	For any VERS that is factory-installed, place the VERS in the 100% return position and close and seal the outside air dampers and exhaust air dampers for testing, and do not energize any VERS subcomponents (*e.g.,* energy recovery wheel motors). For any VERS module shipped with the unit but not factory-installed, do not install the VERS for testing.
Barometric Relief Dampers	An assembly with dampers and means to automatically set the damper position in a closed position and one or more open positions to allow venting directly to the outside a portion of the building air that is returning to the unit, rather than allowing it to recirculate to the indoor coil and back to the building.	For any barometric relief dampers that are factory-installed, close and seal the dampers for testing. For any modular barometric relief dampers shipped with the unit but not factory-installed, do not install the dampers for testing.
UV Lights	A lighting fixture and lamp mounted so that it shines light on the indoor coil, that emits ultraviolet light to inhibit growth of organisms on the indoor coil surfaces, the condensate drip pan, and/other locations within the equipment.	Turn off UV lights for testing.
Steam/Hydronic Heat Coils	Coils used to provide supplemental heating	Test with steam/hydronic heat coils in place but providing no heat.
Hot Gas Reheat	A heat exchanger located downstream of the indoor coil that heats the Supply Air during cooling operation using high pressure refrigerant in order to increase the ratio of moisture removal to Cooling Capacity provided by the equipment.	De-activate refrigerant reheat coils for testing so as to provide the minimum (none if possible) reheat achievable by the system controls.
Sound Traps/Sound Attenuators.	An assembly of structures through which the Supply Air passes before leaving the equipment or through which the return air from the building passes immediately after entering the equipment for which the sound insertion loss is at least 6 dB for the 125 Hz octave band frequency range.	Removable sound traps/sound attenuators shall be removed for testing. Otherwise, test with sound traps/attenuators in place.

TABLE 3.1—TEST PROVISIONS FOR SPECIFIC COMPONENTS—Continued

Component	Description	Test provisions
Fire/Smoke/Isolation Dampers.	A damper assembly including means to open and close the damper mounted at the supply or return duct opening of the equipment.	For any fire/smoke/isolation dampers that are factory-installed, set the dampers in the fully open position for testing. For any modular fire/smoke/isolation dampers shipped with the unit but not factory-installed, do not install the dampers for testing.

[FR Doc. 2021–28553 Filed 1–13–22; 8:45 am]

BILLING CODE 6450–01–P

Reader Aids

Federal Register

Vol. 87, No. 10

Friday, January 14, 2022

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JANUARY

1–150 3
151–376 4
377–728 5
729–874 6
875–1060 7
1061–1316 10
1317–1656 11
1657–2026 12
2027–2308 13
2309–2522 14

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9704 (Amended by Proc. 10327) 1
9705 (Amended by Proc. 10328) 11
9980 (Amended by Proc. 10328) 11
10315 (Revoked by Proc. 10329) 149
10327 1
10328 11
10329 149
10330 151
10331 869
10332 871
10333 873
Administrative Orders:
Memorandums:
Memorandum of December 27, 2021 27

5 CFR

Proposed Rules:
315 200
432 200
724 736
752 200

6 CFR

27 1317

8 CFR

270 1317
274a 1317
280 1317

9 CFR

93 29

10 CFR

2 ..... 2309, 2310
13 2310
207 1061
218 1061
429 1061
431 1061
490 1061
501 1061
601 1061
820 1061
824 1061
851 1061
1013 1061
1017 1061
1050 1061
Proposed Rules:
Ch. I 2361
429 ..... 890, 1554, 2490
430 ..... 890, 1554
431 ..... 1554, 2490
460 2359

12 CFR

19 1657
109 1657
209 2027
263 2312
337 1065
622 1331
747 377
1083 2314
1209 1659
1217 1659
1250 1659
1411 2031
Proposed Rules:
1102 2079

13 CFR

121 380

14 CFR

25 ..... 1066, 1662
27 1068
39 ..... 29, 382, 385, 1333, 1335, 1338, 1340, 1343, 1346, 1349, 1352, 1664, 1666, 1668, 2316
71 ..... 2032, 2319, 2320, 2322, 2324, 2325, 2327
95 388
97 ..... 153, 156
Proposed Rules:
39 ..... 55, 1083, 1703, 1706, 2085, 2362, 2365, 2368
71 ..... 2088, 2090, 2091, 2370, 2372, 2373, 2375

15 CFR

6 157
15 160
740 1670
772 1670
774 ..... 729, 1670

16 CFR

1 1070
Proposed Rules:
1112 ..... 1014, 1260
1120 891
1260 1014
1262 1260

17 CFR

143 2033
232 391

18 CFR

12 1490
35 2244
250 2036
385 2036

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List December 30, 2021

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1*

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.