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# Contents

**Federal Register**

Vol. 87, No. 28

Thursday, February 10, 2022

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**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.

**10 CFR**

**Proposed Rules:**

430 ..... 7758

**14 CFR**

39 (15 documents) ..... 7679, 7681, 7683, 7685, 7687, 7690, 7692, 7695, 7698, 7701, 7703, 7705, 7708, 7710, 7713

71 ..... 7715

**Proposed Rules:**

39 (4 documents) ... 7765, 7768, 7770, 7774

71 ..... 7776

**15 CFR**

**Proposed Rules:**

Ch. VII ..... 7777

**33 CFR**

Ch. I ..... 7716

Subchapter N ..... 7716

100 ..... 7716

**40 CFR**

49 ..... 7718

52 (3 documents) ... 7722, 7725, 7728

81 ..... 7734

**Proposed Rules:**

52 (4 documents) ... 7779, 7784, 7786, 7788

55 ..... 7790

**42 CFR**

403 ..... 7746

405 ..... 7746

410 ..... 7746

411 ..... 7746

414 ..... 7746

415 ..... 7746

423 ..... 7746

424 ..... 7746

425 ..... 7746

**46 CFR**

10 ..... 7716

11 ..... 7716

15 ..... 7716

107 ..... 7716

**47 CFR**

25 ..... 7748

73 ..... 7748

76 ..... 7748

**49 CFR**

391 ..... 7756

**50 CFR**

679 ..... 7756

# Rules and Regulations

Federal Register
Vol. 87, No. 28
Thursday, February 10, 2022



## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0696; Project Identifier MCAI–2021–00032–T; Amendment 39–21923; AD 2022–03–06]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by reports of loose or disconnected powerplant FIREX interconnection hoses. This AD requires replacing certain existing FIREX hose assemblies with a newly designed FIREX hose assembly, as specified in a Transport Canada Civil Aviation (TCCA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publications listed in this AD as of March 17, 2022.

**ADDRESSES:** For TCCA material incorporated by reference (IBR) in this AD, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* internet *https://tc.canada.ca/en/aviation.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0696.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0696; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

TCCA, which is the aviation authority for Canada, has issued TCCA AD CF–2021–01, dated January 8, 2021 (TCCA AD CF–2021–01) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM published in the **Federal Register** on August 25, 2021 (86 FR 47424). The NPRM was prompted by reports of loose powerplant FIREX interconnection hoses, and in one instance a hose was found disconnected. An investigation by the manufacturer determined that if the instructions for connecting the FIREX hose are not followed properly, hoses can become loose or disconnected. The NPRM proposed to require replacing certain existing FIREX hose assemblies with a newly designed FIREX hose assembly, as specified in TCCA AD CF–2021–01.

The FAA is issuing this AD to address the possibility that fire extinguishing agent may not be effectively applied should a fire occur within a powerplant assembly that has a partially or completely disconnected FIREX hose, which could result in the inability to put out a fire in the engine. See the MCAI for additional background information.

### Discussion of Final Airworthiness Directive

### Comments

The FAA received a comment from Air Line Pilots Association, International, who supported the NPRM without change.

The FAA received an additional comment from Delta Air Lines. The following presents the comment received on the NPRM and the FAA's response.

### Request To Withdraw the Proposed AD

Delta Air Lines (DAL) requested that the FAA withdraw the proposed AD. DAL stated that it had already accomplished the required actions of paragraph (g) of the proposed AD by accomplishing the actions specified in Airbus Canada Limited Partnership Service Bulletin (SB) BD500–262003 Issue 002, dated January 7, 2020.

The FAA does not agree with the request to withdraw this AD. Even though DAL is the only current U.S. operator of the applicable airplanes, the AD must still be issued in case of any future imports of the airplanes.

### Conclusion

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

### Related Service Information Under 1 CFR Part 51

TCCA AD CF–2021–01 describes procedures for replacing certain existing

FIREX hose assemblies on each powerplant with a newly designed FIREX hose assembly with provisions for the installation of safety cables at each end, in order to prevent the hose from becoming loose or disconnected.

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.

**Costs of Compliance**

The FAA estimates that this AD affects 36 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 5 work-hours × $85 per hour = $425 | $13,012 | $13,437 | $483,732 |

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

**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:

**2022–03–06 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.):** Amendment 39–21923; Docket No. FAA–2021–0696; Project Identifier MCAI–2021–00032–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus Canada Limited Partnership (type certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada Civil Aviation (TCCA) AD CF–2021–01, dated January 8, 2021 (TCCA AD CF–2021–01).

**(d) Subject**

Air Transport Association (ATA) of America Code 26, Fire protection.

**(e) Reason**

This AD was prompted by reports of loose or disconnected powerplant FIREX interconnection hoses. The FAA is issuing this AD to address the possibility that fire extinguishing agent may not be effectively applied should a fire occur within a powerplant assembly that has a partially or completely disconnected FIREX hose, which could result in the inability to put out a fire in the engine.

**(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, TCCA AD CF–2021–01.

**(h) Exceptions to TCCA AD CF–2021–01**

(1) Where TCCA AD CF–2021–01 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where TCCA AD CF–2021–01 refers to ''hours air time,'' this AD requires using ''flight hours.''

**(i) No Reporting Requirement**

Although the service information referenced in TCCA AD CF–2021–01 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO 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 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; tax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch,

FAA; or TCCA; or Airbus Canada Limited Partnership's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(k) Related Information**

For more information about this AD, contact Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) Transport Canada Civil Aviation AD CF–2021–01, dated January 8, 2021.

(ii) [Reserved]

(3) For TCCA AD CF–2021–01, contact Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* internet *https://tc.canada.ca/en/aviation.*

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

(5) You may view this material 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 20, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02753 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0944; Project Identifier MCAI–2020–00800–G; Amendment 39–21925; AD 2022–03–08]**

**RIN 2120–AA64**

# Airworthiness Directives; Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (Type Certificate Previously Held by GROB Aircraft AG, Grob Aerospace GmbH i.l., Grob Aerospace GmbH, Burkhart Grob Luft—und Raumfahrt GmbH & Co. KG) Gliders

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (type certificate previously held by GROB Aircraft AG, Grob Aerospace GmbH i.l., Grob Aerospace GmbH, Burkhart Grob Luft—und Raumfahrt GmbH & Co. KG) Model G102 ASTIR CS, G103 TWIN ASTIR, G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III ACRO, and G 103 C TWIN III SL gliders. This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as corrosion on the elevator control pushrod. This AD requires inspecting the elevator control pushrod for water and corrosion and replacing the pushrod if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For service information identified in this final rule, contact Fiberglas-Technik Rudolf Lindner GmbH & Co. KG, Steige 3, D–88487 Walpertshofen, Germany; phone: +49 (0) 7353 22 43; email: *info@LTB-Lindner.com;* website: *https://www.ltb-lindner.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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–2021–0944.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0944; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Model G102 ASTIR CS, G103 TWIN ASTIR, G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III ACRO, and G 103 C TWIN III SL gliders. The NPRM published in the **Federal Register** on October 29, 2021 (86 FR 59903). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2020–0138, dated June 19, 2020 (referred to after this as ''the MCAI''), to address an unsafe condition on Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Model G102 ASTIR CS, G103 TWIN ASTIR, G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III ACRO, and G 103 C TWIN III SL gliders. The MCAI states:

> During a routine inspection, a severely corroded elevator control pushrod was found in the vertical fin on a Grob TWIN ASTIR sailplane. The technical investigation results revealed that water had soaked into the elevator control pushrod, causing the corrosion damage and subsequent considerable weakening of the steel tube pushrod.
>
> This condition, if not detected and corrected, could lead to failure of the elevator control pushrod, possibly resulting in loss of control of the sailplane.
>
> To address this unsafe condition, Fiberglas-Technik R. Lindner GmbH & Co.KG published the [technische mitteilung/service bulletin] TM/SB and [anweisung/

instructions] A/I–G09, at original issue, providing instructions for elevator control pushrod inspection and replacement. Prompted by this development, EASA issued AD 2020–0121 to require a one-time inspection of the elevator control pushrod in the vertical fin and, depending on findings, replacement.

After EASA AD 2020–0121 was issued, it was determined that Grob G 103 ''TWIN II'' sailplanes, and additional Grob G 103 A ''TWIN II ACRO'' sailplanes, are also prone to elevator control pushrod corrosion and Fiberglas-Technik R.Lindner GmbH & Co.KG issued the TM/SB to make the inspection instructions applicable to these sailplane models.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2020–0121, which is superseded, and expands the Applicability.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0944.

**Discussion of Final Airworthiness Directive**

**Comments**

The FAA received no comments on the NPRM or on the determination of the costs.

**Conclusion**

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA reviewed the relevant data 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. This AD is adopted as proposed in the NPRM.

**Related Service Information Under 1 CFR Part 51**

The FAA reviewed Fiberglas-Technik Rudolf Lindner Anweisung/Instructions (A/I–G09), Revision 1, dated May 14, 2020. This service information provides instructions to inspect the elevator control pushrod for water and corrosion, replace the elevator control pushrod if any water or corrosion is found, and apply corrosion prevention if no water and no corrosion 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 **ADDRESSES**.

**Other Related Service Information**

The FAA also reviewed Fiberglas-Technik Rudolf Lindner Service Bulletin (SB–G09), Revision 1, dated May 14, 2020. This service information refers to the instructions in A/I–G09 to inspect and replace the elevator control pushrod on various gliders.

The FAA reviewed Grob TFE Service Bulletin TM 315–34, dated December 8, 1987. This service information provides effectivity, reason, and high-level instructions for inspecting and replacing the elevator control pushrod on certain Model G 103 A TWIN II ACRO gliders.

The FAA reviewed Grob TFE Repair Instructions No. 315–34 for Service Bulletin TM 315–34, dated December 8, 1987. This service information provides more detailed instructions for inspecting and replacing the elevator control pushrod on certain Model G 103 A TWIN II ACRO gliders.

**Differences Between This AD and the MCAI**

The MCAI applies to Model ASTIR CS 77, ASTIR CS Jeans, CLUB ASTIR II, STANDARD ASTIR II, TWIN ASTIR TRAINER, GROB G 103 C ''TWIN III,'' ASTIR CS 77 TOP, ASTIR CS JEANS TOP, and ASTIR CS TOP gliders. This AD does not apply to these model gliders because they do not have an FAA type certificate.

**Costs of Compliance**

The FAA estimates that this AD affects 149 gliders of U.S. registry. The FAA estimates that it would take about 4 work-hours per glider to inspect the elevator control pushrod and require parts costing $100. The average labor rate is $85 per work-hour. Based on these figures, the FAA estimates the cost to inspect the elevator control pushrod on U.S. operators to be $65,560 or $440 per glider.

In addition, the FAA estimates that for gliders with water or corrosion within the elevator control pushrod, replacement would take about 8 work-hours and require parts costing $500. The average labor rate is $85 per work-hour. Based on these figures, the FAA estimates the cost to replace the elevator control pushrod on U.S. operators to be $1,180 per glider.

**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. For the reasons discussed above, I certify 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:

**2022–03–08 Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (Type Certificate Previously Held by GROB Aircraft AG, Grob Aerospace GmbH i.l., Grob Aerospace GmbH, Burkhart Grob Luft—und Raumfahrt GmbH & Co. KG):** Amendment 39–21925; Docket No. FAA–2021–0944; Project Identifier MCAI–2020–00800–G.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the following gliders, all serial numbers, certificated in any category:

(1) Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (type certificate previously held by GROB Aircraft AG, Grob Aerospace GmbH i.l., Grob Aerospace GmbH, Burkhart Grob Luft—und Raumfahrt GmbH & Co. KG, GROB TFE, GROB–WERKE GMBH & CO KG (a division of Burkhart Grob Flugzeugbau)) Model G102 ASTIR CS.

(2) Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (type certificate previously held by GROB Aircraft AG, Grob Aerospace GmbH i.l., Grob Aerospace GmbH, Burkhart Grob Luft—und Raumfahrt GmbH & Co. KG) Model G103 TWIN ASTIR, G103 TWIN II, G103A TWIN II ACRO, G103 C TWIN III ACRO, and G 103 C TWIN III SL.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 2730, Elevator Control System.

**(e) Unsafe Condition**

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as corrosion on the elevator control pushrod. The unsafe condition, if not addressed, could result in failure of the elevator control pushrod and loss of control of the glider.

**(f) Compliance**

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

**(g) Required Actions**

(1) Within 25 hours time in service (TIS) after the effective date of this AD, inspect the elevator control pushrod in the vertical fin for water and corrosion and replace the elevator control pushrod before further flight if there is any water or corrosion in accordance with the Actions and Instructions, paragraph 3, of Fiberglas-Technik Rudolf Lindner Anweisung/Instructions (A/I–G09), Revision 1, dated May 14, 2020.

(2) If no water and no corrosion is detected, before further flight, treat the inside of the elevator control pushrod with corrosion preventative LPS 3 or equivalent.

(3) If required by paragraph (g)(1) of this AD, you must replace the elevator control pushrod before further flight with an elevator control pushrod that has zero hours TIS or with an elevator control pushrod that has passed the inspection in accordance with paragraphs (g)(1) and (2) of this AD.

**(h) Credit for Previous Actions**

You may take credit for the actions required by paragraphs (g)(1) and (2) of this AD if you performed these actions before the effective date of this AD using Fiberglas-Technik Rudolf Lindner Anweisung/Instructions (A/I–G09), dated April 8, 2020.

**(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 certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD and email 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 Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020–0138, dated June 19, 2020, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0944.

**(k) Material Incorporated by Reference**

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

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

(i) Fiberglas-Technik Rudolf Lindner Anweisung/Instructions (A/I–G09), Revision 1, dated May 14, 2020.

**Note 1 to paragraph (k)(2)(i):** This service information contains German to English translation. EASA used the English translation in referencing the document from Fiberglas-Technik Rudolf Lindner. For enforceability purposes, the FAA will cite the service information in English as it appears on the document.

(ii) [Reserved]

(3) For service information identified in this AD, contact Fiberglas-Technik Rudolf Lindner GmbH & Co. KG, Steige 3, D–88487 Walpertshofen, Germany; phone: +49 (0) 7353 22 43; email: *info@LTB-Lindner.com;* website: *https://www.ltb-lindner.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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 20, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02717 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–1012; Project Identifier MCAI–2021–00697–R; Amendment 39–21916; AD 2022–02–19]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Deutschland GmbH (AHD) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. This AD was prompted by a report of restricted collective lever movement caused by entanglement of the emergency flashlight strap with the cargo hook emergency release lever, causing the emergency flashlight to leave its seat. This AD requires replacing each affected emergency flashlight with a serviceable part, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* For Airbus Helicopters Deutschland GmbH (AHD) service information identified in this final rule, contact Airbus Helicopters,

2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* 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. Service information that is IBRed is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1012.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1012; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0149, dated June 21, 2021 (EASA AD 2021–0149), to correct an unsafe condition for Airbus Helicopters Deutschland GmbH (AHD) Model EC135 P1, EC135 P2, EC135 P2+, EC135 P3, EC135 T1, EC135 T2, EC135 T2+, EC135 T3, EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters, all variants, all serial numbers up to 820 inclusive. Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters are not certificated by the FAA and are not included on the U.S. type certificate data sheet (TCDS), except where the TCDS explains that the Model EC635T2+ helicopter having serial number 0858 was converted from Model EC635T2+ to Model EC135T2+. This AD, therefore, does not include Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters, certificated in any category, as identified in EASA 2021–0149. The NPRM published in the **Federal Register** on November 23, 2021 (86 FR 66474). The NPRM was prompted by a report of restricted collective lever movement caused by entanglement of the emergency flashlight strap with the cargo hook emergency release lever, causing the emergency flashlight to leave its seat. The NPRM proposed to require replacing each affected emergency flashlight with a serviceable part, as specified in EASA AD 2021–0149.

The FAA is issuing this AD to address entanglement of the emergency flashlight strap with the cargo hook emergency release lever. See EASA AD 2021–0149 for additional background information.

**Discussion of Final Airworthiness Directive**

**Comments**

The FAA received no comments on the NPRM or on the determination of the costs.

**Conclusion**

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 reviewed the relevant data 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 helicopters. Except for minor editorial changes, including updating the name ''Airbus Helicopters Deutschland GmbH'' to ''Airbus Helicopters Deutschland GmbH (AHD)'' to match its FAA TCDS type certificate holder name, adding the Other Related Service Information section to describe Airbus Helicopters service information, correcting the issuance date of EASA AD 2021–0149 in the Applicability paragraph, and reformatting and updating the Costs of Compliance section, this AD is adopted as proposed in the NPRM.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021–0149 requires replacing each affected emergency flashlight with a serviceable part. EASA AD 2021–0149 also specifies that an affected part can be modified and re-identified into a serviceable part. EASA AD 2021–0149 also prohibits the installation of an affected part.

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

**Other Related Service Information**

The FAA reviewed Airbus Helicopters Alert Service Bulletin ASB EC135–25A–032, Revision 0, dated May 20, 2021. This service information specifies procedures to remove the strap from the emergency flashlight and what part number to write on the flashlight.

**Costs of Compliance**

The FAA estimates that this AD affects 335 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 AD.

Replacing an emergency flashlight takes about 1 work-hour and parts cost about $219 for an estimated cost of $304 per flashlight. Alternatively, modifying an emergency flashlight takes about 1 work-hour for an estimated cost of $85 per flashlight.

**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:

**2022–02–19 Airbus Helicopters Deutschland GmbH (AHD):** Amendment 39–21916; Docket No. FAA–2021–1012; Project Identifier MCAI–2021–00697–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus Helicopters Deutschland GmbH (AHD) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0149, dated June 21, 2021 (EASA 2021–0149).

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 2510, Flight Compartment Equipment.

**(e) Unsafe Condition**

This AD was prompted by a report of restricted collective lever movement. Subsequent inspection determined that the emergency flashlight was stuck under that lever caused by entanglement of the emergency flashlight strap with the cargo hook emergency release lever, causing the emergency flashlight to leave its seat. The FAA is issuing this AD to address entanglement of the emergency flashlight strap with the cargo hook emergency release lever. The unsafe condition, if not addressed, could result in reduced control of the helicopter, resulting in damage to the helicopter and injury to occupants.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0149.

**(h) Exceptions to EASA AD 2021–0149**

(1) Where EASA AD 2021–0149 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0149.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (j) 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**

For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

**(k) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0149, dated June 21, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0149, EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.*

(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. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1012.

(5) You may view this material 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 18, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02752 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0887; Project Identifier MCAI–2021–00045–R; Amendment 39–21910; AD 2022–02–13]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Model EC120B helicopters. This AD was prompted by a report of corrosion found on the external tail boom skin, under the Very High Frequency (VHF) antenna. This AD requires inspecting the tail boom at the VHF antenna attachments and depending on the results, repairing or modifying the tail boom skin, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For EASA material incorporated by reference (IBR) in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* For Airbus

Helicopters service information identified in this final rule, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html*. 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. Service information that is IBRed is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0887.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0887; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Gregory Koenig, Aerospace Engineer, Airframe & Administrative Services Section, Chicago ACO Branch, Compliance & Airworthiness Division, FAA, 2300 E Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7127; email *Gregory.L.Koenig@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0015, dated January 13, 2021 (EASA AD 2021–0015), to correct an unsafe condition for Airbus Helicopters (AH), formerly Eurocopter, Eurocopter France, Model EC 120 B helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model EC120B helicopters. The NPRM published in the **Federal Register** on October 28, 2021 (86 FR 59655). The NPRM was prompted by a report of corrosion found on the external tail boom skin, under the VHF antenna of an EC120B helicopter. The NPRM proposed to require inspecting the tail boom at the VHF antenna attachments and depending on the results, repairing or modifying the tail boom skin, as specified in EASA AD 2021–0015.

The FAA is issuing this AD to detect corrosion in the area of the external tail boom skin under the VHF antenna and prevent degradation of the tail boom structure. The unsafe condition, if not addressed, could result in a possible roll-over during landing. See EASA AD 2021–0015 for additional background information.

**Comments**

The FAA received no comments on the NPRM or on the determination of the costs.

**Conclusion**

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 reviewed the relevant data 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 helicopters.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021–0015 requires a one-time inspection of the VHF antenna attachments to the tail boom and, depending on the results, corrective action or modification of the tail boom.

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 No. EC120–53A017, Revision 1, dated November 26, 2020. This service information specifies procedures for inspecting and modifying the VHF antenna attachments on the tail boom.

The FAA also reviewed Airbus Helicopters Service Bulletin No. EC120–53–018, Revision 0, dated November 26, 2020. This service information specifies procedures for repairing the tail boom if there is any corrosion or a crack at the VHF antenna attachments.

**Differences Between This AD and the EASA AD**

Where the service information referenced in EASA AD 2021–0015 specifies ''to check for corrosion under the VHF antenna base support,'' this AD requires inspecting for corrosion because that action must be accomplished by a mechanic that meets the requirements of 14 CFR part 65 subpart D. Where the service information referenced in EASA AD 2021–0015 specifies to ''make sure that there is no aluminum oxide (white powder),'' ''make sure that there is no pitting corrosion,'' and ''make sure that there are no crack,'' this AD requires inspecting for any aluminum oxide (white powder), pitting corrosion, and cracks instead. Where the service information referenced in EASA AD 2021–0015 specifies discarding parts, this AD requires removing those parts from service instead.

**Costs of Compliance**

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

Inspecting and modifying each tail boom at the VHF attachment takes about 4 work-hours and parts cost about $4,745, for an estimated cost of $5,085 per helicopter and $452,565 for the U.S. fleet.

If required, repairing the VHF antenna attachment at the tail boom takes up to 15 work-hours and parts cost up to $7,812, for an estimated cost of up to $9,087 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:

**2022–02–13 Airbus Helicopters:** Amendment 39–21910; Docket No. FAA–2021–0887; Project Identifier MCAI–2021–00045–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus Helicopters Model EC120B helicopters, certificated in any category.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 5302, Rotorcraft Tail Boom.

**(e) Unsafe Condition**

This AD was prompted by a report of corrosion found on the external tail boom skin of a Model EC120B helicopter under the Very High Frequency antenna. The FAA is issuing this AD to detect corrosion in that area and prevent the degradation of the tail boom structure. The unsafe condition, if not addressed, could result in possible roll-over during landing.

**(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 AD 2021–0015, dated January 13, 2021 (EASA AD 2021–0015).

**(h) Exceptions to EASA AD 2021–0015**

(1) Where EASA AD 2021–0015 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the service information referenced in paragraph (1) of EASA AD 2021–0015 specifies to check for corrosion, including to ''make sure that there is no aluminum oxide (white powder),'' ''make sure that there is no pitting corrosion,'' and ''make sure that there are no crack,'' this AD requires inspecting for any aluminum oxide (white powder), pitting corrosion, and cracks.

(3) Where the service information referenced in EASA AD 2021–0015 specifies discarding parts, this AD requires removing those parts from service.

(4) Where paragraph (4) of EASA AD 2021–0015 requires certain actions prior to the installation of a tail boom on any helicopter, including inspecting the tail boom, for this AD, the requirements of paragraph (h)(2) of this AD also apply to the inspection of the tail boom.

(5) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0015.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021–0015 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) 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 (k) 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.

**(k) Related Information**

For more information about this AD, contact Gregory Koenig, Aerospace Engineer, Airframe & Administrative Services Section, Chicago ACO Branch, Compliance & Airworthiness Division, FAA, 2300 E Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7127; email *Gregory.L.Koenig@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0015, dated January 13, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0015, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.*

(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. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0887.

(5) You may view this material 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 11, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02749 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0964; Project Identifier 2018–SW–051–AD; Amendment 39–21909; AD 2022–02–12]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.a. Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Leonardo S.p.a. Model AB139 and AW139 helicopters. This AD was prompted by the identification of certain parts needing maintenance actions, including life limits and maintenance tasks. This AD requires incorporating into maintenance records requirements (airworthiness limitations), as specified in a European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA)

AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0964.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0964; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0132, dated June 21, 2018 (EASA AD 2018–0132) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Leonardo S.p.A. Model AB139 and AW139 helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Leonardo S.p.A. Model AB139 and AW139 helicopters. The NPRM published in the **Federal Register** on November 12, 2021 (86 FR 62744). The NPRM was prompted by the identification of certain parts needing maintenance actions, including life limits and maintenance tasks. The parts include a certain part-numbered main rotor damper, tail gear box center housing, and tail assembly, the fuselage structure assembly (station (STA) 5700, right-hand (RH)/left-hand (LH) side), and tail structure assembly (tail/rear fuselage attachment fittings). The NPRM proposed to require incorporating into maintenance records requirements (airworthiness limitations), as specified in EASA AD 2018–0132.

The FAA is issuing this AD to address the failure of certain parts, which could result in the loss of control of the helicopter. See EASA AD 2018–0132 for additional background information.

### Discussion of Final Airworthiness Directive

### Comments

The FAA received a comment from one commenter, Bristow Group, who commented on the service information. The following presents the comment received on the NPRM and the FAA's response to the comment.

### Request To Consider Service Information

The commenter stated it would take into consideration that the service information identified in EASA AD 2018–0132 (Leonardo AB139 and AW139 Maintenance Manual (MM), 39–A–AMPI–00–P, Chapter IV, Airworthiness Limitations, Issue 9, dated March 6, 2018, as well as Issue 8) has already been added. The commenter noted the EASA AMPI (*i.e.,* the airworthiness limitations section (ALS) document) is already on Issue 14 and the FAA AMPI is on Issue 13. The FAA infers the commenter is requesting the FAA consider the effect of later revisions of the ALS document on the proposed AD.

The FAA agrees to clarify the effect of later revisions of the ALS document on this AD. This AD mandates a specific revision of the ALS document. Later revisions of the ALS document are not required to be incorporated into maintenance records requirements (airworthiness limitations) for that helicopter unless an AD mandates those revisions. However, this AD also allows operators to incorporate later approved revisions of the ALS document as specified in the Ref. Publications section of EASA AD 2018–0132 without the need for an alternative method of compliance (AMOC). Historically, operators needed an AMOC to use later revisions of an ALS. The FAA has not changed this AD in this regard.

### Conclusion

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 reviewed the relevant data, considered the comment 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 helicopters. 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

EASA AD 2018–0132 requires certain actions and associated thresholds and intervals, including life limits and maintenance tasks. These requirements (airworthiness limitations) include new life limits for a certain part-numbered main rotor damper, tail gear box center housing, and tail assembly; and new maintenance tasks (*e.g.,* inspections for cracking) for the fuselage structure assembly (STA 5700, RH/LH side), and tail structure assembly (tail/rear fuselage attachment fittings).

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.

### ADs Mandating Airworthiness Limitations

The FAA has previously mandated airworthiness limitations by mandating each airworthiness limitation task (*e.g.,* inspections and replacements (life limits)) as an AD requirement or issuing ADs that require revising the ALS of the existing maintenance manual or instructions for continued airworthiness to incorporate new or revised inspections and life limits. This AD, however, requires operators to incorporate into maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your rotorcraft, the requirements (airworthiness limitations) specified in an MCAI AD. The FAA does not intend this as a substantive change. For these ADs, the ALS requirements for operators are the same but are complied with differently. Requiring the incorporation

of the new ALS requirements into the maintenance records, rather than requiring individual ALS tasks (*e.g.,* repetitive inspections and replacements), requires operators to record AD compliance once after updating the maintenance records, rather than after every time the ALS task is completed.

In addition, paragraph (h) of this AD allows operators to incorporate later approved revisions of the ALS document as specified in the Ref. Publications section of EASA AD 2018–0132 without the need for an AMOC.

**Differences Between This AD and the EASA AD**

Paragraph (1) of EASA AD 2018–0132 requires compliance with actions and associated thresholds and intervals, including life limits and maintenance tasks, from the effective date of EASA AD 2018–0132. Paragraph (3) of EASA AD 2018–0132 requires incorporating the actions and associated thresholds and intervals, including life limits and maintenance tasks, into the approved maintenance program within 12 months after the effective date of EASA AD 2018–0132. This AD requires incorporating into maintenance records requirements (airworthiness limitations) within 30 days after the effective date of this AD.

**Costs of Compliance**

The FAA estimates that this AD affects 130 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 AD. Incorporating requirements (airworthiness limitations) into maintenance records would require about 2 work-hours for a cost of $170 per helicopter and a cost of $22,100 for the U.S. fleet.

**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:

**2022–02–12 Leonardo S.p.a.:** Amendment 39–21909; Docket No. FAA–2021–0964; Project Identifier 2018–SW–051–AD.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 5101, Aircraft Structures; and 6300, Main Rotor Drive Systems.

**(e) Unsafe Condition**

This AD was prompted by the identification of certain parts needing maintenance actions, including life limits and maintenance tasks. The FAA is issuing this AD to address the failure of certain parts, which could result in the loss of control of the helicopter.

**(f) Compliance**

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

**(g) Required Action**

Within 30 days after the effective date of this AD, incorporate into maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your rotorcraft, the requirements (airworthiness limitations) specified in paragraph (1) of European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0132, dated June 21, 2018 (EASA AD 2018–0132).

**(h) Provisions for Alternative Requirements (Airworthiness Limitations)**

After the action required by paragraph (g) of this AD has been done, no alternative requirements (airworthiness limitations) are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2018–0132.

**(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) 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**

For more information about this AD, contact Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

**(k) Material Incorporated by Reference**

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

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

(i) European Aviation Safety Agency (EASA) AD 2018–0132, dated June 21, 2018.

(ii) [Reserved]

(3) For EASA AD 2018–0132, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on EASA website at *https://ad.easa.europa.eu.*

(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. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0964.

(5) You may view this material 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 11, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02747 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0694; Project Identifier MCAI–2021–00305–T; Amendment 39–21919; AD 2022–03–02]**

**RIN 2120–AA64**

## Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes. This AD was prompted by reports of a possible hard contact between the #2 top high level sensor (HLS) terminal screw head and the #6 outer wing fuel access panel stiffener flange. This AD requires removing and replacing or reworking the #6 outer wing fuel access panel assembly. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com;* internet *https://dehavilland.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0694.

### Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0694; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–08, dated March 9, 2021 (TCCA AD CF–2021–08) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes, serial numbers 4001 and 4003 through 4628 inclusive. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0694.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes. The NPRM published in the **Federal Register** on August 24, 2021 (86 FR 47258). The NPRM was prompted by reports of a possible hard contact between the #2 top HLS terminal screw head and the #6 outer wing fuel access panel stiffener flange. The NPRM proposed to require removing and replacing or reworking the #6 outer wing fuel access panel assembly. The FAA is issuing this AD to address the possibility of electrical arcing during a lightning strike, which could be a source of ignition inside the fuel tank. See the MCAI for additional background information.

### Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment. The Air Line Pilots Association, International, supported the NPRM.

### Request To Specify the Latest Revision of the Service Information

Horizon Air requested that the specified service information in paragraphs (g)(1) and (2) of the proposed AD be updated to the latest revision: De Havilland Aircraft of Canada Limited Service Bulletin 84–57–35, Revision B, dated June 9, 2021. Horizon Air also requested that De Havilland Aircraft of Canada Limited Service Bulletin 84–57–35, Revision A, dated February 11, 2021, be added to paragraph (i) of the proposed AD in order to give credit for incorporating that revision.

The FAA agrees, De Havilland Aircraft of Canada Limited Service Bulletin 84–57–35, Revision B, dated June 9, 2021, revises a NOTE and steps to include all part numbers of access panel #6. These changes do not affect operators who use previous revisions of the service information to show compliance with this AD. There are no substantive changes to the procedures between Revision B of the service information and Revision A of the service information, which was proposed as required in the NPRM. The FAA has updated this AD as requested.

### Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the change described

previously and minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

**Related Service Information Under 1 CFR Part 51**

De Havilland Aircraft of Canada Limited has issued Service Bulletin 84–57–35, Revision B, dated June 9, 2021. This service information describes procedures for replacing or reworking the #6 outer wing fuel access panel assembly. The rework involves an eddy current or fluorescent liquid penetrant inspection of the rework area for crack indications. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

The FAA estimates that this AD affects 54 airplanes of U.S. registry. For either replacement or repair of the #6 outer wing fuel access panel, depending on the option selected by the operator to comply with this AD, the FAA estimates the following costs:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replacement | Up to 10 work-hours × $85 per hour = Up to $850 | Up to $16,430 | Up to $17,280. |
| Repair | 13 work-hours × $85 per hour = $1,105 | $49 | $1,154. |

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this 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**

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.

**Adoption of 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:

**2022–03–02 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.):** Amendment 39–21919; Docket No. FAA–2021–0694; Project Identifier MCAI–2021–00305–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes, certificated in any category, serial numbers 4001 and 4003 through 4628 inclusive.

**(d) Subject**

Air Transport Association (ATA) of America Code 57, Wings.

**(e) Unsafe Condition**

This AD was prompted by reports of a possible hard contact between the #2 top high level sensor (HLS) terminal screw head and the #6 outer wing fuel access panel stiffener flange. The FAA is issuing this AD to address the possibility of electrical arcing during a lightning strike, which could be a source of ignition inside the fuel tank.

**(f) Compliance**

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

**(g) Required Actions**

Within 8,000 flight hours after the effective date of this AD: Do the actions specified in paragraph (g)(1) or (2) of this AD.

(1) Replace the #6 outer wing fuel access panel assembly in accordance with Section 3.B., Part A, of the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–57–35, Revision B, dated June 9, 2021.

(2) Rework the #6 outer wing fuel access panel assembly, including an eddy current or fluorescent liquid penetrant inspection for crack indications of the rework area, in accordance with Section 3.B., Part B, of the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–57–35, Revision B, dated June 9, 2021. If any crack indication is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j)(2) of this AD.

**(h) Parts Installation Prohibition**

As of the effective date of this AD, no person may install a #6 outer wing fuel access panel assembly, part numbers (P/Ns) 85714233–003/–004 and 85714233–005/–006, on any airplane.

**(i) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using De Havilland Aircraft of Canada Limited Service Bulletin 84–57–35, dated October 1, 2020; or De Havilland Aircraft of Canada Limited Service Bulletin 84–57–35, Revision A, dated February 11, 2021.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(k) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2021–08, dated March 9, 2021, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0694.

(2) For more information about this AD, contact Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov*.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(4) and (5) of this AD.

**(l) Material Incorporated by Reference**

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

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

(i) De Havilland Aircraft of Canada Limited Service Bulletin 84–57–35, Revision B, dated June 9, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com;* internet *https://dehavilland.com.*

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

(5) You may view this 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: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on January 19, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02754 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0960; Project Identifier 2019–CE–021–AD; Amendment 39–21921; AD 2022–03–04]**

**RIN 2120–AA64**

## Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc. and de Havilland, Inc.) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 80–13–10, AD 80–13–12 R1, and AD 2008–03–01, which applied to certain de Havilland (type certificate now held by Viking Air Limited) Model DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes. AD 80–13–10 required repetitively inspecting the main landing gear (MLG) legs for cracks and corrosion. AD 80–13–12 R1 required repetitively inspecting each engine nacelle lower longeron for cracks and buckling. AD 2008–03–01 required incorporating inspections, modifications, and life limits of certain structural components into the aircraft maintenance program. Since the FAA issued those ADs, new and more restrictive airworthiness limitations have been issued for certain structural components. This AD requires incorporating into maintenance records new or revised life limits, modification limits, and inspection or overhaul intervals. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For service information identified in this final rule, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; phone: (North America) (800) 663–8444; fax: (250) 656–0673; email: *technical.support@vikingair.com;* website: *https://www.vikingair.com/support/service-bulletins.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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–2021–0960.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0960; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Aziz Ahmed, Aviation Safety Engineer, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7329; fax: (516) 794–5531; email: *aziz.ahmed@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 80–13–10, Amendment 39–3812 (45 FR 43155, June 26, 1980) (AD 80–13–10); AD 80–13–12 R1, Amendment 39–4135 (46 FR 31251, June 15, 1981) (AD 80–13–12 R1); and AD 2008–03–01, Amendment 39 15350 (73 FR 5729, January 31, 2008)

(AD 2008–03–01). AD 80–13–10 applied to de Havilland (type certificate now held by Viking Air Limited) Model ''DHC–6 type'' airplanes with certain MLG legs and required repetitively inspecting the weld juncture at the Y-joint of the MLG legs for cracks and corrosion. AD 80–13–12 R1 applied to certain serial-numbered de Havilland (now Viking Air Limited) Model ''DHC–6 type'' airplanes with intermediate or high floatation tires, skis, or floats and required repetitively inspecting each engine nacelle lower longeron for cracks and buckling. AD 2008–03–01 applied to all Viking Air Limited Model DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes and required incorporating the inspections, modifications, and life limits (retirement) of certain structural components, as contained in Revision 5 of the DHC–6 Product Support Manual (PSM) 1–6–11, into the aircraft maintenance program. The NPRM published in the **Federal Register** on November 8, 2021 (86 FR 61719).

The NPRM was prompted by Canadian AD CF–2019–02, dated January 9, 2019 (referred to after this as ''the MCAI''), issued by Transport Canada, which is the aviation authority for Canada. The MCAI applies to all Viking Air Limited (formerly de Havilland) Model DHC–6 series 1, DHC–6 series 100, DHC–6 series 110, DHC–6 series 200, DHC–6 series 210, DHC–6 series 300, DHC–6 series 310, DHC–6 series 320, and DHC–6 series 400 airplanes. The MCAI states:

> The airworthiness limitations for DHC–6 aeroplanes are defined and published in the Viking Air Ltd. (Viking) Airframe Airworthiness Limitations Manual, Product Support Manual (PSM) 1–6–11, approved by Transport Canada. The instructions contained in PSM 1–6–11 have been identified as mandatory actions for continued airworthiness. Failure to comply with those instructions could result in an unsafe condition.
>
> Viking Air Ltd. published Revision 9 of PSM 1–6–11 earlier in 2018. Revision 9 of PSM 1–6–11, dated 30 April 2018, includes some new and/or more restrictive limitations than those contained in Revision 5. For the reason described above, this [Transport Canada] AD requires implementation of the actions specified in PSM 1–6–11 Revision 9.
>
> The compliance requirements for several of the tasks in PSM 1–6–11 were previously a range of flight hours and flight cycles. With Revision 9 of PSM 1–6–11, the range-based requirements have been changed to specific flight hours and flight cycle limits. This [Transport Canada] AD provides a phase-in allowance for those limitations so that operators will have the opportunity to schedule the modifications and inspections required by the limitations. The phase-in allowances are intended to mitigate the impact of changing from compliance ranges to compliance limits for aeroplanes that are approaching or have exceeded the limits on the effective date of the [Transport Canada] AD.
>
> Revision 9 of PSM 1–6–11 also includes some airworthiness limitations that were previously contained in service bulletins (SB) or other PSMs. Some of those limitations were mandated by [Transport Canada] ADs, specifically AD CF–80–06, CF–81–07R4 and CF–95–12. Because the affected limitations will now be controlled in PSM 1–6–11, the above mentioned [Transport Canada] ADs are superseded by this [Transport Canada] AD.
>
> The following are new tasks in PSM 1–6–11 Revision 9:
>
> 1. Task 27–007 Replacement of flight control pulleys at Fuselage Station (FS) 270.
>
> 2. Tasks 32–001 and 32–002 Overhaul of main landing gear leg. There is an associated requirement to ensure that each affected part has been assigned a unique serial number.
>
> 3. Task 53–006 Inspection of the skin flange of machined frame at FS 239.
>
> 4. Tasks 54–003 to 54–010 Inspection of nacelle longerons.
>
> 5. Tasks 57–039 to 57–041 Inspection for wing upper skin disbond.
>
> Task 27–004 Replacement of flight control cables after spillage of corrosive materials in PSM 1–6–11 was limited to landplane configurations in previous revisions of PSM 1–6–11 but is now applicable to all configurations.
>
> The intent of the word ''airframe'' in PSM 1–6–11 Revision 9 is to include fuselage, nacelles, struts, interiors, cowlings, fairings, airfoils, landing gear and their controls. The airframe life limitation in PSM 1–6–11 Revision 9 is not intended to apply to components such as those in the fuel, electrical and hydraulic systems that are occasionally transferred from one aeroplane to another and may be salvaged from an aeroplane that is retired from service for use on an in-service aeroplane. PSM 1–6–13 defines current airworthiness limitations for DHC–6 avionics that are not addressed in this [Transport Canada] AD.

Model DHC–6–400 airplanes were type certificated after Transport Canada AD CF–2000–14 was issued and are subject to the same unsafe condition. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0960.

## Discussion of Final Airworthiness Directive

### Comments

The FAA received no comments on the NPRM or on the determination of the costs.

### Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA 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. This AD is adopted as proposed in the NPRM.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed Viking Air Limited DHC–6 Twin Otter PSM 1–6–11, Airframe Airworthiness Limitations Manual, Revision 9, dated April 30, 2018. The service information contains airworthiness limitations for certain structural components. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

### ADs Mandating Airworthiness Limitations

The FAA has previously mandated airworthiness limitations by issuing ADs that require revising the airworthiness limitation section (ALS) of the existing maintenance manual or instructions for continued airworthiness to incorporate new or revised inspections and life limits. This AD, however, requires incorporating new or revised inspections and life limits into the maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2) for your airplane. The FAA does not intend this as a substantive change. Requiring incorporation of the new ALS requirements into the maintenance records, rather than requiring individual repetitive inspections and replacements, allows operators to record AD compliance once after updating the maintenance records, rather than recording compliance after every inspection and part replacement.

### Differences Between This AD and the MCAI

The MCAI applies to Viking Air Limited Model DHC–6 series 110, DHC–6 series 210, DHC–6 series 310, and DHC–6 series 320, and this AD does not because these models do not have an FAA type certificate. Transport Canada Models DHC–6 series 1, DHC–6 series 100, DHC–6 series 200, DHC–6 series 300, and DHC–6 series 400 airplanes correspond to FAA Model DHC–6–1, DHC–6–100, DHC–6–200, DHC–6–300, and DHC–6–400 airplanes, respectively.

### Costs of Compliance

The FAA estimates that this AD affects 33 airplanes of U.S. registry.

The FAA also estimates that it would take about 1 work-hour per airplane to incorporate life limits, modification limits, and inspection or overhaul intervals into maintenance records. The average labor rate is $85 per work-hour.

Based on these figures, the FAA estimates the cost of this AD on U.S. operators to be $2,805 or $85 per airplane.

**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

■ a. Removing Airworthiness Directive 80–13–10, Amendment 39–3812 (45 FR 43155, June 26, 1980); Airworthiness Directive 80–13–12 R1, Amendment 39–4135 (46 FR 31251, June 15, 1981); and Airworthiness Directive 2008–03–01, Amendment 39–15350 (73 FR 5729, January 31, 2008); and

■ b. Adding the following new airworthiness directive:

**2022–03–04 Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc. and de Havilland, Inc.):** Amendment 39–21921; Docket No. FAA–2021–0960; Project Identifier 2019–CE–021–AD.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

This AD replaces the ADs specified in paragraphs (b)(1) through (3) of this AD.

(1) AD 80–13–10, Amendment 39–3812 (45 FR 43155, June 26, 1980).

(2) AD 80–13–12 R1, Amendment 39–4135 (46 FR 31251, June 15, 1981).

(3) AD 2008–03–01 Amendment 39–15350 (73 FR 5729, January 31, 2008).

**(c) Applicability**

This AD applies to Viking Air Limited (type certificate previously held by Bombardier, Inc. and de Havilland, Inc.) Model DHC–6–1, DHC–6–100, DHC–6–200, DHC–6–300, and DHC–6–400 airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 0500, Time Limits.

**(e) Unsafe Condition**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as failure to comply with new and more restrictive airworthiness limitations, including tasks where range-based requirements have been changed to specific hours time-in-service (TIS) and flight cycle limits. The FAA is issuing this AD to prevent loss of structural integrity of certain parts. The unsafe condition, if not addressed, could result in loss of control of the airplane.

**(f) Compliance**

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

**(g) Maintenance and Life Limits**

(1) Within 30 days after the effective date of this AD, incorporate into the maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2) for your airplane the life limits, modification limits, and inspection or overhaul intervals in Viking Air Limited DHC–6 Twin Otter PSM 1–6–11, Airframe Airworthiness Limitations Manual, Revision 9, dated April 30, 2018 (Viking Air Limited PSM 1–6–11, Revision 9).

(2) Before further flight after revising the maintenance records as required by paragraph (g)(1) of this AD, except as allowed under paragraph (h) of this AD, remove from service each part that has reached or exceeded its life limit and modify each part that has reached or exceeded its modification limit.

(3) Before further flight after revising the maintenance records as required by paragraph (g)(1) of this AD, except as allowed under paragraph (h) of this AD, inspect or overhaul each part that has reached or exceeded its inspection or overhaul interval.

**(h) Phase-in Period**

The following phase-in periods are allowed to comply with the initial tasks in Viking Air Limited PSM 1–6–11, Revision 9.

(1) Task 27–007: For any pulley that has been in service for 48 or more months on the effective date of this AD, replace the pulley within 12 months after the effective date of this AD.

(2) Tasks 32–001 and 32–002:

(i) For any main landing gear (MLG) leg that, on the effective date of this AD, has not been marked with a new serial number as specified in Viking DHC–6 Twin Otter Technical Bulletin V6/00063: Within 6 months after the effective date of this AD, inspect and serialize the MLG leg. The absence of a serial number indicates that the initial inspection of the landing gear leg has not previously been accomplished.

(ii) For all other MLG legs, overhaul the MLG leg within 60 months after the last overhaul.

(3) Tasks 57–006, 57–007, 57–010, 57–011, 57–013, and 57–014:

(i) For any wing that on the effective date of this AD has accumulated more than 16,000 hours total TIS or 32,000 total flight cycles but less than 17,000 hours total TIS or less than 34,000 total flight cycles, accomplish the task within 1,000 hours TIS or 2,000 flight cycles, whichever occurs first after the effective date of this AD.

(ii) For any wing that on the effective date of this AD has accumulated 17,000 or more hours total TIS or 34,000 or more total flight cycles, accomplish the task before accumulating 18,000 hours total TIS or 36,000 total flight cycles, or within 60 months after the effective date of this AD, whichever occurs first.

(4) Tasks 57–018, 57–019, 57–022, 57–023, 57–026, 57–027, 57–030, and 57–031:

(i) For any wing that on the effective date of this AD has accumulated more than 11,000 hours total TIS or 22,000 total flight cycles but less than 12,000 hours total TIS or less than 24,000 total flight cycles, accomplish the task within 1,000 hours TIS or 2,000 flight cycles, whichever occurs first after the effective date of this AD.

(ii) For any wing that on the effective date of this AD has accumulated 12,000 or more hours total TIS or 24,000 or more total flight cycles, accomplish the task before accumulating 13,000 hours total TIS or 26,000 total flight cycles or within 60 months after the effective date of this AD, whichever occurs first.

(5) Tasks 57–039 to 57–041 inclusive: For any wing that on the effective date of this AD has more than 20 years since the date of manufacture and has not previously been inspected in accordance with Viking Service Bulletin V6/0018, inspect the wing upper surface within 120 days after the effective date of this AD.

**(i) No Alternative Actions or Intervals**

After the maintenance records have been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) 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**

(1) For more information about this AD, contact Aziz Ahmed, Aviation Safety Engineer, New York ACO Branch, FAA,1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7329; fax: (516) 794–5531; email: *aziz.ahmed@faa.gov.*

(2) Refer to Transport Canada AD CF–2019–02, dated January 9, 2019, for more information. You may examine the Transport Canada AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0960.

**(l) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference 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) Viking Air Limited DHC–6 Twin Otter PSM 1–6–11, Airframe Airworthiness Limitations Manual, Revision 9, dated April 30, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; phone: (North America) (800) 663–8444; fax: (250) 656–0673; email: *technical.support@vikingair.com;* website: *https://www.vikingair.com/support/service-bulletins.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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 20, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02715 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–1181; Project Identifier MCAI–2021–00562–R; Amendment 39–21901; AD 2022–02–04]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model AS350B, AS350B2, AS350B3, and AS350BA helicopters. This AD was prompted by a report that a modification of the electrical wiring of the hydraulic system was wrongly embodied on certain helicopters, and a wiring non-conformity caused the solenoid of the tail rotor (TR) load compensator to de-energize when the ''HYD'' cut-off switch was activated. This AD requires installing a placard in the cockpit, in full view of the pilots; a functional check of the main rotor (MR) and TR servo actuator solenoids, and corrective actions (modification) if necessary; a modification (unless already done); and, after corrective actions or modification, optional removal of the placard, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective February 25, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 25, 2022.

The FAA must receive comments on this AD by March 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 material incorporated by reference (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 this 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. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1181.

**Examining the AD Docket**

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1181; 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 AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7323; email: *Darren.Gassetto@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2021–0123–E, dated May 7, 2021 (EASA AD 2021–0123–E) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Helicopters Model AS350B, AS350B2, AS350B3, and AS350BA helicopters.

This AD was prompted by a report that a modification of the electrical wiring of the hydraulic system was wrongly embodied on certain helicopters, and a wiring non-conformity caused the solenoid of the TR load compensator to de-energize when the ''HYD'' cut-off switch was activated. The FAA is issuing this AD to address the unsafe condition, which if not corrected, could lead to loss of hydraulic power in TR control during application of the emergency procedure for loss of MR hydraulic, or during hydraulic off training when the ''HYD'' cut-off switch is activated, possibly resulting in loss of control of the helicopter. See the MCAI for additional background information.

**Related IBR Material Under 1 CFR Part 51**

EASA AD 2021–0123–E specifies procedures for installing a placard in the cockpit, in full view of the pilots; a functional check of the MR and TR servo actuator solenoids, and corrective actions (modification) if necessary; a modification (unless already done); and, after corrective actions or modification, optional removal of the placard. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination**

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD after evaluating all pertinent information and determining that the unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Requirements of This AD**

This AD requires accomplishing the actions specified in EASA AD 2021–0123–E, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities to use this process. As a result, EASA AD 2021–0123–E will be incorporated by reference in the FAA final rule. This AD would, therefore, require compliance with EASA AD 2021–0123–E in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD 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 the EASA AD. Service information specified in EASA AD 2021–0123–E that is required for compliance with EASA AD 2021–0123–E is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1181.

**Justification for Immediate Adoption and Determination of the Effective Date**

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reasons, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1181; Project Identifier MCAI–2021–00562–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the AD, 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 AD 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 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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7323; email: *Darren.Gassetto@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.

**Regulatory Flexibility Act (RFA)**

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

**Costs of Compliance**

Currently, there are no affected U.S.-registered helicopters. If an affected helicopter is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Install Placard | 1 work-hour × $85 per hour = $85 | $0 | $85 |
| Functional Check | 1 work-hour × $85 per hour = $85 | 0 | 85 |
| Modification | 2 work-hours × $85 per hour = $170 | 500 | 670 |

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

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Modification | 2 work-hours × $85 per hour = $170 | $500 | $670 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed above, I certify this regulation:

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

(2) Will not affect intrastate aviation in Alaska.

**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:

**2022–02–04 Airbus Helicopters:** Amendment 39–21901; Docket No. FAA–2021–1181; Project Identifier MCAI–2021–00562–R.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective February 25, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus Helicopters Model AS350B, AS350B2, AS350B3, and AS350BA helicopters, certificated in any category, serial numbers 1241, 1525, 1601, 1708, 1825, 1910, 1973, 2056, 2072, 2361, 2394, 3170, 3223, 3479, 3789, 9005, 9010, and 9035.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 2997, Hydraulic Power System Wiring.

**(e) Unsafe Condition**

This AD was prompted by a report that a modification of the electrical wiring of the hydraulic system was wrongly embodied on certain helicopters, and a wiring non-conformity caused the solenoid of the tail rotor (TR) load compensator to de-energize when the ''HYD'' cut-off switch was activated. The FAA is issuing this AD to address the unsafe condition, which if not corrected, could lead to loss of hydraulic power in TR control during application of the emergency procedure for loss of main rotor (MR) hydraulic, or during hydraulic off training when the ''HYD'' cut-off switch is activated, possibly resulting in loss of 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) Emergency AD 2021–0123–E, dated May 7, 2021 (EASA AD 2021–0123–E).

**(h) Exceptions to EASA AD 2021–0123–E**

(1) Where EASA AD 2021–0123–E refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0123–E does not apply to this AD.

(3) Where EASA AD 2021–0123–E refers to flight hours (FH), this AD requires using hours time-in-service.

(4) Where Paragraph (1) of EASA AD 2021–0123–E specifies ''do not perform any training of in-flight hydraulic off as specified in FMS SUP.7,'' this AD requires installing a placard in the cockpit, in full view of the pilots, with the specific statement ''Do not perform any training of in-flight hydraulic off as specified in FMS SUP.7.''

(5) Where EASA AD 2021–0123–E refers to ''discrepancies,'' for the purposes of this AD the definition of ''discrepancies'' is failure of the functional check.

(6) Where the service information referenced in EASA AD 2021–0123–E specifies to scrap certain wires, this AD requires removing those wires from service.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021–0123–E specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) 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 (k) 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.

**(k) Related Information**

For more information about this AD, contact Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7323; email: *Darren.Gassetto@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) Emergency AD 2021–0123–E, dated May 7, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0123–E, 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 this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1181.

(5) You may view this material 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 6, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02759 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–1184; Project Identifier MCAI–2021–00573–R; Amendment 39–21905; AD 2022–02–08]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.a. Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Leonardo S.p.a. Model AB412 and AB412 EP helicopters. This AD was prompted by a report that certain oil and fuel check valves are susceptible to cracking. This AD requires determining whether the affected oil and fuel check valves are installed, visually inspecting the oil and fuel check valves for any crack, and depending on the inspection results, removing certain parts from service. This AD also requires removing affected parts from service and installing serviceable parts, and prohibits the installation of affected parts as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective February 25, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 25, 2022.

The FAA must receive comments on this AD by March 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 incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR 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 FAA–2021–1184.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1184; 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 AD, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0126, dated May 10, 2021 (EASA AD 2021–0126) to correct an unsafe condition for all serial-numbered Leonardo S.p.a. (AgustaWestland S.p.A., formerly Agusta S.p.A., Agusta un'azienda di Finmeccanica S.p.A., Costruzioni Aeronautiche Giovanni Agusta) Model AB212, AB412, and AB412EP helicopters.

EASA AD 2021–0126 was prompted by a report that due to the application of an incorrect torque level during the assembly process, certain oil and fuel check valves are susceptible to cracking, which may lead to fuel or oil leakage. The FAA is issuing this AD to detect cracks and prevent a lack of engine lubrication, fuel or oil leakage, and loss of fuel supply to the engine, possibly resulting in an engine in-flight shut-down or fire and subsequent loss of control of the helicopter. See EASA AD 2021–0126 for additional background information.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021–0126 specifies procedures for identification and inspection of the oil check valve part number (P/N) 209–062–520–1 and fuel check valve P/N 209–062–607–1, manufactured by Circor Aerospace which exceed certain dimensions, except those which have had the correct torque level applied. For certain helicopters, EASA AD 2021–0126 specifies procedures for visually inspecting the oil and fuel check valves for fuel leaks and cracks at intervals not to exceed 25 flight hours or 3 months, whichever occurs first, and depending on the inspection results, replacing the affected parts with serviceable parts. For certain helicopters EASA AD 2021–0126 also requires replacing each affected part with a serviceable part, which is considered a terminating action for the recurring inspections. The ''Reason'' section of EASA AD 2021–0126 requires removing certain parts from service. Although the ''Required Action(s) and Compliance Time(s)'' section of EASA AD 2021–0126 does not specifically state that affected parts should be removed from service, for clarification, EASA AD 2021–0126 requires the removal from service of the affected parts as defined in EASA AD 2021–0126. EASA AD 2021–0126 also prohibits installing an 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 Leonardo Helicopters Alert Service Bulletin No. 412–166, dated March 30, 2021, which specifies procedures to identify and inspect the fuel check valve P/N 209–062–607–1. The FAA also reviewed Leonardo Helicopters Alert Service Bulletin No. 412–167, dated March 30, 2021, which specifies procedures to identify and inspect the oil check valve P/N 209–062–520–1.

**FAA's Determination**

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in EASA AD 2021–0126 referenced above. The FAA is issuing this AD after evaluating all pertinent information and determining that the unsafe condition exists and is likely to exist or develop on other products of these same type designs.

**Requirements of This AD**

This AD requires accomplishing the actions specified in EASA AD 2021–0126, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and EASA AD 2021–0126.''

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities to use this process. As a result, EASA AD 2021–0126 is incorporated by reference in this AD. This AD, therefore, requires compliance with EASA AD 2021–0126 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD 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 the EASA AD. Service information specified in EASA AD 2021–0126 that is required for compliance with EASA AD 2021–0126 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1184.

**Differences Between This AD and EASA AD 2021–0126**

EASA AD 2021–0126 applies to all serial-numbered Model AB212, AB412 and AB412EP helicopters, whereas this AD only applies to Model AB412 and AB412 EP helicopters. This AD does not apply to Model AB212 helicopters because that model is not FAA type-certificated. Service information referenced in EASA AD 2021–0126 specifies sending compliance forms to the manufacturer; this AD does not.

**Justification for Immediate Adoption and Determination of the Effective Date**

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reasons, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1184; Project Identifier MCAI–2021–00573–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the AD, 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 AD 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 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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Regulatory Flexibility Act (RFA)**

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

**Costs of Compliance**

There are no costs of compliance with this AD because there are no helicopters with these type certificates on the U.S. Registry.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed above, I certify this regulation:

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

(2) Will not affect intrastate aviation in Alaska.

**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:

**2022–02–08 Leonardo S.p.a.:** Amendment 39–21905; Docket No. FAA–2021–1184; Project Identifier MCAI–2021–00573–R.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective February 25, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Leonardo S.p.a. Model AB412 and AB412 EP helicopters, certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC) Code: 7320, Fuel Controlling system.

**(e) Unsafe Condition**

This AD was prompted by a report that certain oil and fuel check valves are susceptible to cracking. The FAA is issuing this AD to detect cracks and prevent a lack of engine lubrication, fuel or oil leakage, and loss of fuel supply to the engine, possibly resulting in an engine in-flight shut-down or fire and subsequent loss of 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 2021–0126, dated May 10, 2021 (EASA AD 2021–0126).

**(h) Exceptions to EASA AD 2021–0126**

(1) Where EASA AD 2021–0126 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0126 does not apply to this AD.

(3) Where EASA AD 2021–0126 refers to flight hours (FH), this AD requires using hours time-in-service (TIS).

(4) Where paragraph (1) of EASA AD 2021–0126 specifies ''inspect the helicopter in accordance with the instructions of Part I of the applicable ASB to determine if the helicopter is Group 1 or Group 2,'' for this AD replace ''in accordance with the instructions of Part I of the applicable ASB'' with ''in accordance with the Accomplishment Instructions, Part I, paragraphs 2. through 3.2 of the of the applicable ASB.''

(5) Where paragraph (2) of EASA AD 2021–0126 specifies ''inspect each affected part in accordance with the instructions of Part II of the applicable ASB,'' for this AD replace ''in accordance with the instructions of Part II of the applicable ASB'' with ''in accordance with the Accomplishment Instructions, Part II, paragraphs 3. and 3.1 of the applicable ASB.''

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021–0078 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 (if the operator elects to do so), 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) 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**

For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

**(m) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0126, dated May 10, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0126, 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 find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1184.

(5) You may view this material 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 7, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02760 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–1007; Project Identifier MCAI–2021–00324–R; Amendment 39–21917; AD 2022–02–20]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 C–2 and MBB–BK 117 D–2 helicopters. This AD was prompted by report that a collective bellcrank-K was found incorrectly installed on a helicopter. This AD requires inspecting the collective bellcrank-K to determine if it is correctly installed and has a correct position marking and, depending on the findings, applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also allows installation of an affected collective bellcrank-K, provided certain instructions are followed. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For EASA material incorporated by reference (IBR) in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1007.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1007; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0074, dated March 15, 2021 (EASA AD 2021–0074), to correct an unsafe condition for all Airbus Helicopters Deutschland GmbH (AHD) (formerly Eurocopter Deutschland GmbH; and Airbus Helicopters Inc., formerly American Eurocopter LLC) Model MBB–BK117 C–2 and MBB–BK117 D–2 helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2 and MBB–BK 117 D–2 helicopters. The NPRM published in the **Federal Register** on November 26, 2021 (86 FR 67364). The NPRM was prompted by a report that a collective bellcrank-K (affected part) was found incorrectly installed on a helicopter. Subsequent investigations revealed that the affected part was an in-service replacement, and that the position marking on that part was incorrect. The NPRM proposed to require inspecting the collective bellcrank-K to determine if it is correctly installed and has a correct position marking and, depending on the findings, applicable corrective actions, as specified in EASA AD 2021–0074. The NPRM also proposed to allow installation of an affected collective bellcrank-K, provided certain instructions are followed.

The FAA is issuing this AD to address incorrect installation of a collective bellcrank-K, which could lead to unwanted collective input, resulting in reduced control of the helicopter. See EASA AD 2021–0074 for additional background information.

**Discussion of Final Airworthiness Directive**

**Comments**

The FAA received no comments on the NPRM or on the determination of the costs.

**Conclusion**

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 reviewed the relevant data 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 helicopters. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021–0074 requires a one-time inspection of an affected part for correct installation by measuring the distance between the front edge of the bearing block and the front edge of the affected part, and for correct application of position markings, and, depending on the findings, accomplishment of applicable corrective actions. If an affected part is incorrectly installed, the corrective actions include inspecting for signs of chafing on the bearing block, the control lever, the forked lever, the sliding sleeve, and the bearing ring, replacing any parts that have signs of chafing, and installing a serviceable bellcrank-K with an applied position marking. If an affected part is correctly installed but the position marking is not correct, the corrective actions include re-working the affected part or replacing the affected part with a serviceable part that has an applied position marking. EASA AD 2021–0074 also allows installation of an affected part, provided certain instructions are followed.

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.

**Costs of Compliance**

The FAA estimates that this AD affects 140 helicopters of U.S. Registry. The FAA estimates the following costs to comply with this AD.

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection for correct installation and position marking. | 0.50 work-hour × $85 per hour = $42.50 ..... | $0 | $42.50 | $5,950 |

The FAA estimates the following costs to do any necessary replacements or rework that would be required based on the results of the inspection. The agency has no way of determining the number of helicopters that might need this replacement or rework:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Replace collective bellcrank-K ..... | 8 work-hours × $85 per hour = $680 ..... | $4,018 | $4,698 |
| Rework collective bellcrank-K ..... | 2 work-hours × $85 per hour = $170 ..... | 0 | 170 |

**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:

**2022–02–20 Airbus Helicopters Deutschland GmbH (AHD):** Amendment

39–21917; Docket No. FAA–2021–1007; Project Identifier MCAI–2021–00324–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 C–2 and MBB–BK 117 D–2 helicopters, certificated in any category.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by a report that a collective bellcrank-K (affected part) was found incorrectly installed on a helicopter. Subsequent investigations found that the affected part was an in-service replacement, and that the position marking on that part was incorrect. The FAA is issuing this AD to address incorrect installation of a collective bellcrank-K, which could lead to unwanted collective input, resulting in 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 2021–0074, dated March 15, 2021 (EASA AD 2021–0074).

**(h) Exceptions to EASA AD 2021–0074**

(1) Where EASA AD 2021–0074 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2021–0074 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where the service information referenced in EASA AD 2021–0074 specifies discarding a part, this AD requires removing that part from service.

(4) Where the service information referenced in EASA AD 2021–0074 specifies contacting Airbus Helicopters for instructions to rework a bellcrank-K, the rework must be accomplished using 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.

(5) Where the service information referenced in EASA AD 2021–0074 specifies to ''forecast the compliance time of Part IV and schedule the accomplishment accordingly,'' for clarification, this AD requires doing the correction of the position marking of the bellcrank-K at the time specified in paragraph (3) of EASA AD 2021–0074.

(6) Where the service information referenced in EASA AD 2021–0074 specifies contacting Airbus Helicopters if there is mechanical damage or corrosion on the bushings of the bellcrank assembly, this AD does not require that action.

(7) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0074.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021–0074 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) 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 (k) 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.

**(k) Related Information**

For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0074, dated March 15, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0074, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.*

(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. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1007.

(5) You may view this material 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 18, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02757 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–1014; Project Identifier MCAI–2021–00428–T; Amendment 39–21928; AD 2022–03–11]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc., Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Bombardier, Inc., Model BD–100–1A10 airplanes. This AD was prompted by a report that the design of the spoiler control system causes certain engine indication and crew alerting system (EICAS) messages to be posted intermittently and repetitively during flight and on the ground, and flightcrews must action the appropriate checklist each time these messages appear. This AD requires revising the Non-Normal Procedures section of the existing airplane flight manual (AFM) associated with the spoiler electronic control unit (SECU) EICAS messages. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 17, 2022.

**ADDRESSES:** For service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For

information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1014.

**Examining the AD Docket**

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1014; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–14, dated April 7, 2021 (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Bombardier, Inc., Model BD–100–1A10 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1014.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bombardier, Inc., Model BD–100–1A10 airplanes. The NPRM published in the **Federal Register** on November 26, 2021 (86 FR 67362). The NPRM was prompted by a report that the design of the spoiler control system causes certain EICAS messages to be posted intermittently and repetitively during flight and on the ground, and flightcrews must action the appropriate checklist each time these messages appear. The NPRM proposed to require revising the Non-Normal Procedures section of the existing AFM associated with the SECU EICAS messages. The FAA is issuing this AD to address intermittent and repetitive messaging, which increases overall workload and introduces a risk that flightcrews could become desensitized over time to the messages. This could result in the required checklist not being carried out or completed, and could adversely affect the airplane's continued safe flight and landing. See the MCAI for additional background information.

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

**Conclusion**

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Related Service Information Under 1 CFR Part 51**

Bombardier has issued the following AFM procedures, which include a Caution and a Note to the SPOILERS FAULT (C) Non-Normal Procedures, to reinforce the importance of completing the procedure in its entirety each time the message appears.

- Section 05–23, Flight Controls, of Chapter 05, Non-Normal Procedures, of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, Revision 61, dated September 25, 2020. (For obtaining this section of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I).
- Section 05–23, Flight Controls, of Chapter 05, Non-Normal Procedures, of the Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM, Revision 27, dated September 25, 2020.

These documents are distinct since they apply to different airplane configurations.

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

**Costs of Compliance**

The FAA estimates that this AD affects 654 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 1 work-hour × $85 per hour = $85 | $0 | $85 | $55,590 |

**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:

**2022–03–11 Bombardier, Inc.:** Amendment 39–21928; Docket No. FAA–2021–1014; Project Identifier MCAI–2021–00428–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Bombardier, Inc., Model BD–100–1A10 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 27, Flight controls.

**(e) Unsafe Condition**

This AD was prompted by a report that the design of the spoiler control system causes certain engine indication and crew alerting system (EICAS) messages to be posted intermittently and repetitively during flight and on the ground, and flightcrews must action the appropriate checklist each time these messages appear. The FAA is issuing this AD to address intermittent and repetitive messaging, which increases overall workload and introduces a risk that flightcrews could become desensitized over time to the messages. This could result in the required checklist not being carried out or completed, and could adversely affect the airplane's continued safe flight and landing.

**(f) Compliance**

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

**(g) Revision of the Airplane Flight Manual (AFM)**

Within 60 days after the effective date of this AD: Revise the existing AFM to incorporate the information specified in Section 05–23, Flight Controls, of Chapter 05, Non-Normal Procedures, of the AFM revisions specified in paragraphs (g)(1) and (2) of this AD, as applicable.

(1) Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, Revision 61, dated September 25, 2020.

**Note 1 to paragraph (g)(1):** For obtaining this section of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I.

(2) Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM, Revision 27, dated September 25, 2020.

**(h) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(i) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2021–14, dated April 7, 2021, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1014.

(2) For more information about this AD, contact Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-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 this AD specifies otherwise.

(i) Section 05–23, Flight Controls, of Chapter 05, Non-Normal Procedures, of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, Revision 61, dated September 25, 2020.

(ii) Section 05–23, Flight Controls, of Chapter 05, Non-Normal Procedures, of the Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM, Revision 27, dated September 25, 2020.

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.*

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

(5) You may view this 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 21, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02755 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0886; Project Identifier MCAI–2021–00341–R; Amendment 39–21903; AD 2022–02–06]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Model EC120B helicopters. This AD was prompted by a report of geometrical non-conformities in the tail rotor blade (TRB) root section discovered during an accident investigation of a Model EC130B helicopter. Due to the similarity of design and production requirements, certain TRBs for the Model EC120B helicopters were inspected and

geometrical non-conformities were also found. This AD requires an inspection (dimensional check) to verify conformity, and replacement of certain TRBs if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For EASA material incorporated by reference (IBR) in this AD, contact 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. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0886.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0886; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7330; email: *andrea.jimenez@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0079, dated March 17, 2021 (EASA AD 2021–0079), to correct an unsafe condition for all Airbus Helicopters Model EC120B helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Helicopters Model EC120B helicopters. The NPRM published in the **Federal Register** on October 28, 2021 (86 FR 59653). The NPRM was prompted by a report of geometrical non-conformities in the TRB root section discovered during an accident investigation of a Model EC130B helicopter. Due to the similarity of design and production requirements, certain TRBs for the Model EC120B helicopters were inspected and geometrical non-conformities were also found. The NPRM proposed to require an inspection (dimensional check) to verify conformity, and replacement of certain TRBs if necessary, as specified in EASA AD 2021–0079.

The FAA is issuing this AD to detect and correct geometrical non conformities of the TRB root section. The unsafe condition, if not addressed, could result in crack initiation and TRB failure, and possibly result in loss of control of the helicopter. See EASA AD 2021–0079 for additional background information.

### Discussion of Final Airworthiness Directive

### Comments

The FAA received no comments on the NPRM or on the determination of the costs.

### Conclusion

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 reviewed the relevant data 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 helicopters. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

### Related Service Information Under 1 CFR Part 51

EASA AD 2021–0079 requires an inspection (dimensional check) to verify TRB conformity, and replacement of certain TRBs if necessary. EASA AD 2021–0079 also prohibits rework, repair, or modification of affected parts in the critical section (affected area of the TRB assembly root).

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.

### Costs of Compliance

The FAA estimates that this AD affects 89 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 AD.

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection | 4 work-hours × $85 per hour = $340 | $0 | $340 | $30,260 |

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

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Blade Replacement | 10 work-hours × $85 per hour = $850 | $4,000 | $4,850 |

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this 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**

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:

**2022–02–06 Airbus Helicopters:** Amendment 39–21903; Docket No. FAA–2021–0886; Project Identifier MCAI–2021–00341–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Airbus Helicopters Model EC120B helicopters, certificated in any category.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 6410, Tail Rotor Blades.

**(e) Unsafe Condition**

This AD was prompted by a report of geometrical non-conformities in the tail rotor blade (TRB) root section discovered during an accident investigation of a Model EC130B helicopter. Due to the similarity of design and production requirements, certain TRBs for the Model EC120B helicopters were inspected and geometrical non-conformities were also found. The FAA is issuing this AD to detect and correct geometrical non-conformities of the TRB root section. The unsafe condition, if not addressed, could result in crack initiation and TRB failure, and possibly result in loss of 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 2021–0079, dated March 17, 2021 (EASA AD 2021–0079).

**(h) Exceptions to EASA AD 2021–0079**

(1) Where EASA AD 2021–0079 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2021–0079 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where the service information referenced in EASA AD 2021–0079 specifies discarding a part, this AD requires removing that part from service.

(4) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0079.

(5) Where the service information referenced in EASA AD 2021–0079 specifies to measure using the Smartphone application, the PowerPoint method, or ''Contacting customer support with a specific procedure,'' this AD requires determining the specified measurements but those methods of measurement are not required by this AD.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021–0079 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 actions of this AD can be performed, 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) 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**

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; phone: (516) 228–7330; email: *andrea.jimenez@faa.gov.*

**(m) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0079, dated March 17, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0079, contact 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.*

(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. This material may be found in the AD docket

at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0886.

(5) You may view this material 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 7, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02748 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0952; Project Identifier 2019–CE–039–AD; Amendment 39–21918; AD 2022–03–01]**

**RIN 2120–AA64**

## Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH (DAI) Model DA 42, DA 42 M–NG, and DA 42 NG airplanes. This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as dissolved or detached fuel tank hose material entering the main fuel tank chambers, which could result in restricted fuel flow with consequent fuel starvation. This AD requires removing the fuel tank connection hoses from service and inspecting the fuel tank connection hoses for damage and detached rubber material. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For service information identified in this final rule, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* website: *https://www.diamondaircraft.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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–2021–0952.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0952; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E. 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; fax: (303) 342–1088; email: *penelope.trease@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 DAI Model DA 42, DA 42 M–NG, and DA 42 NG airplanes with a certain fuel tank connection hose installed. The NPRM published in the **Federal Register** on November 3, 2021 (86 FR 60600). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2019–0218, dated September 3, 2019 (referred to after this as ''the MCAI''), to address an unsafe condition on certain DAI Model DA 42, DA 42M, DA 42 M–NG, and DA 42 NG airplanes. The MCAI states:

> Reports were received of dissolved fuel tank connections hoses. Rubber parts were found within the fuel tank. The investigation results showed that the affected parts are limited to 2 isolated batches, some of which were installed on the production line. Other affected parts have been supplied as spare for in-service replacement.
>
> This condition, if not corrected, could lead to restricted fuel flow from the tank, possibly resulting in fuel starvation and consequent reduced control of the aeroplane.
>
> To address this potential unsafe condition, DAI issued the applicable MSB [Mandatory Service Bulletin], providing instructions to identify and replace the affected parts. The applicable MSB identifies the MSN [manufacturer serial numbers] of the aeroplanes on which affected parts were installed during aeroplane production. The applicable MSB also indicates that any other aeroplane may be affected, if an affected part supplied as spare was installed.
>
> For the reason described above, this [EASA] AD requires removal and replacement of the affected parts, and, if a removed affected part is found damaged, inspection of the fuel tank chambers and removal of any detached rubber material. This [EASA] AD also prohibits (re)installation of any affected parts.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0952.

### Discussion of Final Airworthiness Directive

#### Comments

The FAA received no comments on the NPRM or on the determination of the costs.

#### Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA reviewed the relevant data 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. This AD is adopted as proposed in the NPRM, except for an editorial correction to the Applicability section. Paragraph (c)(1) states the AD applies to the airplanes in paragraph (c)(1) ''or'' paragraph (c)(2) when it should state the AD applies to airplanes identified in both paragraphs.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed Diamond Aircraft Mandatory Service Bulletin MSB 42–138/MSB 42NG–080, dated July 1, 2019 (issued as one document) published with Diamond Aircraft Work Instruction WI MSB 42–138/WI–MSB 42NG–080, Revision 0, dated July 1, 2019 (issued as one document) attached. This service information identifies the list of affected fuel tank connection hoses and also contains procedures for replacing the

fuel tank connection hose and inspecting the main fuel tank chambers. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

**Differences Between This AD and the MCAI or Service Information**

The MCAI applies to the Model DA 42 M airplane and this AD does not because it does not have an FAA type certificate.

The service information specifies reporting information to DAI, and this AD does not require reporting.

**Costs of Compliance**

The FAA estimates that this AD affects 192 airplanes of U.S. registry. The FAA estimates that it would take about 30 work-hours to do the actions of this AD and require a part costing $188. The average labor rate is $85 per work-hour. Based on these figures, the FAA estimates the cost to do the actions of this AD on U.S. operators to be $525,696 or $2,738 per airplane.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this 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**

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. For the reasons discussed above, I certify 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:

**2022–03–01 Diamond Aircraft Industries GmbH:** Amendment 39–21918; Docket No. FAA–2021–0952; Project Identifier 2019–CE–039–AD.

**(a) Effective Date**

This AD is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to:

(1) Diamond Aircraft Industries GmbH (DAI) Model DA 42 NG airplanes, serial numbers (S/N) 42.N303 through 42.N314, 42.N319, and 42.N320, certificated in any category, with a fuel tank connection hose part number (P/N) D4D–2817–10–70 installed; and

(2) DAI Models DA 42, DA 42 NG, and DA 42 M–NG airplanes, all serial numbers, certificated in any category, with a fuel tank connection hose P/N D4D–2817–10–70 identified in the Technical Details, section I.11, of Diamond Aircraft Mandatory Service Bulletin MSB 42–138/MSB 42NG–080, dated July 1, 2019 (issued as one document) (Diamond MSB 42–138/42NG–080), installed.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 2810, Fuel Storage.

**(e) Unsafe Condition**

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as dissolved or detached fuel tank hose material entering the main fuel tank chambers. The FAA is issuing this AD to prevent restricted fuel flow, which could result in fuel starvation. The unsafe condition, if not addressed, could result in fuel starvation and reduced control of the airplane.

**(f) Compliance**

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

**(g) Required Actions**

(1) Within 100 hours time-in-service (TIS) after the effective date of this AD or within 4 months after the effective date of this AD, whichever occurs first, replace the main fuel tank connection hoses in accordance with the Instructions, sections III.1 and III.2, in DAI Work Instruction WI–MSB 42–138/WI–MSB 42NG–080, Revision 0, dated July 1, 2019, (issued as one document) attached to Diamond MSB 42–138/42NG–080. Instead of P/N D4D–2817–10–70_01, you may also replace a fuel tank connection hose with P/N D4D–2817–10–70 that is not identified in paragraph (c) of this AD.

(2) As of the effective date of this AD, do not install a fuel tank connection hose P/N D4D–2817–10–70 identified in paragraph (c) of this AD on any airplane.

**(h) No Reporting Requirement**

This AD does not require you to report information as specified in the Instructions, step III.1.12, in DAI Work Instruction WI–MSB 42–138/WI–MSB 42NG–080, Revision 0, dated July 1, 2019, (issued as one document) attached to Diamond MSB 42–138/42NG–080.

**(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 certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD and email 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 Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E. 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; fax: (303) 342–1088; email: *penelope.trease@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0218, dated September 3, 2019, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0952.

**(k) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference 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) Diamond Aircraft Mandatory Service Bulletin MSB 42–138/MSB 42NG–080, dated July 1, 2019 (issued as one document) published with Diamond Aircraft Work Instruction WI MSB 42–138/WI–MSB 42NG–080, Revision 0, dated July 1, 2019 (issued as one document) attached.

(ii) [Reserved]

(3) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* website: *https://www.diamondaircraft.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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 18, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02716 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0657; Project Identifier MCAI–2021–00478–T; Amendment 39–21927; AD 2022–03–10]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a report indicating that during maintenance, a fuse pin retaining the main landing gear support structure (MLGSS) was found incorrectly engaged in the trunnion block and improperly secured with the associated retaining pin, due to incorrect installation during assembly. This AD requires inspecting the fuse pins and associated retaining pins of the MLGSS for such discrepancies, and corrective action if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 2022.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0657.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0657; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *nicholas.wilson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0112, dated April 22, 2021 (EASA AD 2021–0112), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on August 12, 2021 (86 FR 44319). The NPRM was prompted by a report indicating that during maintenance, a fuse pin retaining the MLGSS was found incorrectly engaged in the trunnion block and improperly secured with the associated retaining pin; this was due to incorrect installation during assembly. The NPRM proposed to require inspecting the fuse pins and associated retaining pins of the MLGSS for such discrepancies, and corrective action if necessary, as specified in EASA AD 2021–0112.

The FAA is issuing this AD to address incorrect fuse pin installations, which could lead to premature failure of the retaining pin and subsequent fuse pin migration and disconnection, and could ultimately lead to main landing gear collapse and possible damage to the airplane. See the MCAI for additional background information.

### Discussion of Final Airworthiness Directive

### Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA), who supported the NPRM without change.

The FAA received additional comments from Delta Air Lines (DAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

### Request To Define an Affected Part

DAL asked that the proposed AD include a statement that an ''affected part'' includes parts that are improperly engaged or incorrectly secured. DAL stated that the purpose of the inspection in EASA AD 2021–0112 is to inspect the affected parts for any discrepant conditions, in accordance with the instructions specified in Airbus Alert Operations Transmission (AOT) A57P016–21, dated April 1, 2021, which includes any incorrectly installed or missing trunnion block fuse pins for applicable Airbus SAS Model A350–941 and –1041 airplanes. DAL added that if,

during accomplishment of this AOT, no discrepant conditions are found, then no further action is required. DAL noted that the MCAI's definition of ''affected part'' implies that the area will become an AD-related area for the rest of the life of the aircraft. Delta stated that it has added ''AD affected no deviations'' language to all AD-related aircraft maintenance manual (AMM) and illustrated parts catalog (IPC) areas. However, if there are no findings during the inspection, the area should revert back to a normal post-production non-AD area, and the language should not be added to the related AMM and IPC at every revision for the life of the aircraft.

The FAA does not agree with the commenter's request to refine the MCAI's definition of an affected part because this AD requires a one-time inspection only and that action is not effective for the life of the airplane. Correctly installed parts do not continue to be affected parts. Therefore, the FAA has not changed this AD in this regard.

**Request To Clarify ICA Requirement**

DAL asked that the proposed AD clarify that the instructions for continued airworthiness (ICAs) are required per Section E of the repair instructions specified in Airbus AOT A57P016–21, dated April 1, 2021. DAL stated that per the inspection instructions detailed in the AOT, if there is a discrepant condition found during accomplishment of the inspection, all operators are to follow the referenced repair instructions to replace all six fuse pins within the trunnion block of the MLGSS. DAL noted that after the repair is accomplished, the ICAs require again inspecting the trunnion block for damage and replacing all six fuse pins at 14,400 flight cycles or 60,000 flight hours (in contrast to the current life limit for the fuse pins of 36,000 flight cycles or 150,000 flight hours).

The FAA acknowledges the commenter's request to clarify whether the ICA requirements in Section E of the repair instructions are required by this AD. In certain circumstances, the NPRM proposed corrective actions that include repair instructions for Model A350–900 airplanes (R57V–40112) and Model A350–1000 airplanes (R57V–40113), as specified in RC (required for compliance) paragraph 4.2.3 of Airbus AOT A57P016–21, dated April 1, 2021. However, the NPRM, EASA AD 2021–0112, and AOT did not expressly state what revision level of the repair instructions are mandatory. ICA requirements were added to a later revision of the repair instructions. By not mandating a specific revision of the repair instructions, operators can use any revision level to satisfy the requirements of this AD. Whichever revision level an operator chooses, the operator must use that revision level in its entirety. The FAA encourages affected operators to utilize the most current ICA for their respective aircraft condition. No changes have been made to this AD in this regard.

**Conclusion**

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

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021–0112 describes procedures for a detailed inspection for discrepancies (missing or migrated fuse pins, and fuse pins improperly secured with the associated retaining pin) in the left- and right-hand sides of the MLGSS trunnion block. The service information also describes procedures for corrective action (including replacement of discrepant fuse pins and the main landing gear forward pintle assembly). 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.

**Costs of Compliance**

The FAA estimates that this AD affects 17 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 1 work-hour × $85 per hour = $85 | $0 | $85 | $1,445 |

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| Up to 30 work-hours × $85 per hour = Up to $2,550 | Up to $4,410 | Up to $6,960. |

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

**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:

**2022–03–10 Airbus SAS:** Amendment 39–21927; Docket No. FAA–2021–0657; Project Identifier MCAI–2021–00478–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0112, dated April 22, 2021 (EASA AD 2021–0112).

**(d) Subject**

Air Transport Association (ATA) of America Code 57, Wings.

**(e) Reason**

This AD was prompted by a report indicating that during maintenance, a fuse pin retaining the main landing gear support structure (MLGSS) was found incorrectly engaged in the trunnion block and improperly secured with the associated retaining pin, due to incorrect installation during assembly. The FAA is issuing this AD to address incorrect fuse pin installations, which could lead to premature failure of the retaining pin and subsequent fuse pin migration and disconnection, and could ultimately lead to main landing gear collapse and possible damage to the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0112.

**(h) Exceptions to EASA AD 2021–0112**

(1) Where EASA AD 2021–0112 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (3) of EASA AD 2021–0112 specifies contacting Airbus for approved instructions for corrective actions for certain conditions, those corrective actions must be done using a method approved in accordance with the procedures specified in paragraph (j)(2) of this AD.

(3) The ''Remarks'' section of EASA AD 2021–0112 does not apply to this AD.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021–0112 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

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

**(k) Related Information**

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *nicholas.wilson@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0112, dated April 22, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0112, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

(5) You may view this material 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 21, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02756 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2021–1002; Project Identifier AD–2021–00332–R; Amendment 39–21926; AD 2022–03–09]**

**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–76D helicopters. This AD was prompted by reports that certain Thales global positioning system (GPS) satellite based augmentation system (SBAS) receivers provided, under certain conditions, erroneous outputs on aircraft positions. This AD requires replacing affected GPS receivers and prohibits installing those GPS receivers. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 17, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 17, 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–2021–1002.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1002; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Rediess, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7159; fax: (781) 238–7199; 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 Sikorsky Aircraft Corporation Model S–76D helicopters with a GPS TopStar 200 LPV receiver part number (P/N) C17149HA01 installed. The NPRM published in the **Federal Register** on November 16, 2021 (86 FR 63322). The NPRM was prompted by reports that certain Thales GPS SBAS receivers provided, under certain conditions, erroneous outputs on aircraft positions. The unsafe condition, if not addressed, could result in controlled flight into terrain and loss of control of the helicopter. Therefore, the NPRM proposed to require replacing each affected GPS receiver and prohibit installing an affected GPS receiver on any helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

The European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA), which is the Technical Agent for the Member States of the European Union, issued EASA AD 2019–0004, dated January 11, 2019, and corrected on January 17, 2019 (EASA AD 2019–0004), to correct an unsafe condition for Thales AVS France SAS (Thales), formerly Thales Avionics SAS, GPS/SBAS receivers, Topstar 200 LPV, P/N C17149HA01 and C17149JA02, using SBAS, which are known to be installed on, but not limited to, certain Model ATR 42–500 and ATR 72–212A aeroplanes and Sikorsky Model S–76D helicopters. EASA advises of reports indicating that Thales GPS SBAS receivers provided, under certain conditions, erroneous outputs on aircraft positions. EASA AD 2019–0004 requires actions to prevent compromise of the safety margins when the receiver is used for Localizer Performance with Vertical guidance (LPV) and/or RNP–AR (Required Navigation Performance—Authorization Required) operations. Following the issuance of EASA AD 2019–0004, the FAA issued AD 2020–08–02, Amendment 39–21108 (85 FR 20586, April 14, 2020), to address the unsafe condition on these products.

After the issuance of EASA AD 2019–0004, EASA issued related EASA AD 2021–0013, dated January 13, 2021, in response to a software update that was developed to ensure correct navigational performance of certain Thales GPS SBAS receivers installed on ATR–GIE Avions de Transport Régional, formerly EADS ATR—Alenia, Aerospatiale Matra ATR—ALENIA, Aerospatiale—Alenia, Aerospatiale—Aeritalia, Model ATR 42–500 and ATR 72–212A aeroplanes. The FAA subsequently issued AD 2021–19–13, Amendment 39–21731 (86 FR 54801, October 5, 2021), to address the unsafe condition on these products.

### Discussion of Final Airworthiness Directive

#### Comments

The FAA received no comments on the NPRM or on the determination of the costs.

#### Conclusion

The FAA reviewed the relevant data 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. However, the FAA discovered an error in the U.S. fleet costs. The NPRM inadvertently stated the costs as $336,820; this final rule corrects those costs, which are $168,410 for the U.S. fleet. Except for the change to the U.S. fleet costs and minor editorial changes, this AD is adopted as proposed in the NPRM.

#### Related Service Information Under 1 CFR Part 51

The FAA reviewed Sikorsky S–76D Helicopter Service Bulletin SB 76–017, Basic Issue, dated May 11, 2021 (SB 76–017). SB 76–017 specifies procedures for removing, updating, and installing GPS TopStar 200 LPV receivers. SB 76–017 also provides instructions for sending the GPS receiver(s) to Thales Authorized Repair Stations for the software update.

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

#### Costs of Compliance

The FAA estimates that this AD affects 22 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.

Replacing two GPS receivers takes about 3 work-hours and parts cost about $7,400, for an estimated cost of $7,655 per helicopter and $168,410 for the U.S. fleet.

**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:

**2022–03–09 Sikorsky Aircraft Corporation:** Amendment 39–21926; Docket No. FAA–2021–1002; Project Identifier AD–2021–00332–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 17, 2022.

**(b) Affected ADs**

This AD affects AD 2020–08–02, Amendment 39–21108 (85 FR 20586, April 14, 2020) (AD 2020–08–02).

**(c) Applicability**

This AD applies to Sikorsky Aircraft Corporation Model S–76D helicopters, certificated in any category, with Thales Global Positioning System (GPS) TopStar 200 LPV receiver part number (P/N) C17149HA01 installed.

**(d) Subject**

Joint Aircraft System Component (JASC) Code: 3457, Global Positioning System.

**(e) Unsafe Condition**

This AD was prompted by reports that certain Thales GPS satellite based augmentation system (SBAS) receivers provided, under certain conditions, erroneous outputs on aircraft positions. The unsafe condition, if not addressed, could result in controlled flight into terrain and 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 130 hours time-in-service after the effective date of this AD, replace each affected GPS receiver identified in paragraph (c) of this AD with GPS receiver P/N C17149RA01 in accordance with the Accomplishment Instructions, paragraphs A., C., and D., of Sikorsky S–76D Helicopter Service Bulletin SB 76–017, Basic Issue, dated May 11, 2021.

(2) As of the effective date of this AD, do not install a GPS receiver identified in paragraph (c) of this AD on any helicopter.

(3) Accomplishing paragraph (g)(1) of this AD terminates the requirements of AD 2020–08–02.

**(h) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Boston ACO Branch, 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 Nicholas Rediess, Aviation Safety Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, MA 01803; telephone (781) 238–7159; 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–76D Helicopter Service Bulletin SB 76–017, Basic Issue, dated May 11, 2021.

(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 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 20, 2022.

**Ross Landes,**

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

[FR Doc. 2022–02745 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Docket No. FAA–2021–0956; Airspace Docket No. 21–ANM–41]**

**RIN 2120–AA66**

## Modification of Class E Airspace; Gold Beach Municipal Airport, OR

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Class E airspace extending upward from 700 feet above the surface of the earth, and removes the Class E airspace extending upward from 1,200 feet above the surface of the earth at Gold Beach Municipal Airport, Gold Beach, OR. This action would ensure the safety and management of instrument flight rules (IFR) operations at the airport.

**DATES:** Effective 0901 UTC, May 19, 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 would amend Class E airspace extending upward from 700 feet above ground level, and remove the Class E airspace extending upward from 1,200 feet above ground level to support IFR operations at Gold Beach Municipal Airport, Gold Beach, OR.

### History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (86 FR 64835; November 19, 2021) for Docket No. FAA–2021–0956 to modify Class E airspace at Gold Beach Municipal Airport, Gold Beach, OR. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication of the NPRM, the FAA was notified that it had inadvertently left out the proposed removal of the Class E airspace extending upward from 1,200 feet above the surface of the earth from the Class E airspace legal description. The FAA is removing this airspace area from the Class E legal description because the area is contained within the Rogue Valley Class E6 domestic en route airspace area, and duplication is not necessary. Also subsequent to publication of the NPRM, the FAA became aware that it had inadvertently left out the phrase ''[Amended]'' from line one of the proposed legal description. The FAA is amending the Class E airspace for Gold Beach Municipal Airport, and the final rule includes this phrase in line one of the legal description. Lastly, and subsequent to the publication of the NPRM, the FAA is amending the body of the Class E airspace legal description for Gold Beach Municipal Airport. The description was updated to more easily and accurately describe the amended airspace at the airport, while keeping the design of the airspace the same.

Class E5 and Class E6 airspace designations are published in paragraphs 6005 and 6006, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in 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

The FAA is amending 14 CFR part 71 by modifying Class E airspace extending upward from 700 feet above the surface of the earth at Gold Beach Municipal Airport, Gold Beach, OR.

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 IFR operations at the airport, the radius of the airspace is increased from 6.3 miles to 7.2 miles and the extension northwest of the airport is removed. Additionally, terminal IFR operations east of the airport are not authorized, due to terrain. Because of this limitation, a portion of the Class E airspace east of the airport is removed. Finally, Class E airspace extending upward from 1,200 feet above the surface of the earth within a 15-mile radius of the airport is removed, as the area is contained within the Rogue Valley Class E6 domestic en route airspace area, and duplication is not necessary.

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.*

* * * * *

**ANM OR E5 Gold Beach, OR [Amended]**

Gold Beach Municipal Airport, OR
(Lat. 42°24′55″ N, long. 124°25′30″ W)

That airspace extending upward from 700 feet above the surface within an area beginning at a point on the 160° bearing, 7.2 miles from the airport, then clockwise to a point on the 010° bearing, 7.2 miles from the airport, thence to the point of beginning southeast of the airport.

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

**B.G. Chew,**

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

[FR Doc. 2022–02750 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

**[Docket No. USCG–2022–0029]**

## Special Local Regulations; Recurring Marine Events, Sector St. Petersburg

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce special local regulations for the Bradenton Area River Regatta, a high-speed Powerboating event, for February 12, 2022, to provide for the safety of life on navigable waterways during this event. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any designated representative.

**DATES:** The regulation will be enforced from 10 a.m. until 5 p.m. on February 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notification of enforcement, call or email MST1 Michael D. Shackleford telephone 813–228–2191 option 3, email *D07-SMB-Tampa-WWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce special local regulations in 33 CFR 100.703, Table 1 to § 100.703, Line No. 2 for the Bradenton Area River Regatta on February 12, 2022 from 10 a.m. to 5 p.m. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events, Sector St. Petersburg, § 100.703, Table 1 to § 100.703, Line No. 2, § 100.703, specifies the location of the regulated area for the Bradenton Area River Regatta which encompasses portions of the Manatee River near Bradenton, FL. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any designated representative.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and/or marine information broadcasts.

Dated: February 3, 2022.

**Matthew A. Thompson,**

*Captain, U.S. Coast Guard, Captain of the Port St. Petersburg.*

[FR Doc. 2022–02894 Filed 2–9–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Chapter I, Subchapter N

### 46 CFR Parts 10, 11, 15, and 107

**[Docket Number USCG–2020–0049]**

## Guidance Documents: Determining Whether a Floating OCS Facility Is a Vessel or Non-Vessel; Oversight and Manning Requirements

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

**ACTION:** Notification of availability of policy.

**SUMMARY:** The Coast Guard is issuing policies that will guide Officers In Charge, Marine Inspection (OCMIs) in determining if a Floating Outer Continental Shelf Facility (FOF) is a vessel or a non-vessel. As a result of these changes non-vessel FOFs will no longer receive a Certificate of Inspection (CG Form 841), and personnel serving on these FOFs will no longer be required to hold Merchant Mariner Credentials. In association with these changes, the Coast Guard is canceling USCG District 8 Policy Letter 08–2001, *Licensing Requirements for Personnel on Non-Self Propelled Floating OCS Facilities.*

**DATES:** CG–OES Policy Letter 01–22, Determination of Whether a Floating Outer Continental Shelf Facility (FOF) is a Vessel, and CG–MMC Policy Letter 01–22, Merchant Mariner Credential Endorsements for Service on Floating Outer Continental Shelf (OCS) Facilities were issued February 4, 2022.

**FOR FURTHER INFORMATION CONTACT:** For additional information contact Lieutenant Commander Matthew Meacham, the U.S. Coast Guard Office of Operating and Environmental Standards, Vessel and Facility Operating Standards Division (CG–OES–2) at 202–372–1410, or Mr. Luke Harden, the U.S. Coast Guard Office of Merchant Mariner Credentialing (CG–MMC–2) at 202–372–1206.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Following recent court rulings related to Outer Continental Shelf (OCS)

activities the Coast Guard initiated a review of the agency's Floating OCS Facility (FOF) policies, procedures, and regulations. As part of this review, the Coast Guard tasked the National Offshore Safety Advisory Committee (NOSAC) with conducting a detailed review of Coast Guard OCS regulations. In March 2018 NOSAC provided the USCG with a final report containing recommendations on Coast Guard regulations applicable to OCS units operating on the U.S. OCS.[1] An OCS unit is any domestic or foreign OCS facility, vessel, rig, platform, or other vehicle.[2] One type of OCS unit is a ''floating OCS facility,'' or FOF. FOFs are buoyant facilities that are securely and substantially moored, such that they cannot be moved without special effort.[3] FOFs come in many different structural configurations with varying degrees of sea keeping capabilities. They can be either vessels or non-vessels. Based on NOSAC's recommendations and its own internal review, the Coast Guard determined that it needed to clarify what Coast Guard regulations are applicable to FOFs that are not vessels.

Specifically the Coast Guard determined that it needed to clarify: (1) Which FOFs are vessels and which FOF are non-vessel FOFs and (2) that non-vessel FOFs are not subject to vessel-manning requirements.

## II. Legal Authority

The Coast Guard has broad authority to regulate FOFs under the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 *et seq.,* and its implementing regulations at 33 CFR chapter I, subchapter N. FOFs that qualify as seagoing motor vessels may also be regulated by the Coast Guard under title 46 of the United States Code and associated implementing regulations. This document is issued in accordance with 5 U.S.C. 552(a)(1)(D) and 5 U.S.C. 553(b)(A).

## III. Policies

*1. When is an FOF a vessel?*

The Coast Guard is announcing the availability of: (1) CG–OES Policy Letter 01–22, *Determination of Whether a Floating Outer Continental Shelf Facility (FOF) is a Vessel.* CG–OES 01–22 outlines the procedures for Coast Guard OCMIs to follow in order to determine if a particular FOF is a vessel or a non-vessel.

The term ''vessel'' is defined in the United States Code at 1 U.S.C. 3. As defined, the term captures every form of watercraft and artificial contrivance used, or capable of being used, as a means of transportation on water. In *Lozman* v. *City of Riviera Beach, Fla.,* 568 U.S. 115 (2013), the Supreme Court of the United States held that to be a vessel under 1 U.S.C. 3, a structure's physical ''characteristics and activities'' need to be such that a ''reasonable observer'' would conclude that the structure was designed to a practical degree to carry ''people or things'' on the water. Rather than relying upon any single structural characteristic to reach its decision, the Court instead focused on the phrase ''capable of being used as a means of transport[.]'' Citing *Stewart* v. *Dutra Constr. Co.,* 543 U.S. 481 (2005), the Court emphasized that for a structure to be considered ''capable of being used for transport'' it has to have a practical possibility of transporting people or goods over the water, not just be theoretically capable of doing so. This holistic test requires the fact finder to determine if the characteristics and activities of the structure would convince a reasonable observer that the watercraft is designed to a practical degree to carry people or things on the water.

In accordance with *Lozman,* to determine if an FOF is a vessel or a non-vessel, OCMIs must decide whether a particular FOF was designed to a practical degree for carrying people or things over the water. Due to the many existing configurations of FOFs and ever-increasing technology advancement in the energy exploration field, it is not possible to make a blanket determination for all FOFs. Determinations need to be conducted on a case-by-case basis. The policy letter directs OCMIs to look at the following factors when making determinations.

1. Whether the FOF has a mode of self-propulsion, steering mechanisms, navigation equipment, dynamic positioning equipment, or operating station.
2. Whether the FOF has a traditional hull.
3. Whether the FOF was meant to be towed into place and ''securely and substantially'' moored to the seabed for a long period of time.
4. Whether it takes substantial monetary investment and a long lead-time to move the FOF from its anchored position or is capable of emergency disconnect allowing the FOF to float free or be underway.

The policy letter makes clear that the above list is not exhaustive and the existence of any one of these factors does not necessarily mean that an FOF is a vessel. The OCMI must holistically consider all of the facts, including taking into account the physical characteristics and activities of the FOF, to determine if it is designed to a practical degree for carrying people or things over water.

In addition to being available along with other Coast Guard guidance documents at *https://www.uscg.mil/guidance,* a complete copy of CG–OES Policy Letter 01–22, *Determination of Whether a Floating Outer Continental Shelf Facility (FOF) is a Vessel* is available in the docket at *https://www.regulations.gov* and also at *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Commercial-Regulations-standards-CG-5PS/office-oes/.*

*2. What documentation will the Coast Guard provide an owner/operator of a non-vessel FOF?*

The Coast Guard will no longer issue a Certificate of Inspection (USCG Form 841) to FOFs that are not vessels. Instead, OCMIs will issue non-vessel FOFs a Floating OCS Facility Determination Letter and a Floating OCS Facility Certificate of Inspection (FOF COI). The Facility Determination Letter will identify whether or not the unit is a vessel. The FOF COI letter will identify expectations the Coast Guard has for the inspection and maintenance of the particular non-vessel FOF, based on existing Coast Guard regulations. See the enclosures to CG–OES Policy Letter 01–22 for a sample Floating OCS Facility Determination Letter and a sample Floating OCS Facility Certificate of Inspection.

This change is being made to account for the fact that non-vessel FOFs are not subject to inspection under 46 U.S.C. 3301 and thus do not require a certificate of inspection under 33 U.S.C. 3309. The use of FOF Determination Letters and FOF COI Letters in place of the USCG Form 841 is in accordance with existing Coast Guard regulations. Section 143.120 of 33 CFR requires an OCMI to issue a ''certificate of inspection'' but does not require the use of USCG Form 841. FOFs that are U.S. documented vessels will be issued a USCG Form 841.

*3. What are the manning requirements for vessel and non-vessel FOFs?*

The OCMI's authority to place manning requirements on an FOF depends on whether the unit is a vessel.

*Vessel FOFs.* For FOFs that are U.S. documented vessels, consistent with current practice, their Coast Guard Certificate of Inspection (COI) (USCG Form 841) will contain the required

[1] National Offshore Safety Advisory Committee. (2018). *Final Report for Production Industry.* Available at *https://homeport.uscg.mil/Lists/Content/DispForm.aspx?ID=35215&Source=/Lists/Content/DispForm.aspx?ID=35215.*

[2] 33 CFR 140.10 (definition of ''unit'').

[3] 33 CFR 140.10 (definition of ''floating OCS facility'').

manning. An OCMI may require manning of vessel FOFs under 46 U.S.C. 3301 and 3306 and regulations promulgated in 46 CFR, chapter I, subchapter B, part 15—Manning Requirements.

*Non-vessel FOFs.* OCSLA does not prescribe particular manning requirements with the exception of 43 U.S.C. 1356, which imposes U.S. citizenship requirements to units that conduct activities under OCSLA jurisdiction. For FOFs that are not vessels, OCMI manning authority is limited to the regulations promulgated under 33 CFR chapter I, subchapter N—Outer Continental Shelf Activities, which is limited to a Person In Charge.

In association with this clarification of requirements, the Coast Guard is canceling: USCG District 8 Policy Letter 08–2001, *Licensing Requirements for personnel on Non-Self-Propelled Floating OCS Facilities.*

*4. Credentialing of Personnel Serving on FOFs*

The Coast Guard is announcing the availability of CG–MMC Policy Letter 01–22, *Merchant Mariner Credential Endorsements for Service on Floating Outer continental Shelf (OCS) Facilities.* This letter cancels Eighth District (D8) Policy Letter 08–2001, *Licensing Requirements for Personnel on Non-Self Propelled Floating Outer Continental Shelf (OCS) Facilities,* and outlines the new credentialing policies concerning personnel serving on FOFs.[4]

Effective 30 days from the issuance of CG–MMC Policy Letter 01–22, the Coast Guard will no longer issue original MMC officer endorsements that are restricted to service on specific types of FOFs, referred to as Floating Offshore Instillations (FOI) in endorsements. This applies to the following endorsements:

- Offshore Installation Manager (Active Ballast FOI);
- Offshore Installation Manager (Passive Ballast FOI);
- Barge Supervisor (Active Ballast FOI);
- Barge Supervisor (Passive Ballast FOI);
- Ballast Control Operator (Active Ballast FOI); and
- Ballast Control Operator (Passive Ballast FOI).

The Coast Guard will continue to issue the following original endorsements to mariners meeting applicable service and training requirements specified in 46 CFR part 11:

- Offshore Installation Manager (OIM) [46 CFR 11.470]:
  - OIM Unrestricted;
  - OIM Surface Units on Location;
  - OIM Surface Units Underway;
  - OIM Bottom Bearing Units on Location; and
  - OIM Bottom Bearing Units Underway;
- Barge Supervisor (without restriction to specific MODU or FOF types) [46 CFR 11.472]; and
- Ballast Control Operator (without restriction to specific MODU or FOF types) [46 CFR 11.474].

There are currently 47 mariners who hold one or more of the endorsements listed above. Considering that some FOFs may be found to be vessels, not allowing these endorsements could result in taking something of present or potential value from the mariners who hold them.[5] Accordingly, the Coast Guard will continue to renew the endorsements listed above.

Mariners who served aboard FOFs that have been determined to not be vessels will need to renew their MMCs under provisions in 46 CFR 10.227(e) that are applicable to mariners who do not have evidence of at least one year of service during the past five years. Mariners who served on FOFs found to be vessels may use their service to renew their endorsements under 46 CFR 10.227(e)(1).

The Coast Guard can only credit seagoing service for qualifying for MMC endorsements if it was obtained on a vessel.[6] Accordingly, service on FOFs that are not vessels will not be accepted as service for qualifying for an original or raise of grade of an MMC endorsement. Service on FOFs that are not vessels may only be accepted if it is found to be ''closely related service'' as specified in 46 CFR 10.232(g) to renew an MMC.

The Coast Guard will discontinue approving stability and ballast control courses and courses that substitute for a Coast Guard administered examination that are valid only for the FOF endorsements noted in the second paragraph of section four above. These approved courses will not be renewed upon expiration. If a stability course or in lieu of examination course is approved for both an endorsement being discontinued and one or more of the endorsements described in 46 CFR 11.470, 11.472, or 11.474 the course approval will be amended to omit meeting requirements for the FOF endorsements noted above.

In addition to being available along with other Coast Guard guidance documents at *https://www.uscg.mil/guidance,* a complete copy of CG–MMC Policy Letter 01–22, *Merchant Mariner Credential Endorsements for Service on Floating Outer Continental Shelf (OCS) Facilities,* is available in the docket at *https://www.regulations.gov* and also at *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Commercial-Regulations-standards-CG-5PS/Office-of-Merchant-Mariner-Credentialing/CG-MMC-2/CG-MMC-2-New-Policies/.*

Dated: February 4, 2022.

**J.G. Lantz,**

*Director of Commercial Regulations and Standards.*

[FR Doc. 2022–02707 Filed 2–9–22; 8:45 am]

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[4] D8 Policy Letter 08–2001 is available at *https://www.dco.uscg.mil/Portals/9/OCSNCOE/References/Policy-Letters/D8/D8-PL-08-2001.pdf?ver=XemXFtSnbUCVYl0M1brmIw%3d%3d.*

[5] The Coast Guard does not anticipate any currently operating FOFs will be determined to be a vessel. But, modifications to a currently operating unit or a new unit that comes on line in the future could be classified as a vessel.

[6] 46 CFR 10.107 (definition of ''seagoing service''.)

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 49

**[EPA–R08–OAR–2020–0742; FRL–9082–02–R8]**

### Approval and Promulgation of the Northern Cheyenne Tribe's Tribal Implementation Plan; Northern Cheyenne Tribe; Open Burning Permit Program and Maintenance of the National Ambient Air Quality Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a Tribal Implementation Plan (TIP) submitted by the Northern Cheyenne Tribe (Tribe) on September 25, 2017, as described in our February 26, 2021 proposal. The TIP includes ambient air quality standards and provisions for an open burning permit program, enforcement and appeals, and emergency authority. These provisions establish a base TIP that is suitable for the Northern Cheyenne Indian Reservation and four tribal trust parcels at issue (Reservation), is within the Tribe's regulatory capacities, and meets all applicable minimum requirements of the Clean Air Act (CAA or Act) and EPA regulations. The effect of this action is to make the approved TIP federally enforceable under the CAA and to further protect air quality on the Reservation.

**DATES:** This final rule is effective March 14, 2022. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 10, 2022.

**ADDRESSES:** EPA has established a docket for this action under EPA–R08–OAR–2020–0742. Generally, documents in the docket for this action are available electronically at *https://www.regulations.gov* or in hard copy at EPA Region 8, 1595 Wynkoop Street, Denver, Colorado. While all documents in the docket are listed at *https://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps, multi-volume reports) and some may not be available in either location (*e.g.,* confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Kyle Olson, Air and Radiation Division, Environmental Protection Agency, Region 8 Office, Mailcode 8ARD–TRM, 1595 Wynkoop Street, Denver, CO 80202–1129, telephone number: (303) 312–6002, email address: *olson.kyle@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms ''we'', ''us'', and ''our'' refer to EPA.

## I. Summary of the Proposed Action

The Tribe's Reservation is located in southeastern Montana and is adjacent to the Crow Indian Reservation and the State of Wyoming. On February 26, 2021, EPA proposed to approve a TIP submitted by the Tribe on September 27, 2017, as described in the proposal.[1] The TIP includes ambient air quality standards and provisions for an open burning permit program, enforcement and appeals, and emergency authority. The TIP is a regulatory program comprised of the Northern Cheyenne Clean Air Act (NCCAA). We proposed to approve the NCCAA under sections 110 and 301 of the CAA, and the relevant implementing regulations, as discussed in this document and in our February 26, 2021 proposal. These provisions establish a base TIP that is suitable for the Reservation, is within the Tribe's regulatory capacities, and meets all applicable minimum requirements of the CAA, the Tribal Authority Rule in 40 CFR part 49 (TAR), and other applicable CAA regulations.

For a more detailed description of the TIP, our evaluation of the TIP and supplemental information, and our rationale for our proposed action, please see the February 26, 2021 proposed rule, 86 FR 11674, which can be found in the docket for this action.

## II. EPA's Response to Comments

Our February 26, 2021 proposed rule provided for a 30-day comment period, which ended on March 29, 2021. We received nine public comment letters, each of which can be found in the docket for this action. Seven comments expressed general support for our proposed action and did not otherwise raise material issues that necessitate response. Here, we summarize and respond to significant comments.

*Commenter 0007:* The commenter offered support for approval of the Northern Cheyenne TIP and support for implementation plans generally. In particular, the commenter described TIPs as positive for the tribes and an indication that enforcement of TIPs will be successful and thorough. The commenter also stated that exposure to dangerous air pollution is dwindling, which can be attributed, in no small part, to implementation plans. The commenter stated that regulating air pollution within the borders of the Reservation is an important step to making the country more proactive against climate change. The commenter further summarized other supportive comments.

Nevertheless, the commenter stated that the industrial and manufacturing power plants that surround the Reservation have a major impact on the air quality of the Reservation, which is unfair to those who live on the Reservation but are not part of these industries. The commenter also identified ''drawbacks'' of TIPs—that TIPs focus on higher levels of air pollution as opposed to other smaller problems, and that TIPs require a lengthy administrative process, which does not lead to fast action to reverse the effects of climate change.

*Response:* We appreciate the commenter's support for the approval of the Northern Cheyenne TIP and general support for the regulation of air pollution through TIPs. The administrative process for TIP approval is governed by CAA sections 110 and 301 and corresponding regulations.[2] We explain elsewhere in this preamble that TIPs are not required to address each element under CAA section 110, but may instead include elements to address the specific air quality needs that a tribe has the capacity to manage. The commenter has not provided enough information regarding smaller air pollution problems that the commenter believes should be addressed in TIPs for us to respond further on that point.

Additionally, while we understand and appreciate the commenter's concerns with respect to climate change and agree that climate change is an important environmental problem, the purpose of this action is not to address the problem of climate change, but rather to approve the Tribe's plan to regulate certain air pollutants emitted by open burning.[3] Thus, consideration of climate change is outside the scope of our action. Likewise, the commenter's concerns regarding sources located outside the Reservation are also outside the scope of the action. The TIP applies within the exterior boundaries of the Reservation only. The Tribe is not required to address pollution from outside the Reservation in its submittal and EPA's task is to evaluate the program elements the Tribe has submitted. The commenter's concern with the administrative process for developing TIPs is also outside the scope of this action. We note that the process of having tribes decide when and how to develop TIPs gives tribes the authority over how to best protect air quality in Indian country, and the Northern Cheyenne Tribe fully supports approval of the TIP here.

*Commenter 0009:* The commenter offered support for the primary and secondary air quality standards established in the TIP, which are the same as EPA's national ambient air quality standards (NAAQS). However, the commenter stated that the TIP did not include ''any protocols the Northern Cheyenne Tribe plans to implement to reach attainment.'' [4] The commenter further asserted that CAA section 110(a)(2) requires that TIPs include control measures, means or techniques, and a monitoring program by which the Tribe will attain the standards, and that the TIP lacks these mechanisms.

*Response:* As an initial matter, the TIP does include measures to improve air quality, including, significantly, an

[1] 86 FR 11674 (Feb. 26, 2021).

[2] See, for example, 40 CFR part 51, appendix V, and 40 CFR part 49, subpart A.

[3] 86 FR 11675.

[4] Comment 0009 at page 1. The commenter cites CAA section 107, but that provision is not at issue in this rulemaking. As stated in the preamble to the proposed rule, EPA is taking this action pursuant to CAA sections 110(o), 110(k)(3), and 301(d). CAA section 110(o) requires that EPA review TIPs in accordance with CAA section 110 except as otherwise provided by regulation or CAA section 301(d)(2). Accordingly, we have reviewed the TIP under CAA section 110 as applicable to TIPs. See 40 CFR 49.9(h).

open burning permit program.[5] However, the commenter is correct that the TIP does not include all elements listed in CAA section 110 for the implementation, maintenance, and enforcement of the air quality standards. Under the TAR, eligible Indian tribes have the flexibility to include in a TIP only those implementation plan elements that address their specific air quality needs and that they have the capacity to manage. Under this modular approach, the TIP elements that the tribe adopts must be ''reasonably severable'' from the package of elements that can be included in a whole TIP.[6] As provided in the TAR, ''reasonably severable'' means that the parts or elements selected for the TIP are not integrally related to parts not included in the TIP, and are consistent with applicable CAA and regulatory requirements.[7] Thus, TIPs are significantly different than state implementation plans because, while the Act requires states to prepare an implementation plan that meets all of the requirements of CAA section 110, an Indian tribe may adopt TIP provisions that address only some elements of CAA section 110.[8]

EPA retains its general authority to directly implement CAA requirements in Indian country as necessary or appropriate to protect tribal air resources.[9] Thus, where a tribe chooses not to adopt a CAA program or adopts only a partial program, EPA may exercise its authority to issue such regulations as are necessary or appropriate to protect tribal air resources. This type of joint management allows tribes to focus on their specific air quality needs while ensuring adequate protection of tribal air resources.

At this time, the Northern Cheyenne Tribe opted to include in its TIP certain limited measures—an open burning permit program and related enforcement authority. This program and enforcement authority are severable from other CAA program elements because they do not depend on the inclusion of and are not integrally related to any other program elements. Additionally, as discussed further below, EPA has reviewed the open burning permit program and concluded that it supports the implementation, maintenance, and enforcement of the air quality standards. The open burning program is designed, in part, to control particulate matter emissions. Moreover, EPA has reviewed the enforcement authority included in the TIP and determined that it is sufficient to ensure enforcement of the NCCAA. Likewise, through the Tribe's treatment in a similar manner as a state (TAS) application, the Tribe has demonstrated that it is capable of implementing the open burning permit program and enforcement authorities.[10]

*Commenter 0009:* The commenter also criticized the TIP's open burning program as inefficient and unduly burdensome. In particular, the commenter raised concerns that requiring a permittee to apply for a permit with the Tribe's Air Quality Administrator and wait for consultation with the Bureau of Indian Affairs and other agency personnel is inefficient. The commenter also stated that the burden placed on the Air Quality Administrator and Northern Cheyenne Tribal Court for ''minute violations'' is impractical and unnecessary. The commenter also stated that the size of the penalty for violations is too hefty, claiming that violations of the open burning program would subject individuals ''to at least a five thousand dollar fine.'' Furthermore, the commenter stated that there is no basis in the proposed rule for the finding that there is no information collection burden under the Paperwork Reduction Act. Finally, the commenter stated that the TIP lacks any statistics proving that the open burning that is the subject of the permitting program is any different from other burning not covered by the program. The commenter recommended that the Northern Cheyenne Tribe reconsider the open burn limits and exceptions, and initiate a simpler reporting and filing program, such as on-site permitting or virtual permitting.

*Response:* Under the TIP process, tribes decide how to structure permitting and enforcement programs submitted for approval in a TIP. This gives tribes the flexibility to balance the protection of tribal air quality and the administrative process involved in doing so. EPA supports tribal decisions on how best to protect tribal air quality, and the CAA does not condition a TIP's approval on its administrative efficiency or require that a tribe justify open burning limitations with statistics. EPA supports tribes implementing open burning permit programs to support air quality on reservations.[11]

Here, the Tribe considered the level of administrative process to include in the TIP. EPA disagrees that the Northern Cheyenne Tribe's process is inefficient or will be problematic in practice. The Tribe indicates that it is already successfully implementing this process under tribal law,[12] and the program is similar to open burning programs that other tribes administer as part of approved TIPs and Federal Implementation Plans.[13] Concerning the commenter's assertion that violations of the open burning program would lead to excessive penalties, it is not accurate that a violator will be subject to *at least* a five thousand dollar fine. The NCCAA authorizes the Air Quality Administrator to fine violators ''*up to* $5,000 per day for each violation[,]'' [14] and the Air Quality Administrator has the enforcement discretion to assess penalties below that maximum. EPA does not agree that this TIP should be disapproved because of concerns about the level of possible fines for violations.

EPA disagrees with the commenter's assertion that EPA's approval of the TIP will result in a ''burden placed on the collection of information under the Paperwork Reduction Act.'' [15] Broadly, the Paperwork Reduction Act provides for certain procedures relating to the ''collection of information'' by or for an agency, generally limited to identical questions posed to or identical reporting or recordkeeping requirements imposed on ten or more persons.[16] The information-related requirements of the NCCAA already exist as a matter of tribal law. EPA is not using identical

[5] In addition, contrary to the commenter's assumption about the lack of a monitoring program, the Tribe has, for decades, operated an air quality monitoring program. Northern Cheyenne Tribe's Application for Treatment as a State Under the Clean Air Act (Northern Cheyenne TAS/TIP Application), September 20, 2017, at 6–7.

[6] 40 CFR 49.7(c).

[7] Id.

[8] Id. See also 42 U.S.C. 7410(o) (providing that EPA reviews TIPs in accordance with CAA section 110, except as provided by regulations under CAA section 301(d)(2), including 40 CFR 49.7(c)).

[9] See 42 U.S.C. 7601(a), (d)(4); 40 CFR 49.11; 59 FR 43956, 43958–61 (August 25, 1994) (proposed TAR preamble explaining EPA's CAA authorities in Indian country); 63 FR 7254, 7262–64 (Feb. 12, 1998) (final TAR preamble).

[10] Letter dated June 22, 2020, from Gregory Sopkin, Region 8 Regional Administrator, to President Rynalea Whiteman Pena, Northern Cheyenne Tribe, Subject: ''Approval of Northern Cheyenne Tribe Application for Treatment in a Similar Manner under the Clean Air Act,'' at 8–9.

[11] See, *e.g.,* 76 FR 69618 (December 10, 2007) (EPA approval of the St. Regis Mohawk Tribe's TIP); 79 FR 69763 (November 24, 2014) (EPA approval of the Swinomish Indian Tribal Community's TIP); EPA, ''Developing a Tribal Implementation Plan,'' September 2018, pages 26–27, available at *https://www.epa.gov/sites/default/files/2018-09/documents/developing_a_tribal_implementation_plan_sept._2018_1.pdf.*

[12] Northern Cheyenne TAS/TIP Application at 7.

[13] Precedent for tribes to use minor source permitting programs to protect air quality includes the Gila River Open Burning Minor New Source Review Permit Program (75 FR 48880 (August 12, 2010) and the Nez Perce's Agricultural Open Burning Permit Program (70 FR 18074 (April 8, 2005)).

[14] NCCAA section 3.2(1) (emphasis added).

[15] Comment 0009 at page 3.

[16] See 44 U.S.C. 3502(3)(A).

questions to collect information from or imposing identical reporting or recordkeeping requirements on 10 or more persons as part of this action. This action does not impose information collection burdens prohibited by or contrary to the Paperwork Reduction Act.

## III. Final Action

Under CAA sections 110(o), 110(k)(3) and 301(d), and the TAR, EPA is approving the TIP submitted by the Tribe on September 25, 2017, as described in our February 26, 2021 proposal (86 FR 11674). For the reasons set forth in this document and in the February 26, 2021 proposed rule, we conclude that the TIP meets the applicable requirements of the CAA and EPA's implementing regulations.

## IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference the TIP amendments described in section III of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the TIP, have been incorporated by reference by the EPA into that plan, and are fully federally enforceable under section 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval.

## V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action approves laws of an eligible Indian tribe as meeting Federal requirements and imposes no additional requirements beyond those imposed by Tribal law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). Because this rule approves pre-existing requirements under Tribal law and does not impose any additional enforceable duty beyond that required by Tribal law, it 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).

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (59 FR 22951, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' EPA has concluded that this rule will have tribal implications in that it will have substantial direct effects on the Tribe. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. EPA is approving the Tribe's TIP at the request of the Tribe. Tribal law will not be preempted as the Tribe has already incorporated the TIP into Tribal Law on December 7, 2016. The Tribe has applied for, and fully supports, the approval of the TIP. This approval makes the TIP federally enforceable.

EPA worked and consulted with officials of the Tribe early in the process of developing these regulations. During the TAS eligibility process, the Tribe and EPA worked together to ensure that the appropriate information was submitted to EPA. The Tribe and EPA also worked together throughout the process of development and Tribal adoption of the TIP. The Tribe and EPA also entered into a criminal enforcement Memorandum of Agreement (MOA) during the TAS process, per 40 CFR 49.8.

This action 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action approves Tribal rules implementing a TIP over areas within the exterior boundaries of the Tribe's Reservation, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Executive Order 12898 establishes Federal executive policy on environmental justice.[17] Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA's objective in approving the TIP is to support the Tribe's efforts to protect the communities on the Reservation, where open burning operations and seasonal wildfires have been shown to contribute to exceedances of the particulate matter NAAQS. The impacts of this final rule are expected to be beneficial, rather than adverse, and its benefits are expected to accrue to communities on the Reservation.

In reviewing TIP submissions, EPA's role is to approve an eligible tribe's submission, provided that it meets the criteria of the CAA. In this context, in the absence of a prior existing requirement for the tribe to use voluntary consensus standards (VCS), EPA has no authority to disapprove a TIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a TIP submission, to use VCS in place of a TIP provision that otherwise satisfies the requirements of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This action also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

[17] 59 FR 7629 (February 16, 1994).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 49**

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Indians—law, Indians—tribal government, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 4, 2022.

**KC Becker,**

*Regional Administrator, Region 8.*

Part 49 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

■ 1. The authority citation for part 49 continues to read as follows:

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

## Subpart K—Implementation Plans for Tribes—Region VIII

■ 2. Add an undesignated center heading and § 49.4200 to read as follows:

### Implementation Plan for the Northern Cheyenne Tribe

#### § 49.4200 Identification of plan.

(a) *Purpose and scope.* This section contains the approved implementation plan for the Northern Cheyenne Tribe, submitted to EPA on September 25, 2017. The plan consists of programs and procedures that cover general and emergency authorities, ambient air quality standards, permitting requirements for open burning, general prohibitory rules, open burning limitations, enforcement authorities, and procedures for administrative appeals and judicial review in Tribal court.

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**.

(2) EPA Region 8 certifies that the rules/regulations provided by EPA in the TIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated tribal rules/regulations which have been approved as part of the Tribal Implementation Plan.

(3) Copies of the materials incorporated by reference may be inspected at the Region 8 Office of EPA at 1595 Wynkoop Street, Denver, CO 80202 or call 303–312–6002; the U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, MC 2822T, 1200 Pennsylvania Avenue NW, Washington, DC 20460 or call 202–566–1742; and the National Archives and Records Administration. For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.* Copies of the Northern Cheyenne TIP regulations we have approved are also available at *http://www.epa.gov/region8/air/sip.html.*

(c) *EPA-approved regulations.*

TABLE 1 TO PARAGRAPH (c)

| Tribal citation | Title/subject | Tribal effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| Northern Cheyenne Tribe, Northern Cheyenne Clean Air Act Tribal Implementation Plan. | Entirety ..... | December 20, 2016 | February 10, 2022 | The Tribal effective date is based on the date the Bureau of Indian Affairs (BIA) Superintendent of the Northern Cheyenne Agency approved the Tribe's Ordinance No. DOI–008 (2017) adopting the Northern Cheyenne Clean Air Act. |

[FR Doc. 2022–02724 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R10–OAR–2021–0216; FRL–9168–02–R10]**

## Air Plan Approval; AK; Incorporation by Reference Updates and Permit Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Alaska State Implementation Plan (SIP) submitted on November 10, 2020. The revisions update the adoption by reference of certain Federal air regulations and add a pre-approved emission limit option that may be used to permit diesel engine facilities, among other changes. The EPA's approval makes the revisions federally enforceable as part of the Alaska SIP.

**DATES:** This final rule is effective March 14, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2021–0216. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall, EPA Region 10, 1200 Sixth Avenue (Suite 155), Seattle, WA 98101, at (206) 553–6357, or *hall.kristin@epa.gov.*

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

**Table of Contents**



## I. Background

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

On November 10, 2020, Alaska submitted revisions to the SIP and the EPA proposed to approve the changes on November 17, 2021 (86 FR 64105).[1] The reasons for approval are included in the proposed action and will not be restated here. The public comment period for the proposed action closed on December 17, 2021 and we received no comments. Therefore, we are finalizing the action as proposed.

## II. Final Action

The EPA is approving, and incorporating by reference, revisions to the Alaska SIP, submitted on November 10, 2020, as being consistent with Clean Air Act section 110 and part C and D requirements. Upon the effective date of this final action, the Alaska SIP will include the following regulations, state effective November 7, 2020:

- 18 AAC 50.015 Air Quality Designations, Classifications, and Control Regions;
- 18 AAC 50.030 State Air Quality Control Plan, except (a);
- 18 AAC 50.035 Documents, Procedures and Methods Adopted by Reference, except (a)(6), (a)(9), and (b)(4);
- 18 AAC 50.040 Federal Standards Adopted by Reference, except (a), (b), (c), (d), (e), (g), (j) and (k);
- 18 AAC 50.077 Standards for Wood-Fired Heating Devices, except (h);
- 18 AAC 50.205 Certification;
- 18 AAC 50.230 Preapproved Emission Limits;
- 18 AAC 50.250 Procedures and Criteria for Revising Air Quality Classifications;
- 18 AAC 50.311 Nonattainment Area Major Stationary Source Permits;
- 18 AAC 50.502 Minor Permits for Air Quality Protection;
- 18 AAC 50.540 Minor Permit: Application;
- 18 AAC 50.542 Minor Permit: Review and Issuance; and
- 18 AAC 50.990 Definitions.

## III. Incorporation by Reference

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

## IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 2022.

[1] The November 10, 2020 SIP submission also requested EPA approval of the Mendenhall Valley and Eagle River Limited Maintenance Plans. We approved these submitted plans in separate actions. Please see our actions published October 25, 2021 (86 FR 58807) and November 9, 2021 (86 FR 62096).

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

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

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

Dated: February 4, 2022.

**Michelle L. Pirzadeh,**

*Acting Regional Administrator, Region 10.*

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

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart C—Alaska

■ 2. In § 52.70, the table in paragraph (c) is amended by revising the entries for ''18 AAC 50.015'', ''18 AAC 50.030'', ''18 AAC 50.035'', ''18 AAC 50.040'', ''18 AAC 50.077'', ''18 AAC 50.205'', ''18 AAC 50.230'', ''18 AAC 50.250'', ''18 AAC 50.311'', ''18 AAC 50.502'', ''18 AAC 50.540'', ''18 AAC 50.542'', and ''18 AAC 50.990'' to read as follows:

**§ 52.70 Identification of plan.**

* * * * *

(c) * * *

EPA-Approved Alaska Regulations and Statutes

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| **Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50—Air Quality Control (18 AAC 50)** | | | | |
| **18 AAC 50—Article 1. Ambient Air Quality Management** | | | | |
| * * | * | * | * * | * |
| 18 AAC 50.015 | Air Quality Designations, Classifications, and Control Regions. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | |
| * * | * | * | * * | * |
| 18 AAC 50.030 | State Air Quality Control Plan. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | except (a). |
| 18 AAC 50.035 | Documents, Procedures, and Methods Adopted by Reference. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | except (a)(6), (a)(9), and (b)(4). |
| 18 AAC 50.040 | Federal Standards Adopted by Reference. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | except (a), (b), (c), (d), (e), (g), (j) and (k). |
| * * | * | * | * * | * |
| 18 AAC 50.077 | Standards for Wood-Fired Heating Devices. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | except (h). |
| * * | * | * | * * | * |
| **18 AAC 50—Article 2. Program Administration** | | | | |
| * * | * | * | * * | * |
| 18 AAC 50.205 | Certification | 11/7/2020 | | |
| * * | * | * | * * | * |
| 18 AAC 50.230 | Preapproved Emission Limits. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | |
| * * | * | * | * * | * |
| 18 AAC 50.250 | Procedures and Criteria for Revising Air Quality Classifications. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | |
| * * | * | * | * * | * |
| **18 AAC 50—Article 3. Major Stationary Source Permits** | | | | |

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| * * * | * | * | * * | * |
| 18 AAC 50.311 | Nonattainment Area Major Stationary Source Permits. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | |
| * * * | * | * | * * | * |
| **18 AAC 50—Article 5. Minor Permits** | | | | |
| 18 AAC 50.502 | Minor Permits for Air Quality Protection. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | |
| * * * | * | * | * * | * |
| 18 AAC 50.540 | Minor Permit: Application .. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | |
| 18 AAC 50.542 | Minor Permit: Review and Issuance. | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | |
| * * * | * | * | * * | * |
| **18 AAC 50—Article 9. General Provisions** | | | | |
| * * * | * | * | * * | * |
| 18 AAC 50.990 | Definitions | 11/7/2020 | 2/10/2022, [INSERT **Federal Register** CITATION]. | |
| * * * | * | * | * * | * |

* * * * *

[FR Doc. 2022–02763 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R08–OAR–2016–0477; FRL–9543–01–R8]**

## Air Plan Approval; Montana; Administrative Rule Revisions: 17.8.334

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is taking final action to approve a revision to Montana's State Implementation Plan (SIP). On July 6, 2016, the Governor of Montana submitted to EPA a revision to the Montana SIP that removed one section of the Administrative Rules of Montana (ARM) pertaining to aluminum plants. In this document, EPA is finalizing approval of the removal of this section from the SIP. EPA determined the provision was inconsistent with Clean Air Act (CAA) requirements and EPA issued a SIP call for the State to revise the provision on June 12, 2015. Removal of this provision corrects the deficiencies identified in 2015 related to the treatment of excess emissions from aluminum plants and fully satisfies the SIP call issued to Montana.

**DATES:** This rule is effective on March 14, 2022.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2016–0477. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Ellen Schmitt, Air and Radiation Division, EPA, Region 8, Mail Code 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6728, email address: *schmitt.ellen@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On February 22, 2013, EPA issued a **Federal Register** notice of proposed rulemaking outlining EPA's policy at the time with respect to SIP provisions related to periods of startup, shutdown, or malfunction (SSM). EPA analyzed specific SSM SIP provisions and explained how each one either did or did not comply with the CAA with regard to excess emission events.[1] For each SIP provision that EPA determined to be inconsistent with the CAA, EPA proposed to find that the existing SIP provision was substantially inadequate to meet CAA requirements and thus

[1] State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction, 78 FR 12460 (February 22, 2013).

proposed to issue a SIP call under CAA section 110(k)(5).

On June 12, 2015, pursuant to CAA section 110(k)(5), EPA finalized ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction'' (80 FR 33839, June 12, 2015), hereafter referred to as the ''2015 SSM SIP Action.'' The 2015 SSM SIP Action clarified, restated, and updated EPA's interpretation that SSM exemption and affirmative defense SIP provisions are inconsistent with CAA requirements. The 2015 SSM SIP Action found that certain SIP provisions in 36 states were substantially inadequate to meet CAA requirements and issued a SIP call to those states to submit SIP revisions to address the inadequacies. EPA established an 18-month deadline by which the affected states had to submit such SIP revisions. States were required to submit corrective revisions to their SIPs in response to the SIP calls by November 22, 2016. With regard to Montana, in the 2015 SSM Action EPA issued a SIP call for ARM 17.8.334 because the Agency determined that it was inconsistent with CAA requirements because it contained an automatic exemption for emissions during startup and shutdown events. The detailed rationale for issuing the SIP call to Montana can be found in the 2015 SSM SIP Action and preceding proposed action.

On July 6, 2016, the Governor of Montana submitted a SIP revision to EPA for approval that would remove ARM 17.8.334 from the SIP.[2] In a document published on April 6, 2017, EPA proposed to approve Montana's SIP revision.[3] As discussed in the proposal, EPA's proposed approval of the removal of ARM 17.8.334 from the Montana SIP was consistent with the Agency's 2015 SSM SIP Policy. A more detailed discussion of EPA's determination that Montana's SIP revision was adequate to correct the deficiency identified in the 2015 SSM SIP Action can be found in the proposed rule.

EPA issued a Memorandum in October 2020 (2020 Memorandum), which stated that certain provisions governing SSM periods in SIPs could be viewed as consistent with CAA requirements.[4] Importantly, the 2020 Memorandum stated that it ''did not alter in any way the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the Act.'' Accordingly, the 2020 Memorandum had no direct impact on the SIP call issued to Montana in 2015. It also did not alter EPA's prior proposal from 2017 to approve the Montana SIP revision at issue in this action. The 2020 Memorandum did, however, indicate EPA's intent at the time to review SIP calls that were issued in the 2015 SSM SIP Action to determine whether EPA should maintain, modify, or withdraw particular SIP calls through future agency actions.

On September 30, 2021, EPA's Deputy Administrator withdrew the 2020 Memorandum and announced EPA's return to the policy articulated in the 2015 SSM SIP Action (2021 Memorandum).[5] As articulated in the 2021 Memorandum, SIP provisions that contain exemptions or affirmative defense provisions are not consistent with CAA requirements and, therefore, generally are not approvable if contained in a SIP submission. This policy approach is intended to ensure that all communities and populations, including minority, low-income and indigenous populations overburdened by air pollution, receive the full health and environmental protections provided by the CAA.[6] The 2021 Memorandum also retracted the prior statement from the 2020 Memorandum of EPA's plans to review and potentially modify or withdraw particular SIP calls. That statement no longer reflects EPA's intent. EPA intends to implement the principles laid out in the 2015 SSM SIP Action as the Agency takes action on SIP submissions, including Montana's SIP submittal provided in response to the 2015 SIP call for which EPA has already proposed approval. Consistent with that stated EPA intent and the return to the policy outlined in the 2015 SSM SIP Action, EPA is proceeding to take final action on its 2017 proposal to approve the Montana submittal, as described in the remainder of this document.

## II. EPA Response to Comments

The comment period for EPA's April 6, 2017 notice of proposed rulemaking was open for 30 days. Notably, although over four years have elapsed since the comment period closed, EPA is taking this final action based on comments received during that comment period. No additional comment period is needed because nothing in the intervening time period—including the issuance and subsequent withdrawal of the 2020 Memorandum changed the basis for EPA's proposed action. Accordingly, the April 6, 2017 document provided the public with a full opportunity to comment on the issues raised by the proposed action. EPA received one adverse comment on this proposed action from a group called ''The SSM Coalition.'' EPA also received a comment from an anonymous commenter expressing support for approval of the proposed action.

*Comment:* The SSM Coalition did not discuss the details of EPA's proposed action on Montana's SIP, but more generally argued that it would be inappropriate for EPA to take final action on any SIP revision driven by the interpretations set forth in the 2015 SSM SIP Action, including the Montana proposal. The commenter referenced consolidated challenges to the 2015 SSM SIP Action filed in the D.C. Circuit (*Walter Coke, Inc., et al.* v. *EPA,* D.C. Cir. No. 15–1166), specifically citing EPA's April 18, 2017 motion asking the court to indefinitely postpone the oral argument so that new-at-the-time EPA political leadership would have adequate time to fully review the 2015 SSM SIP Action. The commenter asserted that EPA should defer action on the Montana SIP because, at the time of EPA's proposed approval of the Montana submission, EPA was reviewing the 2015 SSM SIP Action and the D.C. Circuit had not ruled on the challenges to the rule. The SSM Coalition's full comment can be found in the docket for this action.

*EPA response:* The Agency acknowledges that there exist pending challenges to the 2015 SSM SIP Action in the court. However, there is no requirement or expectation that EPA must postpone action while awaiting a court decision. Montana has submitted a SIP revision to the Agency that is fully approvable for the reasons outlined in

[2] The State rulemaking that repealed ARM 17.8.334 also repealed two other sections of Montana's rules, including ARM 17.8.335, which allowed aluminum plants to exceed applicable limitations during maintenance periods and ARM 17.8.772, which pertained to mercury allowance allocations under cap and trade budgets. Neither ARM 17.8.335 nor ARM 17.8.772 were approved into the SIP and therefore were not included in Montana's July 6, 2016 SIP submittal to EPA to remove them from the SIP. Therefore, neither ARM 17.8.335 nor ARM 17.8.772 are not at issue in this action.

[3] 80 FR 33840.

[4] October 9, 2020, memorandum ''Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans,'' from Andrew R. Wheeler, Administrator.

[5] September 30, 2021, memorandum ''Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy,'' from Janet McCabe, Deputy Administrator.

[6] 80 FR 33985.

the proposal document. As a result, EPA has determined that it is appropriate to take action to approve the State's SIP revision in accordance with applicable CAA requirements. 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). The commenter has pointed to no alleged deficiency or other aspect that would lead the Agency to determine that the SIP revision should be disapproved or that full approval of the SIP revision is not otherwise appropriate.

As outlined in EPA's 2015 SSM SIP Action, and recently reaffirmed in the 2021 Memorandum, EPA is implementing policy consistent with that outlined in the 2015 SSM SIP Action. That policy aligns with previous court decisions, including the U.S. Court of Appeals for the District of Columbia Circuit-issued ruling in 2008 that found that inclusion of SSM exemptions in CAA section 112 standards is not allowed under the CAA due to the generally applicable definition of emission limitations.[7] It was in light of the 2008 court case, as well as concerns about the public health impacts of SSM, that led EPA in its 2015 action to clarify and update its SSM policy (2015 SSM Policy) to indicate that automatic exemptions like the one at issue in today's action will generally be viewed as inconsistent with CAA requirements.

As the commenter noted, an April 18, 2017 motion by EPA asked the court to indefinitely postpone the oral argument so that new-at-the-time EPA political leadership would have adequate time to fully review the 2015 SSM SIP Action.

The comments regarding EPA' 2017 motion indicating that it is reviewing the 2015 SSM action are now moot. The D.C. Circuit lifted the abeyance on the litigation concerning the 2015 SSM SIP Action on December 17, 2021. As outlined in EPA's request to lift the abeyance [8] and in the 2021 Memorandum, EPA is no longer reviewing the 2015 SSM Action. Under the 2021 Memorandum, EPA reinstated its prior policy that SIP provisions that contain exemptions or affirmative defense provisions are not consistent with CAA requirements and, therefore, generally would not be approvable if included in a SIP submission. The 2021 Memorandum notes, among other provisions, CAA section 110(l)'s procedural requirements governing SIP amendments, section 302(k)'s requirement that all emission limitations apply on a ''continuous'' basis, and the substantive stringency requirements applicable to emission limitations pursuant to sections 165, 172, and 173.

[7] *Sierra Club* v. *Johnson* 551 F.3d 1019 (D.C. Cir.2008).

[8] See Declaration of Joseph Goffman, Sierra Club v. EPA, No. 20–1115 (DC Cir. November 3, 2021), included in the docket for this action.

## III. Final Action

For the reasons explained in the 2017 proposal, EPA is fully approving Montana's July 6, 2016 SIP submission removing ARM 17.8.334 from the Montana SIP. The Agency's approval of this submission fully corrects the inadequacies in Montana's SIP that were identified in the EPA's 2015 SSM SIP Action.

## IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference ARM regarding the removal of 17.8.334 from Montana's SIP, as discussed in section I of this preamble. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[9]

## V. Statutory and Executive Orders Review

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it

[9] 62 FR 27968 (May 22, 1997).

is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

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

Dated: February 4, 2022.

**KC Becker,**

*Regional Administrator, Region 8.*

For the resons set out in the preamble, 40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart BB—Montana

**§ 52.1370 [Amended]**

■ 2. In § 52.1370, the table in paragraph (c) is amended by removing the entry ''17.8.334'' under the heading ''(ii) Administrative Rules of Montana, Subchapter 03, Emission Standards''.

[FR Doc. 2022–02737 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R02–OAR–2020–0438; FRL–9315–02–R2]**

## Approval and Promulgation of Air Quality Implementation Plans; United States Virgin Islands; Regional Haze Federal Implementation Plan; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On October 22, 2012, the EPA published a final rule in the **Federal Register** promulgating a Federal Implementation Plan (FIP) to address regional haze obligations for the Territory of the United States Virgin Islands. However, at that time, EPA erroneously failed to incorporate into the Code of Federal Regulations (CFR) certain emission limits that had been determined to be necessary to satisfy those obligations and that had been proposed and included in the docket for the action. EPA is correcting this error by incorporating the previously noticed limits into the CFR. EPA has not reopened any of the previous, underlying determinations in this action.

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

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2020–0438. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Omar Hammad, Air Planning Section, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3347, email address: *Hammad.Omar@epa.gov.*

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

The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

**Table of Contents:**



### I. What is the background for this action?

On February 19, 2021 (86 FR 10227), the Environmental Protection Agency (EPA) published a Notice of Proposed Rulemaking (NPRM) in which the EPA proposed to make a technical correction adding into the CFR the inadvertently omitted Best Available Retrofit Technology (BART) table containing the potential to emit (PTE) limits necessary to satisfy the Virgin Islands' BART obligation.

On October 22, 2012, EPA published a final rule promulgating a Federal Implementation Plan (FIP) to address regional haze obligations for the Territory of the United States Virgin Islands. (77 FR 64414). EPA determined that certain emission limits for sources of visibility impairing pollutants in the Virgin Islands were necessary to satisfy the requirements of the Clean Air Act and EPA's rules concerning progress towards the national goal of preventing any future and remedying any existing man-made impairment of visibility in mandatory Class I areas (also referred to as the ''regional haze program''). In that action, however, EPA erroneously failed to incorporate into the CFR certain emission limits that had been noticed in the proposed rule (77 FR 37842, June 25, 2012) and which were included in docket EPA–R02–OAR–2012–0457 accompanying that proposed rule.[1] Specifically, EPA had determined that no additional controls were needed to satisfy the Best Available Retrofit Technology (BART) requirement of the Regional Haze Rule, and therefore that the subject-to-BART units' existing PTE limits would be incorporated into the Virgin Islands' FIP. *See* 77 FR 37856. EPA is now making a technical correction to incorporate the table containing the PTE limits necessary to satisfy the Virgin Islands' BART obligation into the CFR.

This rule does not reopen the previous determination that the PTE limits contained in the docket for the 2012 final rule represent BART for the units determined to be subject-to-BART; this action merely corrects an inadvertent omission in a previous rulemaking. This correction is not intended to address current or changed circumstances at the subject-to-BART units, but merely clarifies what was intended to be included in the CFR pursuant to the 2012 FIP.

### II. What comments were received in response to the EPA's proposed correction?

In response to the EPA's February 19, 2021 proposed correction of the Virgin Islands' FIP, the EPA received comments from one commenter, Limetree Bay Refining, LLC and Limetree Bay Terminals, LLC (together ''Limetree'' or ''the commenter'') and is providing responses to the comments that were received. The specific

[1] Document ID EPA–R02–OAR–2012–0457–0007 and EPA–R02–OAR–2012–0457–0008 in docket EPA–R02–OAR–2012–0457.

comments may be viewed under Docket ID Number EPA–R02–OAR–2019–0674 on the *https://www.regulations.gov* website.

*Comment 1:* The commenter argues that correcting the erroneously omitted BART Measures by adding the provisions to the CFR is not a technical correction and that it imposes new limits. The commenter asserts that, even if EPA had some intention of promulgating such limits in 2012 when it promulgated the Federal Implementation Plan (FIP) to address regional haze in the Virgin Islands, it did not do so. The commenter contends that the proposed rule would therefore, for the first time, impose BART emission limitations on the Limetree facility.

To be effective and enforceable, commenter states, the promulgation of the proposed limits must comply with public notice and comment requirements. The commenter maintains that the 2012 Proposed Rule described various proposed BART determinations for sources in the Virgin Islands that may be subject to BART, but did not propose measures to translate those determinations into enforceable limitations.

The commenter asserts that the enforceable language now proposed by the EPA is nowhere to be found in the 2012 rulemaking record, neither in the Proposed Rule or Final Rule, nor in any docketed supporting document.

*Response:* This rule does not reopen the previous determination that the PTE limits contained in the docket for the 2012 final rule represent BART for the units determined to be subject-to-BART. This action merely corrects an inadvertent omission in a previous rulemaking in which EPA intended to, but did not, include those PTE limits in the Virgin Islands' FIP. Included in the 2012 FIP docket, EPA–R02–OAR–2012, are two documents that include the PTE limits for HOVENSA, EPA–R02–OAR–2012–007 and EPA–R02–OAR–2012–008. These limits represented current operations at the time and were determined to constitute BART in the 2012 FIP.

The commenter is correct that inserting the inadvertently omitted BART Measures, specifically the emission limitations for $SO_2$, $NO_X$, and PM, into the CFR are the first codification of these requirements. However, the commenter is incorrect that those limits were absent from the 2012 rulemaking record and that EPA did not intend to put these limits in the FIP in 2012. *See* 77 FR 37842, 37856. To the contrary, the administrative record documents EPA's intention for emission limitations and specifically references the applicability to the commenter's facility. At page 37856 of the final rule, EPA asserts, ''[a]s such, EPA's Federal plan includes the establishment of emission limits for $SO_2$, $NO_X$, and PM equivalent to the potential to emit (PTE) for each unit subject to BART, as derived from HOVENSA's permit limit conditions.'' BART is defined in EPA's regulations as an emission limit, 40 CFR 51.301. It is not possible to satisfy the BART requirements without including an emission limit reflecting the BART determination(s) in the applicable implementation plan (in this case, in the Virgin Islands' FIP). *See also* 40 CFR 51.308(e)(2) (''The State must submit an implementation plan containing emission limitations representing BART. . . .''). The commenter's contention that EPA did not intend to promulgate emission limits in the FIP reflecting the BART determinations implies that EPA did not intend to satisfy the BART requirement for the source and is therefore clearly incorrect. Additionally, the BART emission limits merely reflect preexisting (as of 2012) PTE limits to which the units were already subject. Therefore, while this action will put the limits in the FIP for the first time, it does not represent the first time the source has had to comply with the relevant limits.

This technical correction remedies the inadvertent omission of the BART limits in the CFR. EPA provided opportunity for public comment on its determination that the subject-to-BART units' existing PTE limits represented BART in the 2012 FIP rule making. *See* 77 FR 37842, 37856 (June 25, 2012). The agency further provided an opportunity for public comment on whether the PTE limits contained in the notice of proposed rulemaking for this action were the limits EPA determined to be BART in 2012. 86 FR 10227, 10227 (Feb. 19, 2021). EPA has thus provided public notice of and an opportunity to comment on the limits it is incorporating into the Virgin Islands' FIP.

*Comment 2:* The commenter states that EPA Region 2 did not work with Limetree to coordinate these limits. The commenter asserts that EPA also does not explain how ''maximum transparency'' was served by its failure to provide Limetree, the sole affected party, any notice of this proposal prior to its publication in the **Federal Register**.

*Response:* EPA is not proposing to change or reopen the BART determinations made in the 2012 FIP that were based on emission limits that were already in place for HOVENSA at the time. EPA provided opportunity for public comment on the already established BART in the 2012 FIP rulemaking. *See* 77 FR 37842, 37856 (June 25, 2012). EPA is merely making a technical correction that takes those same PTE limits, which were determined to be then-current operations, and codifies those limits in the CFR. This rulemaking does not revisit or change the 2012 determinations, which were made pursuant to a notice and comment rulemaking process. *See* 77 FR 37842, 37856. HOVENSA, and others, commented during that rulemaking. *See* 77 FR 64414, 64415–20.

With respect to commenter's statement that it did not receive any notice of this proposal prior to its publication in the **Federal Register**, consistent with CAA Section 307(d) and general rulemaking processes, the proposal being finalized by this action, on which the commenter commented, was the advance notice. The proposal included the establishment of a rulemaking docket and provided for the acceptance of written comments, data, or other documents from ''any person.''

*Comment 3:* The commenter argues that it is clear from the record that the omission of any enforceable limits was not inadvertent, but rather EPA's intent was to promulgate the restart notice requirement at 40 CFR 52.2781(d)(4) *in lieu of* any specific BART limitations. The commenter asserts that the restart notice procedure is the appropriate mechanism for EPA to determine whether the FIP should be revised, and any revision is required to be promulgated through full notice and comment procedures. The commenter states that the proposed ''correction'' fails to meet the process required by 40 CFR. 52.2718(d)(4).

*Response:* The restart notice requirement pertains to the reasonable progress requirements, not to BART. The commentor is erroneously conflating BART with reasonable progress. The commenter is incorrect that the restart notice requirement was intended to be in lieu of BART. *See* 77 FR 37842.

The commenter conflates two distinct sets of regional haze requirements: Reasonable progress and BART. States' regional haze implementation plans are required to include BART emission limits pursuant to 40 CFR 51.308(e). EPA made BART determinations and intended to promulgate BART limits, which were to be equivalent to existing PTE limits for the subject-to-BART sources, in the FIP. 77 FR 37856. The passages from EPA's rulemaking cited by commenter refer to EPA's

determinations and requirements pursuant to a *different* set of regulatory requirements, *i.e.,* the requirements for determining the measures *in addition to* BART that are necessary to make reasonable progress. Reasonable progress is governed by the requirements of 40 CFR 51.308(d). The restart notice requirement pertains to the reasonable progress. *See* 40 CFR 52.2781(d)(4) (upon receiving startup notification and information from the source, ''EPA will revise the FIP as necessary, after public notice and comment, in accordance with the regional haze requirements including the *'reasonable progress' provisions in 40 CFR 51.308(d)(1).*'') (emphasis added).

Unrelated to the technical correction in this action, in a letter dated June 10, 2019, EPA responded to Limetree's restart notice, dated June 2, 2019, explaining that, upon restart, the 2012 FIP requires the EPA to assess whether additional control measures are warranted to meet regional haze requirements, including the ''reasonable progress'' provisions in 40 CFR 51.308(d)(l). 40 CFR 52.2782(d)(3)–(4). Limetree will be consulted and included in the process of assessing whether new control measures are warranted upon restart.

As explained in the response to the first comment, above, in the 2012 FIP, EPA determined that current operations, PTE limits at the time, represented BART. EPA determined BART for each BART-eligible source using the methodology in the *Guidelines for Best Available Control Retrofit Technology (BART) Determinations under the Regional Haze Rules,* 40 CFR part 51, Appendix Y. This action proposes to correct the EPA's failure to codify in the CFR the PTE limits that constituted current operations at the time and were determined to represent BART in the 2012 FIP.

*Comment 4:* The commenter objects to the ''arbitrary and extremely limited scope'' of comments that EPA will allow, allowing comment on the narrow issue of whether the limits in the correction are the limits that EPA determined to be BART in the 2012 action. Limetree questions how this serves EPA's stated goal of ''maximum transparency.'' The commenter states that EPA must then provide reasonable opportunity to comment on the full scope of the proposed rule, including whether any proposed limits represent BART for units determined to be subject-to-BART.

*Response:* As explained in the response to the first comment, above, EPA is not reopening any determinations previously made in its 2012 FIP. The scope of this action is not to revisit the BART determination itself, but to merely make the technical correction of adding the emission limit reflecting the existing BART determination to the CFR. EPA determined in 2012 that current operations, PTE limits at the time, represented BART. EPA determined BART for each BART-eligible source using the methodology in the *Guidelines for Best Available Control Retrofit Technology (BART) Determinations under the Regional Haze Rules,* 40 CFR part 51, Appendix Y. EPA sought public comment on the BART determinations and thus satisfied the notice-and-comment requirement in the 2012 proposed rule. 77 FR 37857. Today's action is simply to put the emission limits reflecting the already-finalized BART determinations in the FIP. It is reasonable for EPA to limit the scope of comment consistent with the scope of the action being taken.

*Comment 5:* Limetree states that it objects to EPA not considering current conditions and changed circumstances. Limetree asserts that previous BART determinations are no longer reliable, and alternatives are conceivable.

*Response:* This action is merely to correct an error made in 2012, when EPA intended to put the source's preexisting emission limits in the FIP. The BART limits are intended to reflect the determination that was made based on the circumstances that existed in 2012. As expressed in EPA's 2012 rulemaking, current conditions and changed circumstances will be considered in the context of determining whether any *additional* measures, on top of the BART emission limits, are necessary pursuant to the reasonable progress requirements. *See* 40 CFR 52.2781(d)(3) and (4); 77 FR 37850. Limetree will be consulted in any future planning for regional haze that impacts the source, which is a matter beyond the scope of this technical correction.

If Limetree has made any significant modifications or changes to any units, that is not within the scope of this technical correction. This technical correction merely takes the HOVENSA BART determinations established in the 2012 FIP and codifies the same determinations in the CFR. Any restarts, changes, modifications, or reconfigurations in operation will be addressed through the restart notice steps and the separate reasonable progress requirements. The reconfiguration of the facility is not the subject of this action which merely corrects an omission in the 2012 FIP.

*Comment 6:* The commenter states that BART limits would affect operations of the refinery, which was recently reconfigured at considerable expense in reliance upon the existing regulatory requirements and the utility of its permits.

The commenter maintains that EPA must specifically allow comment on the reliance interests that arise with changed circumstances, as well as the policy considerations addressing this issue that EPA is required to identify in a proposed rule. The commenter asserts that the FIP has been in place since 2012, yet not only does the proposed rule fail to assess the relevant reliance interests, it also fails to consider any alternative courses of action. According to the commenter, alternatives are thus plainly conceivable and, under the Supreme Court's DACA decision, EPA is required to assess them.

*Response:* Although the commenter is correct that the Virgin Islands' FIP promulgated in 2012 did not contain emission limits reflecting BART, the refinery was nonetheless subject to those same emission limits by virtue of their existence in the source's preexisting permits. *See* 77 FR 37856 (Federal plan was to include emission limits ''equivalent to the potential to emit (PTE) for each unit subject to BART, as derived from HOVENSA's permit limit conditions''). It therefore is not clear how simply codifying the same limits in an additional instrument would necessitate a change in the source's operations. That is, it is not clear how this action implicates Limetree's reliance interests. The commenter has offered no factual support for the assertion that it relied on the absence of BART limits in the Virgin Islands' FIP and that incorporating those limits now would significantly affect the utility of the sources' permits. Moreover, the commenter fails to explain how it has a reliance interest in a clerical error made by the agency, particularly where it was clear from the record for the 2012 rule that EPA intended to impose BART limits on this source.

The commenter alleges that *U.S. Department of Homeland Security et al.* v. *Regents of the University of California et al.,* 140 S.Ct. 1891 (2020) has application to the instant rulemaking because the inadvertent omission of a regulatory provision has allegedly resulted in the commenter relying on a false perception that no BART emission limitations were in place for the HOVENSA facility. The potential existence of BART alternatives is not under consideration because any rational analysis of the 2012 rulemaking

would indicate that the previously applied limitations were to be continued but were (as reiterated throughout) erroneously omitted.

As explained above, to the extent the source's operations have changed since 2012, it was and continues to be EPA's intent to address any changes in circumstances via the process laid out in 40 CFR 52.2781(d)(4) as appropriate. It is clear, however, that EPA intended to include BART emission limitations for the source in the FIP in 2012 and that such limits should have applied starting at that time.

## III. What action is the EPA taking?

The EPA is finalizing a technical correction to incorporate the erroneously omitted table containing the PTE limits necessary to satisfy the Virgin Islands' BART obligation into the CFR.

## IV. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action under the terms of Executive Order 12866 and was, therefore, not submitted to the Office of Management and Budget (OMB) for review. This final rule is a technical correction.

*B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the provisions of the PRA. Under the PRA, a ''collection of information'' is defined as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *.'' 44 U.S.C. 3502(3)(A). The action does not impose any new obligations or new enforcement duties on any state, local or tribal government or the private sector. This final rule is a technical correction.

*C. Regulatory Flexibility Act*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities if the rule has no net burden on the small entities subject to the rule. This action merely adds the erroneously omitted table to the CFR, it does not change any determination included in the FIP. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandates, as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal government or the private sector.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). Through this action, the EPA is adding the erroneously omitted table to the CFR; it does not change any determination included in the FIP. This action does not remove any of the prior rule's environmental or procedural protections.

*K. Congress Review Act (CRA)*

This rule is exempt from the CRA because it is a rule of particular applicability.

*L. Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

**Michael S. Regan,**
*Administrator.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart CCC—Virgin Islands

■ 2. In § 52.2781 paragraph (d)(5) is added to read as follows:

**§ 52.2781 Visibility protection.**

* * * * *

(d) * * *

(5) *Best Available Retrofit Technology (BART) measures.* Emissions limitations, the owners/operators subject to this section shall not emit or cause to be emitted $SO_2$, $NO_X$, and PM in excess of the following limitations:

TABLE 1 TO PARAGRAPH (d)(5)

| Facility | BART unit | BART controls/limits | | | |
|---|---|---|---|---|---|
| | | Control | $SO_2$ (tons/year) | $NO_X$ (tons/year) | PM (tons/year) |
| HOVENSA ..... | Boilers: | | | | |
| | 1 (B–1151) ..... | ..... | 330.1 | 450.6 | 40.6. |
| | 3 (B–1153) ..... | ..... | 330.1 | 450.6 | 40.6. |
| | 4 (B–1154) ..... | ..... | 322.5 | 443.5 | 39.7. |
| | 5 (B–1155) ..... | ..... | 484.9 | 676.9 | 60.7. |
| | 6 (B–3301) ..... | ..... | 330.8 | 435.3 | 40.6. |
| | 7 (B–3302) ..... | ..... | 330.8 | 435.3 | 40.6. |
| | 8 (B–3303) ..... | ..... | 640.1 | 559.8 | 78.6. |
| | 9 (B–3304) ..... | ..... | 640.1 | 559.8 | 78.6. |
| | Turbines: | | | | |
| | GT1 (G–1101E) ..... | ..... | 135.5 | 805.7 | 12.2. |
| | GT2 (G–1101F) ..... | ..... | 135.5 | 805.7 | 12.2. |
| | GT3 (G–1101G) ..... | ..... | 135.5 | 805.7 | 12.2. |
| | GT4 (G–3404) ..... | ..... | 161.0 | 809.5 | 12.9. |
| | GT5 (G–3405) ..... | ..... | 161.0 | 766.5 | 12.9. |
| | GT6 (G–3406) ..... | ..... | 161.0 | 766.5 | 12.9. |
| | GT7 (G–3407) ..... | ..... | 161.0 | 766.5 | 12.9. |
| | GT8 (G–3408) ..... | ..... | 167.6 | 1002.1 | 15.1. |
| | GT9 (G–3409) ..... | Steam Injection for $NO_X$ Control ..... | 52.2 | 150.2 | 14.0. |
| | Process Heaters: | | | | |
| | H–101 ..... | ..... | 155.5 | 232.5 | 19.3. |
| | H–104 ..... | ..... | 115.5 | 172.8 | 17.2. |
| | H–200 ..... | ..... | 8.1 | 16.0 | 1.2. |
| | H–201 ..... | ..... | 8.2 | 16.1 | 1.2. |
| | H–202 ..... | ..... | 26.6 | 146.5 | 4.0. |
| | H–401A ..... | ..... | 197.6 | 279.1 | 24.4. |
| | H–401B ..... | ..... | 197.6 | 279.1 | 24.4. |
| | H–401C ..... | ..... | 197.6 | 279.1 | 24.4. |
| | H–1401A ..... | ..... | 163.1 | 388.7 | 21.1. |
| | H–1401B ..... | ..... | 155.4 | 370.2 | 20.1. |
| | H–1500 ..... | ..... | 13.0 | 25.5 | 2.0. |
| | H–1501 ..... | ..... | 13.7 | 26.8 | 2.0. |
| | H–160 ..... | ..... | 29.6 | 163.0 | 4.4. |
| | H–600 ..... | ..... | 11.5 | 22.5 | 1.7. |
| | H–601 ..... | ..... | 7.8 | 15.2 | 1.2. |
| | H–602 ..... | ..... | 62.6 | 344.4 | 9.4. |
| | H–603 ..... | ..... | 17.2 | 33.7 | 2.6. |
| | H–604 ..... | ..... | 8.1 | 15.9 | 1.2. |
| | H–605 ..... | ..... | 3.4 | 6.6 | 0.5. |
| | H–606 ..... | ..... | 11.8 | 23.1 | 1.8. |
| | H–800A ..... | ..... | 9.4 | 18.4 | 1.4. |
| | H–800B ..... | ..... | 9.4 | 18.4 | 1.4. |
| | H–801 ..... | ..... | 22.0 | 121.1 | 3.3. |
| | H–2101 ..... | ..... | 116.4 | 283.2 | 15.1. |
| | H–2102 ..... | ..... | 112.7 | 274.1 | 14.6. |
| | H–2201A ..... | ..... | 13.4 | 26.3 | 2.0. |
| | H–2201B ..... | ..... | 13.4 | 26.3 | 2.0. |
| | H–2202 ..... | ..... | 26.1 | 143.7 | 3.9. |
| | H–2400 ..... | ..... | 7.2 | 14.2 | 1.1. |
| | H–2401 ..... | ..... | 24.1 | 132.5 | 3.6. |
| | H–2501 ..... | ..... | 44.5 | 244.5 | 6.7. |
| | H–4502 ..... | ..... | 32.5 | 178.9 | 4.9. |
| | H–4503 ..... | ..... | 30.8 | 169.6 | 4.6. |
| | H–4504 ..... | ..... | 27.6 | 151.9 | 4.1. |
| | H–4505 ..... | ..... | 23.9 | 131.3 | 3.6. |
| | H–3101A ..... | ..... | 356.7 | 507.1 | 48.1. |
| | H–3101B ..... | ..... | 356.7 | 507.1 | 48.1. |
| | H–4101A ..... | ..... | 356.7 | 507.1 | 48.1. |
| | H–4101B ..... | ..... | 356.7 | 507.1 | 48.1. |
| | H–4401 ..... | ..... | 29.4 | 161.5 | 4.4. |
| | H–4402 ..... | ..... | 28.0 | 153.8 | 4.2. |
| | H–4451 ..... | ..... | 83.4 | 458.7 | 12.5. |
| | H–4452 ..... | ..... | 54.3 | 298.6 | 8.1. |
| | H–4453 ..... | ..... | 54.3 | 298.6 | 8.1. |
| | H–4454 ..... | ..... | 16.9 | 33.1 | 2.5. |

TABLE 1 TO PARAGRAPH (d)(5)—Continued

| Facility | BART unit | BART controls/limits | | | |
|---|---|---|---|---|---|
| | | Control | $SO_2$ (tons/year) | $NO_X$ (tons/year) | PM (tons/year) |
| | H–4455 | | 30.3 | 166.6 | 4.5. |
| | H–4201 | | 367.7 | 448.1 | 44.9. |
| | H–4202 | | 355.7 | 433.6 | 43.4. |
| | H–5401 | | 29.4 | 161.5 | 4.4. |
| | H–5402 | | 28 | 153.8 | 4.2. |
| | H–5451 | | 83.4 | 458.7 | 12.5. |
| | H–5452 | | 54.3 | 298.6 | 8.1. |
| | H–5453 | | 54.3 | 298.6 | 8.1. |
| | H–5454 | | 16.9 | 33.1 | 2.5. |
| | H–5455 | | 30.3 | 166.6 | 4.5. |
| | H–4601A | | 13.4 | 26.3 | 2. |
| | H–4601B | | 13.4 | 26.3 | 2. |
| | H–4602 | | 26.1 | 143.7 | 3.9. |
| | H–4301A | | 14.6 | 28.7 | 2.2. |
| | H–4301B | | 14.6 | 28.7 | 2.2. |
| | H–4302 | | 26.7 | 147.1 | 4. |
| | H–5301A | | 14.6 | 28.7 | 2.2. |
| | H–5301B | | 14.6 | 28.7 | 2.2. |
| | H–5302 | | 26.7 | 147.1 | 4. |
| | TGT unit No. 2 Beavo: | | | | |
| | H–4761 & T–4761 | | 2.0 | 4.0 | 1.0. |
| | TGI units: | | | | |
| | H–1032 | | 1.6 | 3.1 | 0.2. |
| | H–1042 | | 3.3 | 6.5 | 0.5. |
| | H–4745 | | 900.0 | 28.0 | 3.0. |
| | Compressors: | | | | |
| | C–200A | Catalytic Converters for $NO_X$ and CO control. | 0.0 | 33.1 | 0.2. |
| | C–200B | Catalytic Converters for $NO_X$ and CO control. | 0.0 | 33.1 | 0.2. |
| | C–200C | Catalytic Converters for $NO_X$ and CO control. | 0.0 | 33.1 | 0.2. |
| | C–1500A | | 0.0 | 40.0 | 0.1. |
| | C–1500B | | 0.0 | 40.0 | 0.1. |
| | C–1500C | | 0.0 | 40.0 | 0.1. |
| | C–2400A | Catalytic Converters for NOx and CO control. | 0.0 | 19.4 | 0.3. |
| | C–2400B | Catalytic Converters for $NO_X$ and CO control. | 0.0 | 19.4 | 0.3. |
| | C–4601A | | 0.0 | 380.6 | 0.9. |
| | C–4601B | | 0.0 | 380.6 | 0.9. |
| | C–4601C | | 0.0 | 380.6 | 0.9. |
| | Flares: | | | | |
| | #2 Flare (H–1105) | | 150.0 | 237.0 | negligible. |
| | #3 Flare (H–1104) | | 150.0 | 237.0 | negligible. |
| | #5 Flare (H–3351) | | 150.0 | 237.0 | negligible. |
| | #6 Flare (H–3352) | | 150.0 | 237.0 | negligible. |
| | #7 Flare (H–3301) | | 150.0 | 237.0 | negligible. |
| | Water Pumps: | | | | |
| | PD–1602 | | 1.9 | 40.6 | 2.9. |
| | PD–1603 | | 1.9 | 40.6 | 2.9. |
| | PD–1604 | | 1.9 | 40.6 | 2.9. |
| | PD–1605 | | 1.9 | 40.6 | 2.9. |
| | PD–1620 | | 1.3 | 27.0 | 1.9. |

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2020–0310; FRL–8007–03–OAR]**

**40 CFR Part 81**

## Response to Clean Air Act Section 176A Petition From Maine; Final Action on Petition

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action on petition.

**SUMMARY:** The Environmental Protection Agency (EPA) is granting a Clean Air Act (CAA) section 176A petition submitted by the state of Maine on February 24, 2020. The petition requested that the EPA remove a portion of Maine from the Ozone Transport Region (OTR) based on that area's continued attainment with ozone National Ambient Air Quality Standards (NAAQS) and technical analyses demonstrating that further control of emissions from that portion of Maine will not significantly contribute to the attainment of any ozone standard in any area of the OTR.

**DATES:** This final action is effective March 14, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2020–0310. All documents in the docket are listed and publicly available at *http://www.regulations.gov.* Publicly available docket materials are also available in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC. Out of an abundance of caution, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID–19. The EPA Docket Center and Reading Room has since started the reopening process. Visitors will be considered on an exception basis and allowed entrance by appointment only. Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit *https://www.epa.gov/dockets.* In addition to being available in the docket, an electronic copy of this document will be posted at *https://www.epa.gov/ozone-pollution/ozone-national-ambient-air-quality-standards-section-176a-petition-maine.*

**FOR FURTHER INFORMATION CONTACT:** Questions concerning this final notice should be directed to Holly DeJong, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail code C539–01, Research Triangle Park, NC 27711, telephone (919) 541–4353; email at *dejong.holly@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the U.S. EPA. The information in this **SUPPLEMENTARY INFORMATION** section of this preamble is organized as follows:



### I. Executive Summary

The EPA is finalizing approval of a Clean Air Act (CAA) section 176A petition submitted by the state of Maine on February 24, 2020. In the petition, Maine requested that the EPA remove the state of Maine from the Ozone Transport Region (OTR) except for 111 towns and cities comprising the Androscoggin Valley,[1] Down East [2] and Metropolitan Portland [3] Air Quality Control Regions, commonly referred to as the ''Portland and Midcoast Ozone Areas.'' Maine contended that emissions from northern and eastern Maine do not significantly contribute to ozone nonattainment in other states nor do they interfere with maintenance of the ozone National Ambient Air Quality Standards (NAAQS) in those Maine municipalities that would remain in the OTR. Therefore, the state asserted that removing these areas from the OTR would not degrade the air quality in Maine or in any other state. The petition included monitoring data and technical analyses to support a demonstration that the areas requested to be removed from the OTR are in attainment with the ozone NAAQS and that emissions from these areas do not significantly contribute to ozone nonattainment in any area of the OTR. For the reasons detailed in this notice, the EPA is finalizing approval of the petition on the basis that the portion of the state requested to be removed from the OTR does not contribute to a violation of any ozone standard in any area of the OTR, and that further control of emissions from that portion of Maine will not significantly contribute to the attainment of any ozone standard in any area of the OTR.

Section 176A(a) of the CAA provides the Administrator with the authority to develop transport regions for particular pollutants where the Administrator determines that interstate transport of air pollutants from one or more states contributes significantly to violations of air quality standards in one or more other states. In the 1990 CAA Amendments, Congress created the OTR by statute under CAA section 184(a) to address the interstate transport of ozone pollution in the Northeast and Mid-Atlantic regions of the United States (U.S.).

The creation of an interstate transport region requires establishing a transport commission with representatives from each state who make recommendations to mitigate interstate pollution. Model rules and programs designed through the OTC (Ozone Transport Commission) may be adopted by the individual states through their own rulemaking processes. Under CAA section 184(c), the OTC may petition the EPA to approve additional control measures to be applied within all or part of the transport region. Maine seeks to remove portions of the state from the OTR, thereby releasing those areas from OTC recommendations and applicable control requirements established under CAA section 184, effective 30 days after the date of publication of this notice.[4]

Section 176A(a)(1) of the CAA provides the Administrator with authority to ''add any state or portion of

[1] 40 CFR 81.90 defines the Androscoggin Valley Interstate Air Quality Control Region as Androscoggin County, Kennebec County, Knox County, Lincoln County, Waldo County and parts of Franklin County, Oxford County, Somerset County. Androscoggin Valley also includes Cass County in the State of New Hampshire. Cass County is not included in the scope of this petition and will remain in the OTR.

[2] 40 CFR 81.181 defines the Down East Intrastate Air Quality Control Region as Hancock County, Washington County and parts of Penobscot County and Piscataquis County.

[3] 40 CFR 81.78 defines the Metropolitan Portland Intrastate Air Quality Control Region as Cumberland County, Sagadahoc County, York County, and the towns of Brownfield, Denmark, Fryeburg, Hiram, and Porter.

[4] Existing State Implementation Plan (SIP)-approved controls that were adopted by Maine due to its inclusion in the OTR will remain in place unless and until Maine submits, and the EPA approves, a SIP revision which includes a CAA section 110(1) demonstration.

a state to any [transport] region . . . whenever the Administrator has reason to believe that the interstate transport of air pollutants from such state significantly contributes to a violation of the standard in the transport region.'' Conversely, CAA section 176A(a)(2) allows the Administrator to ''remove any state or portion of a state from [a transport] region whenever the Administrator has reason to believe that the control of emissions in that state or portion of the state . . . will not significantly contribute to the attainment of the standard in any area in the region.''

In making this final decision, the EPA reviewed the petition from Maine, the public comments received, the relevant statutory authorities and other relevant materials. Accordingly, the EPA grants the CAA section 176A petition from Maine.

## II. Background and Legal Authority

### *A. Ozone Formation and Impacts*

Ground-level ozone causes a variety of negative effects on human health, vegetation, and ecosystems. In humans, acute and chronic exposure to ozone is associated with premature mortality and several morbidity effects, such as asthma exacerbation. In ecosystems, ozone exposure may cause visible foliar injury, decrease plant growth, and affect ecological community composition. Ground-level ozone is not emitted directly into the air. Rather, it is a secondary air pollutant created by chemical reactions between nitrogen oxides ($NO_X$) and volatile organic compounds (VOCs) in the presence of sunlight. These precursor emissions can be transported downwind directly or, after transformation in the atmosphere, as ozone. As a result, ozone formation, atmospheric residence, and transport can occur on a regional scale (*i.e.,* hundreds of miles).

The EPA has regulated ozone pollution and the precursor emissions that contribute to ozone for the last five decades.[5] Currently, there are two NAAQS in effect for ozone.[6] On March 12, 2008, the EPA promulgated a revision to the ozone NAAQS, lowering both the primary and secondary standards to 75 parts per billion (ppb).[7] On October 1, 2015, the EPA lowered the primary and secondary standards to 70 ppb.[8]

In accordance with CAA section 107(d), the EPA designates areas as ''attainment'' (meeting the standard), ''nonattainment'' (not meeting the standard) or ''unclassifiable'' (insufficient data to classify). States with areas designated as nonattainment must develop and submit SIPs to the EPA with the goal of attaining and maintaining the level of the NAAQS by the applicable attainment deadline. In this way, the EPA and states work collaboratively to establish and implement nonattainment area planning requirements that are designed to bring areas into attainment of the NAAQS by the applicable attainment deadline. A key step in ensuring that areas attain and maintain ozone NAAQS is to assess and understand the potential for ozone source formation in a given area, including the potential for upwind states' emissions to impact ozone formation in downwind states.

### *B. Sections 176A and 184 of the CAA and the OTR Process*

Subpart 1 of part D of title I of the CAA provides the general plan requirements for designated nonattainment areas. This subpart includes provisions governing the development of transport regions to address the interstate transport of pollutants that contribute to NAAQS violations. In particular, section 176A(a) of the CAA provides that, on the EPA's own motion or by a petition from the Governor of any state, whenever the EPA has reason to believe that the interstate transport of air pollutants from one or more states contributes significantly to a violation of the NAAQS in one or more other states, the EPA may establish, by rule, a transport region for such pollutant that includes such states. The provision further provides that the EPA may add any state or portion of a state to any transport region whenever the Administrator has reason to believe that the interstate transport of air pollutants from such state significantly contributes to a violation of the standard in the transport region.

Section 176A(b) of the CAA provides that when the EPA establishes a transport region, the Administrator shall establish an associated transport commission, comprised of (at a minimum) the following: The Governor or her or his designee of each covered state, the EPA Administrator or a designee, the Regional EPA Administrator or a designee, and an air pollution control official appointed by the Governor of each state. The purpose of the transport commission is to assess the degree of interstate transport throughout the transport region and assess and recommend control strategies to the EPA to mitigate such interstate transport.

Subpart 2 of part D of title I of the CAA provides plan requirements specific to the ozone NAAQS. Consistent with CAA section 176A, found in subpart 1, subpart 2 includes specific provisions focused on the interstate transport of ozone. CAA section 184(a) establishes a single transport region for ozone—the OTR—comprising the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area for the District of Columbia, which includes certain portions of northern Virginia. The Virginia counties and cities included in the OTR are Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

Section 184(b) of the CAA establishes specific control requirements that each state in the OTR is required to implement within the state, including certain controls on sources of $NO_X$ and VOCs. These control requirements are required to be implemented statewide in any state included within the OTR, regardless of ozone attainment status.[9] Under CAA section 184(b)(1)(A), OTR states must include enhanced vehicle emissions inspection and maintenance (I/M) programs in their SIPs.[10] Under CAA section 184(b)(2), major stationary sources of VOCs in the OTR are subject to the same requirements that apply to major sources in designated ozone nonattainment areas classified as Moderate.[11] Thus, the state must adopt

[5] Primary and secondary NAAQS were first established for photochemical oxidants in 1971. 36 FR 8186 (April 30, 1971). In 1979, the EPA revised the NAAQS to change the indicator from photochemical oxidants to $O_3$ and to revise the primary and secondary standards. 44 FR 8202 (February 8, 1979). In 2005, the 1-Hour Ozone NAAQS was revoked for all areas except the 8-Hour Ozone nonattainment Early Action Compact (EAC) areas. 70 FR 44470 (June 15, 2005). In 1997, the EPA once again revised the primary and secondary standards for ozone NAAQS. 62 FR 38856 (July 18, 1997). In 2015, the 1997 ozone NAAQS were revoked. 80 FR 12264 (March 6, 2015).

[6] The 1997 ozone NAAQS were revoked in 2015. 80 FR 12264 (March 6, 2015).

[7] *See* National Ambient Air Quality Standards for Ozone, Final Rule, 73 FR 16436 (March 27, 2008).

[8] *See* National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015).

[9] We note that one exception to the statewide applicability of these control requirements applies to Virginia, as only a portion of that state is included within the OTR.

[10] In the OTR, enhanced vehicle inspection and maintenance programs are required in metropolitan statistical areas with a 1990 Census population of 100,000 or more.

[11] Section 184(b)(2) of the CAA provides that, for purposes of implementing these requirements, a

Continued

rules to apply nonattainment new source review (NNSR) and reasonably available control technology (RACT) (pursuant to CAA section 182(b)(2)) provisions for major VOC sources. Under CAA section 184(b)(2) states must also implement Stage II gasoline refueling vapor recovery programs, incremental to vehicle Onboard Refueling Vapor Recovery achievements, or measures that achieve comparable emissions reductions for both attainment and nonattainment areas.[12]

Section 182(f) of the CAA requires states to apply the same requirements to major stationary sources of $NO_X$ as are applied to major stationary sources of VOCs under subpart 2. Thus, the same NNSR and RACT requirements that apply to major stationary sources of VOC in the OTR also apply to major stationary sources of $NO_X$.[13] CAA section 182(f) provides for a $NO_X$ waiver, or an exemption to the $NO_X$ requirements, where the Administrator determines that such $NO_X$ reductions would not contribute to the attainment of the NAAQS in an area. Areas granted a $NO_X$ waiver under CAA section 182(f) may be exempt from certain requirements of the EPA's motor vehicle I/M program regulations and from certain federal requirements of general and transportation conformity.[14]

*C. Legal Standard for This Action*

The EPA proposed to interpret the key terms in CAA section 176A(a)(2) (*i.e.,* ''control of emissions . . . will not significantly contribute to the attainment of the standard'' and ''in any area in the region'') within the context of and consistently with other parts of the CAA that govern the interstate transport of ozone pollution, taking into account relevant facts and circumstances and the EPA's past approaches to addressing interstate ozone transport. Specifically, because of CAA section 176A(a)(2)'s use of the phrase ''significantly contribute to [ ] attainment,'' the EPA proposed to look to its prior interpretations of the interstate pollution transport provision, often referred to as the ''good neighbor'' provision, at section 110(a)(2)(D)(i)(I) of the CAA, and the 4-step interstate transport framework the Agency has applied to analyze significant contributions under that provision in various regional interstate transport rules, to guide the Agency's analysis in determining whether Maine had met the necessary condition for removal from the OTR.[15] 86 FR 23312–13.

As such, we proposed to interpret the inquiry under CAA section 176A(a)(2) as permitting the EPA to remove a state or a portion of a state from a transport region whenever the Administrator has reason to believe that the state's continued inclusion in the transport region will not be required for attainment in the transport region, *i.e.,* that the petitioning state is not significantly contributing to air quality problems in the region and *will not* so contribute if the state is removed from the OTR. We received no adverse comments on this aspect of our interpretation, and we are therefore retaining this interpretation for purposes of the final approval.

We also proposed an interpretation of the phrase ''control of emissions in that state or portion of that state pursuant to this section.'' The EPA proposed that ''controls'' refers to new controls that would be required under CAA section 184(b) if the state or portion of the state were to remain in the OTR, as opposed to controls that the state has already adopted as required by the CAA due to its inclusion in the OTR. We stated that interpreting ''controls'' in this manner gives effect to the forward-looking nature of the provision, which asks the Administrator to analyze whether removal of the state or portion of the state from the OTR ''will'' have the effect of contributing to air quality problems in any area in the OTR. We are finalizing this interpretation.[16]

We proposed to interpret CAA section 176A(a)(2)'s use of the phrase ''any area in the region,'' which we used to establish the geographic scope of our significant contribution analysis, to mean all existing areas in the OTR, including areas within the petitioning state. We also took comment on an alternative interpretation wherein our analysis would be limited to interstate impacts, as opposed to impacts within a state's own borders. We received two comments supporting the broader interpretation, *i.e.,* that the phrase should be read to mean all areas in the existing OTR. The EPA will continue to assume for purposes of our final analysis that the phrase ''any area in the region'' includes any areas within the State of Maine in addition to areas of the OTR beyond Maine's borders. Because our analysis is that Maine's emissions will not significantly contribute to any nonattainment receptors in the OTR, including within its own borders, at this time we need not decide whether it would be appropriate to adopt a narrower interpretation of the phrase as limited to areas beyond the home state's borders.

In summary, we proposed to interpret CAA section 176A(a)(2) in a manner consistent with the EPA's 4-step interstate transport framework, and we retain that proposed interpretation for purposes of this final action. Applying that framework to the question presented by CAA section 176A(a)(2), we proposed to interpret the inquiry as requiring the Administrator to identify whether there are ambient air monitoring sites in the OTR that either are projected to be in nonattainment based on modeling data, or potentially struggle with maintenance or are currently violating the NAAQS based on monitored data, and whether the area petitioned to be removed from the transport region contributes below one percent of the NAAQS to those monitors. We retain that interpretation for purposes of this final rule.

*D. Previous Actions*

Consistent with the 1990 CAA Amendments, nine Maine counties were designated as nonattainment of the now-revoked 1979 1-hour NAAQS (0.12 parts per million (ppm)). York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, and Lincoln Counties were classified as Moderate nonattainment areas. Waldo and Hancock Counties were classified as Marginal nonattainment areas.

Maine had two nonattainment areas under the now-revoked 1997 8-hour ozone standard. The Portland Ozone Nonattainment area consisted of 56 cities and towns in York, Cumberland, and Sagadahoc Counties, along with the town of Durham in Androscoggin County, and was classified as Marginal

major stationary source shall be defined as any source that emits or has the potential to emit at least 50 tons per year of VOCs.

[12] *See* 72 FR 28772, May 16, 2012, Air Quality: Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver.

[13] *See* 57 FR 55622 (Nitrogen Oxides Supplement to the General Preamble, published November 25, 1992).

[14] As stated in the EPA's I/M (November 5, 1992; 57 FR 52950) and conformity rules (60 FR 57179 for transportation rules and 58 FR 63214 for general rules), certain $NO_X$ requirements in those rules do not apply where the EPA grants an areawide exemption under CAA section 182(f).

[15] We note that we received a comment alleging that CAA section 176A(a)(2) applies to Maine's petition by virtue of the reference to that section in CAA section 184(a). We address that comment below in the Responses to Comment section.

[16] One commenter asserted that the technical bases relied upon by the Agency in its proposal were ''inadequate to the task'' of analyzing Maine's petition, because those bases assumed the continued application of existing OTR controls. We address that comment in section III.B of this notice and in the Response to Comments (RTC) document for this action. Another commenter asserted that the EPA's interpretation of controls required us to articulate how CAA section 110(l) demonstrations would be analyzed in the future. We address that comment in Section III.B of this notice and the RTC document for this action.

for the 1997 ozone standard. The Hancock, Knox, Lincoln, and Waldo Counties Ozone Nonattainment Area (also known as the Midcoast area) consisted of 55 coastal towns and islands in Hancock, Knox, Lincoln, and Waldo counties and was designated as nonattainment under Subpart 1 for the 8-hour ozone standard. Maine was designated ''Attainment/Unclassifiable'' statewide for both the 2008 and 2015 8-hour ozone standards of 0.075 ppm and 0.070 ppm, respectively.

As previously discussed, Section 184(b) of the CAA established certain control requirements that each state in the OTR is required to implement within the state. Section 182(f) of the CAA Amendments allows for the suspension of the OTR stationary source $NO_X$ requirements based on a demonstration that additional $NO_X$ reductions would not produce net ozone air quality benefits in the OTR. Maine has petitioned for and has been granted the following CAA section 182(f) $NO_X$ waivers.

On December 26, 1995 (60 FR 66748), the EPA approved an exemption request for the Northern Maine area from CAA section 182(f) $NO_X$ requirements. This action exempted the Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, Hancock and Waldo counties from the requirements to implement $NO_X$ control measures for existing stationary sources, NNSR for new sources and modifications that are major for $NO_X$, $NO_X$ RACT requirements, the $NO_X$-related general conformity provisions, and the $NO_X$-related transportation conformity provisions now contained in 40 CFR 93.119.[17]

On February 3, 2006 (71 FR 5791), the EPA approved a request for an exemption for a similar area in northern Maine (specifically Aroostook, Franklin, Oxford, Penobscot, Piscataquis, Somerset, Washington, and portions of Hancock and Waldo Counties) under the 1997 ozone standard.

On July 29, 2014 (78 FR 43945), the EPA approved the state of Maine's request for an exemption from the $NO_X$ requirements contained in section 182(f) of the CAA for the entire state of Maine for the 2008 ozone standard. The CAA does not provide a similar VOC waiver process, and major stationary sources of VOC remain subject to NNSR and RACT requirements throughout the entire state of Maine.

In addition to the $NO_X$ waivers under CAA section 182(f), Maine requested and was granted an OTR restructuring with respect to enhanced I/M requirements.[18] (66 FR 1873; January 10, 2001) While the Maine I/M rule did not meet all requirements of the EPA's final rule for enhanced I/M, the EPA determined that the implementation of an enhanced I/M program in Maine in place of the approved Maine I/M rule would not significantly contribute to attainment in any other state in the OTR.

### *E. The CAA Section 176A Petition From Maine*

On February 24, 2020, the state of Maine petitioned the EPA pursuant to CAA section 176A(a)(2) for the removal of the state of Maine from the OTR with the exception of the 111 towns and cities listed in Table 1 comprising the Portland and Midcoast Ozone Areas.

TABLE 1—MAINE TOWNS AND CITIES TO REMAIN IN THE OZONE TRANSPORT REGION

*Androscoggin County (includes only the following town):* Durham.
*Cumberland County (includes only the following towns and cities):* Brunswick, Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Harpswell, Long Island, New Gloucester, North Yarmouth, Portland, Pownal, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, and Yarmouth.
*Hancock County (includes only the following towns and cities):* Bar Harbor, Blue Hill, Brooklin, Brooksville, Cranberry Isles, Deer Isle, Frenchboro, Gouldsboro, Hancock, Lamoine, Mount Desert, Sedwick, Sorrento, Southwest Harbor, Stonington, Sullivan, Surry, Swans Island, Tremont, Trenton, and Winter Harbor.
*Knox County (includes only the following towns and cities):* Camden, Criehaven, Cushing, Friendship, Isle au Haut, Matinicus Isle, Muscle Ridge Shoals, North Haven, Owls Head, Rockland, Rockport, St. George, South Thomaston, Thomaston, Vinalhaven, and Warren.
*Lincoln County (includes only the following towns and cities):* Alna, Boothbay, Boothbay Harbor, Breman, Bristol, Damariscotta, Dresden, Edgecomb, Monhegan, Newcastle, Nobleboro, South Bristol, Southport, Waldoboro, Westport, and Wiscasset.
*Sagadahoc County (includes all towns and cities).*
*Waldo County (includes only the following town):* Islesboro.
*York County (includes only the following towns and cities):* Alfred, Arundel, Berwick, Biddeford, Buxton, Dayton, Eliot, Hollis, Kennebunk, Kennebunkport, Kittery, Limington, Lyman, North Berwick, Ogunquit, Old Orchard Beach, Saco, Sanford, South Berwick, Wells, and York.

The Maine Department of Environmental Protection provided an analysis purporting to demonstrate that Maine's emissions have an insignificant effect on nonattainment for the 8-hour ozone NAAQS in other states and in those areas in Maine that will remain in the OTR. Maine's analysis consisted of modeling ''back trajectories'' for ozone exceedance days in the 2016–2018 period recorded at monitoring locations in southern New England and in Maine, the EPA's source-apportionment modeling results and emissions-inventory data for Maine and the OTR.[19] A more detailed description of the technical analysis included in Maine's petition can be found in Section V.A of the proposal.

## III. The EPA's Final Response to the CAA Section 176A Petition From Maine

### *A. The EPA's Assessment of Maine's CAA Section 176A Petition*

On May 3, 2021, the EPA proposed to grant the CAA section 176A petition from Maine (86 FR 23309). The EPA considered monitoring data, technical demonstrations, and impacts to air quality control regimes in the areas to be removed and proposed to grant Maine's petition on the basis that the portion of the state requested to be removed from the OTR does not contribute to a violation of any ozone standard in any area of the OTR, and that further control of emissions from that portion of Maine under CAA section 184 will not significantly contribute to the attainment of any ozone standard in any area of the OTR. The EPA's basis for this

[17] Transportation and general conformity requirements only apply in nonattainment areas and areas redesignated to attainment with an approved CAA section 175A maintenance plan. *See* CAA section 176(c)(5). Transportation and general conformity do not apply in attainment areas in the OTR.

[18] The EPA's I/M rule was established on November 5, 1992 (57 FR 52950). The EPA made significant revisions to the I/M rule on September 18, 1995 (60 FR 48035) and on July 25, 1996 (61 FR 39036). Maine is subject to the requirements of the CAA for an I/M program in the Portland, Maine area.

[19] Back trajectory analyses use interpolated measured or modeled meteorological fields to estimate the most likely central path over geographical areas that an air parcel travels before reaching a specific location at a given time.

final action to grant Maine's petition has not fundamentally changed from the proposal. The EPA continues to believe that the portion of the state requested to be removed from the OTR does not contribute to a violation of any ozone standard in any area of the OTR, and that further control of emissions from that portion of Maine will not significantly contribute to the attainment of any ozone standard in any area of the OTR.

In support of the EPA's decision to grant the petition, the EPA has determined that all areas of the state proposed for removal from the OTR have been designated in attainment of the ozone NAAQS since 2004, and the entire state of Maine has been designated as in attainment with the ozone NAAQS since 2007. Additionally, technical demonstrations from Maine's Hybrid Single-Particle Lagrangian Integrated Trajectory (HYSPLIT) back trajectory analysis, the EPA's ozone source apportionment modeling, and emissions trends all indicate that emissions from the areas requested to be removed from the OTR will not significantly contribute to nonattainment or maintenance problems in any area in the OTR, either within or outside the state of Maine, in the foreseeable future. Furthermore, removing those areas from the OTR will not result in unchecked relaxation of existing $NO_X$ and VOC controls included in Maine's SIP or revoke permitted emissions limits at existing facilities. For these reasons, the EPA believes that a substantial increase in ozone precursor emissions resulting from this action is highly unlikely in any area of Maine or the OTR. A full description of the EPA's technical assessment can be found in Section V.B. of the proposal. The EPA's full assessment of the provisions that will be impacted as a result of granting the petition can be found in Section IV.B of the proposal.

*B. Public Comments*

The EPA received 11 comments during the public comment period on the EPA's proposal to grant Maine's petition. This section addresses significant comments received regarding the need for future ozone monitoring in the areas to be removed from the OTR, the potential for final approval of the petition to increase ozone levels in the OTR, and potential adverse impacts that could result if removing part of Maine from the OTR were to increase ozone levels. The remaining comments are addressed in a separate Response to Comments (RTC) document found in the docket for this action.

I. Comments Regarding Future Monitoring

*Comment:* Several commenters note that there are no future plans to monitor for ozone in the areas to be removed from the OTR, and that if the decision to approve the petition is finalized, the EPA should require future monitoring in those areas. One commenter asserts that the Agency should require quarterly or bi-annual monitoring, particularly in areas where there could be more industry development. Another commenter asserts that the EPA should establish an assessment plan to be carried out every few years to ensure that the ozone stays within the acceptable range. One commenter notes that currently there is limited monitoring in the areas to be removed from the OTR and that weakening requirements for ozone precursor pollution controls in these areas without ensuring that there is a monitoring system in place to track changes in ozone formation resulting from that decision leaves the EPA no way to determine what the impacts of this decision are.

*Response:* The EPA disagrees with commenters that there are no plans for future ozone monitoring in the areas to be removed from the OTR and disagrees that the monitoring system currently in place is insufficient to inform the Agency's decision making on this petition. Maine's ozone monitoring obligations as set out in 40 CFR part 58 are not impacted by whether portions of the state are removed from the OTR. Minimum monitoring requirements for ozone are based on Metropolitan Statistical Areas/Consolidated Metropolitan Statistical Areas (MSA/CMSA) population, and how close an area's design value concentrations of a pollutant are to the NAAQS. In addition, every state is required to have at least one NCore site that must measure ozone year-round. Currently, there are 14 ozone monitoring sites operating in Maine with eight monitoring sites located in the portion of the state proposed to be removed from the OTR. Of these eight monitoring sites, one is operated by the EPA's CASTNET program, and two are operated by independent tribal nations. For these three monitoring sites, it is not within the state's purview to consider discontinuation. Although Maine's current ozone monitoring network already exceeds the minimum regulatory requirements set out in 40 CFR part 58, according to 40 CFR part 58.10, any modifications to Maine's current ozone monitoring network must be proposed by Maine and approved by the EPA Regional Administrator. In addition, every 5 years, Maine is required to submit an assessment to the EPA to determine if its current monitoring network ''meets the monitoring objectives defined in appendix D to this part, whether new sites are needed, whether existing sites are no longer needed and can be terminated, and whether new technologies are appropriate for incorporation into the ambient air monitoring network.'' If, as commenters postulate, emissions of ozone precursors were to increase substantially as a result of the approval of this petition in an area that is not currently monitored, the location and magnitude of new emissions sources could be evaluated at that 5-year interval to determine whether their existence warrants additional ozone monitors or any other modifications to the ozone monitoring network.

The EPA also notes that all ozone monitoring data in locations for which the petition requests be removed from the OTR have 2020 design values substantially below the current ozone NAAQS of 0.070 ppm. The highest design value among these ozone monitors is 0.057 ppm. There is no indication, and commenters have not cited evidence, that ozone levels in areas of Maine away from the monitoring locations differ substantially from those at the locations of the monitors.

TABLE 2—TABLE OF 2018, 2019, AND 2020 DVS FOR MONITORING SITES IN ME WITH NON-ZERO DVS

| AQS site ID | County name | CBSA name | Local site name | 2016–2018 DV | 2017–2019 DV | 2018–2020 DV | Removed from OTR? |
|---|---|---|---|---|---|---|---|
| 230010014 | Androscoggin | Lewiston-Auburn | Durham Fire Station | 59 | 57 | 53 | N |
| 230031100 | Aroostook | | Micmac Health Dept | 51 | 51 | 51 | Y |
| 230039991 | Aroostook | | Ashland | 52 | 53 | 53 | Y |

TABLE 2—TABLE OF 2018, 2019, AND 2020 DVs FOR MONITORING SITES IN ME WITH NON-ZERO DVs—Continued

| AQS site ID | County name | CBSA name | Local site name | 2016–2018 DV | 2017–2019 DV | 2018–2020 DV | Removed from OTR? |
|---|---|---|---|---|---|---|---|
| 230052003 | Cumberland | Portland | Cape Elizabeth Two Lights. | 65 | 64 | 62 | N |
| 230090102 | Hancock | | Top of Cadillac Mountain. | 70 | 69 | 65 | N |
| 230090103 | Hancock | | McFarland Hill | 63 | 64 | 60 | N |
| 230112001 | Kennebec | Augusta-Waterville | Gardiner HS | 62 | 60 | 55 | Y |
| 230130004 | Knox | | Marshall Point Lighthouse. | 63 | 61 | 60 | N |
| 230173002 | Oxford | | Bethel Smith Farm Road. | 0 | 57 | 54 | Y |
| 230194008 | Penobscot | Bangor | Summit of Rider Bluff. | 57 | 56 | 55 | Y |
| 230290019 | Washington | | Jonesport Public Landing. | 61 | 60 | 57 | Y |
| 230310038 | York | Portland | West Buxton Fire Dept. | 59 | 57 | 53 | N |
| 230310040 | York | Portland | Shapleigh Ball Park | 61 | 60 | 56 | Y |
| 230312002 | York | Portland | Kennebunkport | 66 | 64 | 64 | N |

II. Comments Regarding the Potential for This Action To Increase Ozone Levels in the OTR, and Potential Adverse Impacts That Could Result if Removing Part of Maine From the OTR Were To Increase Ozone Levels in the OTR

*Comment:* One commenter asserts that Maine's petition does not establish a ''reason to believe'' that all areas currently within the OTR in Maine will not see significant additional ozone precursor emissions due to the EPA's approval of Maine's request. The commenter contends that the analyses relied on by Maine and the EPA are all based on the continued application of existing OTR controls, including the nonattainment new source review (NNSR) requirements and offsets. The commenter states that the petition offers no information about expected additional new or expanded existing sources in the area of Maine to be removed from the OTR, nor does the petition assess what emissions increases or ozone levels would be expected from allowing new or expanded existing stationary sources without requiring Lowest Achievable Emissions Rate for $NO_X$ and VOC emissions, and providing offsets of at least 1.15:1. The commenter claims that the EPA's failure to consider the consequences of approving Maine's petition (*i.e.,* the likely increase in new and modified industrial sources in inland Maine and the accompanying increase in ozone precursor emissions and in ozone concentrations) constitutes an abuse of the EPA's discretion.

The commenter notes that, should Maine's ozone precursor emissions increase, the state may experience nonattainment of the current 70 ppb standard or of a more stringent standard. The commenter further asserts that if ozone levels increase enough to trigger nonattainment status (under the current standard or future standards), that would require all nonattainment provisions to be reinstated, including OTR requirements that have been waived on the basis that much of the state is in attainment and create regulatory uncertainty for industry. Furthermore, the commenter asserts that removing parts of the state from the OTR will cause Maine to lose the mantle of ''clean hands.'' The commenter states that Maine's longstanding status in the OTR has shown that the state ''did its part to ensure that areas within the State and downwind are also clean'' but that leaving the OTR will ''eliminate that good neighbor behavior'' and ultimately be unfair to other states in the OTR and their neighbors in Canada. The commenter also points to maximum 8-hour average concentrations recorded during the June 6–7, 2021, high ozone event in Maine and asserts that climate change will exacerbate the problem of high ozone throughout the Mid-Atlantic and Northeast states, and further contribute to high ozone levels in Maine.

Multiple commenters also note that the proposal, if finalized, could be harmful to health and the environment if emissions were to increase as a result of approving the petition. One commenter notes that some of the counties and cities that would be removed include farmland and asserts that prolonged exposure to ozone would decrease the growth and production of crops and lead to economic instability for farmers in those areas. Another commenter states that the EPA failed to address potential adverse effects of its action on plant and animal life in parks, National Wildlife Refuges, and Wilderness Areas in Maine, and asserts that the current secondary ozone standard is not sufficiently protective of plants (including crops), trees, and animals. The commenter also cites the adverse effects of ozone exposure on the black cherry tree in Maine and on wilderness area ecosystems, which the commenter cites as important for the carbon storage and other climate benefits these areas provide. The commenter further asserts that the EPA has failed to consider possible implications of its action on air quality and regional haze at the coastal Moosehorn Baring and Moosehorn Edmunds Wilderness Areas in Washington County, or in the downwind Roosevelt-Campobello International Park, all U.S. Class I areas.

*Response:* The EPA does not agree that there is insufficient information to finalize the approval of Maine's request. The analytical information described in the proposal first identified air quality monitors located in the OTR that either measured elevated ozone concentrations or were projected to have design values that violated the NAAQS or struggled to maintain the NAAQS. The analyses then used a HYSPLIT trajectory model and photochemical source apportionment modeling to identify whether Maine contributed to those problem monitors. We acknowledge that this information did not attempt to speculate what sources might locate in Maine or make modifications based on the regulatory changes that would result from this final action (in particular, as raised by commenter, the change from NNSR

requirements to prevention of significant deterioration (PSD) requirements). However, other information in the record, including current ozone concentrations in the state and projected emissions trends, informs the EPA's determination that the portion of the state requested to be removed from the OTR does not contribute to a violation of any ozone standard in any area of the OTR, and that further control of emissions from that portion of Maine will not significantly contribute to the attainment of any ozone standard in any area of the OTR. All areas of the state proposed for removal from the OTR have been designated in attainment of the ozone NAAQS since 2004, and the entire state of Maine has been designated as in attainment with the ozone NAAQS since 2007. Our evaluation of emissions trends and applicability of other existing regulatory control programs that would still apply to the areas removed from the OTR, discussed in more detail below, indicate that a substantial increase in ozone precursor emissions resulting from this action is highly unlikely.

To begin, the projected emissions in Maine indicate steep declines in emissions of ozone precursors associated with on-the-books emissions controls, including mobile source controls that will continue to provide emissions reductions throughout the entire State regardless of whether portions of the state remain in the OTR or are removed from the OTR. Emissions trends of ozone season $NO_X$ and VOC in the counties to be fully removed from the OTR are provided in Table 3.[20] [21] The data indicate that $NO_X$ and VOC emissions will continue to trend downward in these counties, primarily due to reductions in onroad mobile sources. For the counties to be fully removed from the OTR, the emissions of ozone season $NO_X$ from onroad mobile sources are projected to decline by 70 percent from 2016 to 2032, as compared to 22 percent for other anthropogenic source sectors. Emissions of VOCs from onroad mobile sources in the counties to be fully removed from the OTR are projected to decline by 53 percent from 2016 to 2032, as compared to 34 percent for other anthropogenic source sectors.

TABLE 3—OZONE SEASON $NO_X$ AND VOC EMISSIONS IN COUNTIES TO BE FULLY REMOVED FROM THE OTR

| | 2016 | 2023 | 2032 |
|---|---|---|---|
| $NO_X$: | | | |
| Onroad Mobile | 3,318 | 1,581 | 990 |
| Other Sectors | 6,712 | 5,525 | 5,212 |
| Total | 10,030 | 7,106 | 6,202 |
| VOC: | | | |
| Onroad Mobile | 1,058 | 670 | 499 |
| Other Sectors | 7,439 | 5,527 | 4,883 |
| Total | 8,498 | 6,197 | 5,381 |

*On the books mobile source controls include:* Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards (*See* 79 FR 23414, April 28, 2014); Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements (*See* 66 FR 5002, January 18, 2001); and Control of Emissions of Air Pollution From Nonroad Diesel Engines and Fuel (*See* 69 FR 38958, June 29, 2004). If additional national mobile source rules are adopted and implemented in the future, those will also provide emissions reductions throughout the entire state regardless of OTR status.

As noted at proposal, Maine's current modeled contributions to nonattainment or maintenance issues anywhere in the OTR are also relevant. The state's highest modeled contribution to any receptor in the OTR that is expected to struggle with attainment or maintenance of the 2015 ozone NAAQS is only 0.01 ppb, *i.e.,* 0.01 percent of the 70 ppb standard. This suggests that the ozone contribution from anthropogenic ozone precursor emissions in Maine would have to increase by a factor of 70 for Maine to potentially contribute above the one percent threshold to an existing or projected nonattainment or maintenance problem in the OTR. This observation is made merely to provide an indication of the general magnitude of emissions increases from Maine that would be needed for existing trends in improving air quality to be halted and reversed to the extent that such an increase may create new air quality problems closer to, or within, Maine. We cannot predict what emissions increases or ozone levels would be expected based on regulatory changes associated with the EPA's approval of Maine's request. But the existing baseline of our analysis of Maine's emissions to other states informs our judgment that it is not reasonable to expect emissions increases on this scale or anything like it.

As also discussed in the proposal, we recognize that by approving Maine's request there would be consequent changes to the New Source Review (NSR) preconstruction permitting program in the state. However, while commenter is correct that lowest achievable emission rate (LAER) and the 1.15:1 emissions offset requirements would no longer apply to new major stationary sources and major modifications in the areas of the state being removed from the OTR, it is not the case these new and modified sources could construct without any regulatory safeguards in place.

Specifically, the areas being removed from the OTR will be subject to Maine's PSD and minor NSR permitting requirements for ozone precursors, $NO_X$ and VOC. Both the PSD and minor NSR permitting programs require that permitting authorities assess the impact of the proposed emissions increases from new and modified sources on the applicable NAAQS, as required by CAA sections 165(a)(3)(B) and 110(a)(2)(C), prior to construction. The PSD program, which will apply to major stationary sources and major modifications in the areas removed from the OTR, requires a

[20] Trends in $NO_X$ and VOC for individual source sectors for each county in Maine can be found in the docket for this rule.

[21] The development of emissions data for 2016, 2023, and 2032 is described in the 2016v2 North American Emissions Modeling Platform, *https://www.epa.gov/air-emissions-modeling/2016v2-platform.*

control technology review, called Best Available Control Technology (BACT), and an air quality analysis to demonstrate that the proposed new or modified emissions source will not cause or contribute to a violation of any NAAQS or PSD increment. Like LAER, BACT is a case-by-case decision for the facility and examines state-of-the-art pollution controls, although for BACT, the permitting authority considers the energy, environmental, and economic impacts and other costs, that are not considered in LAER determinations. However, depending on the type of facility and the cost effectiveness of controls, or other factors, there may not always be significant differences between the level of control that would be required under BACT versus LAER.

Moreover, for much of the area being removed from the OTR in Maine, the change from LAER to BACT for $NO_X$ for new and modified sources is not new. As discussed in the proposal, Maine has applied for and obtained $NO_X$ waivers under CAA section 182(f) for nearly every ozone standard (all except the most recent 2015 ozone NAAQS). *See* 86 FR 23315. Consequently, for the 1979 1-hour, 1997 8-hour, and 2008 8-hour ozone NAAQS, many of the counties at issue in this action were exempt from requirements to implement NNSR for new sources and modifications that are major for $NO_X$, $NO_X$ RACT requirements, the $NO_X$-related general conformity provisions, and the $NO_X$-related transportation conformity provisions. *Id.* With these waivers in place, with respect to NSR, new sources and modifications were therefore already subject to BACT for $NO_X$ control, as they will be with finalization of this rule. For minor NSR sources and modifications in areas being removed from the OTR, the permitting requirements also will not change. These smaller new sources and modifications will continue to be subject to Maine's minor NSR permitting program, which does not have different requirements based on a location's attainment status. An important feature of Maine's minor NSR program is that its control technology standard is also BACT, so it applies the same control review that Maine requires for larger sources that are subject to PSD. (This is more stringent than federal requirements, since neither the CAA nor the EPA's regulations specify a minimum control requirement for minor NSR permits.) In addition, Maine's minor NSR program requires air quality impact analyses for new minor sources and minor modifications if their emissions exceed 50 tons per year of $NO_X$, and Maine can require air quality analyses even for permits under 50 tons per year of $NO_X$. Finally, granting Maine's petition does not materially alter opportunities for public involvement in the permitting process, as Maine's permitting regulations contain procedures for the opportunity for public participation for permitting actions for both major and minor stationary sources under their minor NSR, PSD, and NNSR permitting regulations.

Consequently, it is not the case that the changes associated with NSR requirements resulting from the removal of the areas from the OTR are as drastic as commenter suggests. For VOCs, NNSR requirements will be replaced by PSD for sources subject to major NSR, and the PSD program has already long been the primary set of controls for new or modified sources for $NO_X$ in much or all of Maine under the state's CAA section 182(f) $NO_X$ waivers for every ozone standard except the 2015 ozone NAAQS. Furthermore, the minor NSR program will continue to apply BACT and, in many cases, an air quality assessment to smaller sources seeking permits to construct. Therefore, even though we cannot precisely predict whether and to what extent emissions will increase as a result of sources choosing to construct or modify in the area to be removed from the OTR, the information we have does not indicate that emissions will drastically increase, as they would likely need to do in order to have significant impacts on nonattainment in any area of the OTR. The projected ongoing downward emissions trends are due primarily to national mobile source measures that will continue to take effect, and new and modified stationary sources will be subject to PSD BACT for $NO_X$ controls, which has already been the primary regulatory regime for much of the area being removed from the OTR for decades.

Because the EPA does not agree that it is reasonable to assume drastic emissions increases as a result of the final action, we also do not think it is reasonable to assume that the health, environmental, and relational [22] consequences raised by commenters would come to pass. As indicated in Table 2, all air quality monitors in the areas of Maine that are being removed from the OTR are not only meeting the current 70 ppb 2015 ozone NAAQS; these monitors are all 10 or more ppb *below* the 70 ppb NAAQS. Further, health and environmental effects of air pollution are addressed in the NAAQS setting and revision process rather than in the implementation of the NAAQS. CAA section 109 requires the EPA to set the primary NAAQS at a level to protect the public health with an adequate margin of safety, and the secondary NAAQS at a level to protect public welfare from any known or anticipated adverse effects. In assessing impacts to public welfare, the EPA looks at damage to trees and crops. Given the level of Maine's contributions to any nonattainment or maintenance problems in the OTR and given the current air quality at the monitors located in the portions of the state to be removed from the OTR, it is not necessary to separately analyze in the first instance each of the potential public health and welfare consequences commenters raise concerns about. These concerns are not enumerated as factors the Agency must consider under CAA section 176A(a)(2), and all are premised on commenters' speculation—with which we disagree—that ozone precursor emissions in Maine will drastically increase as a result of the regulatory changes associated with this action.

In addition to the factual circumstances above that support the EPA's determination that emissions are not likely to increase drastically as a result of this action, we also note that the CAA's other structural requirements and protections will continue to apply in Maine. Any revisions to Maine's SIP would be subject to CAA section 110(l) anti-backsliding requirements.[23] If the EPA revises the ozone standard in the future, any area determined to be violating that standard will be designated nonattainment with the attendant CAA requirements associated with that designation. Similarly, the issuance of any new NAAQS will also trigger Maine's obligation to submit a SIP addressing its significant contributions to nonattainment or interference with maintenance in any other state under CAA section 110(a)(2)(D)(i)(I). And finally, CAA section 184 and CAA section 176A clearly provide that the EPA retains its authority to revise membership of the OTR whenever the EPA has ''reason to believe'' a state or portion of a state is

[22] With respect to commenter's concern that Maine's partial removal from the OTR would interfere with its ''clean hands'' reputation or its relationship to other states and Canada, we note that under the cooperative federalism structure of the Act, that is a consideration for the state rather than the EPA. Under CAA section 176A(a), the Governor of a State may submit a petition to be removed or partially removed from a transport region, and the EPA must act on it.

[23] The granting of this petition is not itself a revision to Maine's SIP, and all EPA-approved elements of the state's SIP remain in place and enforceable.

significantly contributing to nonattainment.

III. Comments Regarding Consistency With CAA Section 184

*Comment:* One commenter asserts that the EPA misapplies the *Chevron* doctrine in its statutory interpretation by failing to discuss CAA section 184(a), which applies the removal and addition procedures of CAA section 176(a)(1) and (a)(2) to the OTR, ''except to the extent inconsistent with the provisions of this section.'' The commenter claims that the proposal to remove portions of Maine is inconsistent with CAA section 184(b)(1)(B), which it interprets to require state-wide implementation of RACT for sources covered by a CTG, regardless of whether that portion of the state is in the OTR, because if the EPA's proposal were finalized, Maine would only be required to have CTG RACT for those sources in the portions of the state remaining in the OTR. The commenter also claims that the proposal is inconsistent with CAA section 184(d), because that provision instructed the EPA to promulgate criteria for purposes of determining the contribution of sources in one area to concentrations of ozone in other areas that are nonattainment for ozone. The commenter asserts that because the EPA never promulgated such criteria, the EPA cannot grant Maine's petition. Moreover, the commenter argues that the EPA cannot claim that it used the best available air quality modeling techniques and best available data in its proposal, because ''[t]he determination here does not use OSAT/APCA. Instead, it relies on weaker analyses: HYSPLIT back-trajectories and emissions trends.'' With respect to air quality monitoring, the commenter states that it is ''implausible'' that the EPA's promulgated air quality monitoring network requirements satisfy the requirement in section 184(d) to use the ''best available'' air quality monitoring techniques. Finally, the commenter states that the EPA cannot claim that it is using the ''best available'' monitoring data for its proposal because more current data for all OTR states are available and argues that the EPA has provided no basis in its record that the ozone monitoring network criteria have been met.

*Response:* The commenter is correct that CAA section 176A(a)(2) governs the Agency's action on Maine's request to remove part of its state from the OTR by virtue of CAA section 184(a)'s application of 176A(a)(2) to states in the OTR. However, we disagree with the commenter that granting Maine's request is ''inconsistent with the provisions of'' CAA section 184. We respond to each of the commenter's assertions on this point in turn.

The commenter contends that to be ''consistent'' with CAA section 184, whenever approving the removal of any portion of a state from the OTR under CAA section 176A(a)(2), the EPA would need to clearly require the state to prepare SIP submissions and require implementation of RACT for all sources of VOCs covered by a CTG throughout the entire state, regardless of whether those sources are located in the portions of the state located in the OTR. The commenter claims that ''the plain language of section 184(b)(1)(B)'' requires this by virtue of the reference in that provision to the ''state'' rather than to the area of the state in the OTR. We do not agree. We think the statutory context and legislative history support the EPA's longstanding interpretation that the CAA section 184(b) SIP requirements for the OTR apply only within the OTR, and not in the portions of a state that are outside the region. We recognize that CAA section 184(b)(1)(B) could be read, as the commenter suggests, to impose VOC CTG RACT requirements statewide, even for sources that are not in the portions of states that are in the OTR. But we do not think this is the only, or even a better, reading of the statute.

First, the vast majority of the jurisdictions comprising the OTR are entire states—of the 13 entities that make up the OTR (including the District of Columbia), 12 have their entire jurisdiction in the region. Only Virginia, of which a very small portion of the state is in the ''Consolidated Metropolitan Statistical Area that includes the District of Columbia,'' did not have its entire state boundary included in the OTR. It is therefore not surprising that in CAA section 184(b)(1)(B), the statute would use the term ''all sources . . . in the State'' to describe the extent of the VOC RACT requirement even if what was intended was that the OTR requirements would apply only within the OTR.

Second, the last sentence of CAA section 184(b) defines the threshold for major stationary sources ''[f]or purposes of this section'' and states that such sources are subject to the requirements that would apply ''if the *area*'' was classified as a Moderate ozone nonattainment area (emphasis added). This requirement, which imposes Moderate area requirements—including $NO_X$ RACT for major stationary sources—applies only to those areas of a state which are in the OTR. Commenter's interpretation would therefore mean that Congress imposed a system of OTR controls that required *statewide* stationary source obligations for VOC CTG RACT but OTR-specific obligations for all other major stationary source requirements and I/M. We think it very unlikely that Congress would have set up a bifurcated approach in which stationary sources would be subject to some OTR requirements but not others, with no explanation in the legislative history (see below).

Third, as the commenter notes, the EPA has been interpreting the OTR requirements in CAA section 184(b) to apply only to areas within the OTR since the 1990 Amendments were passed, and in the intervening 30 years, Congress has never indicated that the Agency's interpretation was incorrect. *See* 57 FR 13527, n.10 (April 16, 1992) (''Each state in a transport region must adopt VOC RACT regulations for sources located within that portion of the State included in a transport region[.]''); *id.* (''EPA interprets section 176A as establishing a process whereby a portion of a State can be removed from the region and exempted from the requirements[.]'').

Fourth, we do not agree with the commenter that a comparison of the drafting of CAA sections 184(b)(1)(A) and (B) demonstrates that statewide CTG RACT is compelled regardless of OTR boundaries. The commenter emphasizes the statute's use of the term ''areas'' in CAA section 184(b)(1)(A) to assert that Congress could have used the term ''areas'' in CAA section 184(b)(1)(B) had it intended to limit CTG RACT requirements to only those areas of a state that are within the OTR. But there is a more natural reason for the use of the term ''areas'' in CAA section 184(b)(1)(A)—that provision on its face is a requirement designed specifically for urban areas that experience relatively higher volumes of mobile sources. The provision states ''that each area in such State that is in an ozone transport region, and that is a metropolitan statistical area or part thereof with a population of 100,000 or more . . .'' are subject to enhanced vehicle inspection and maintenance requirements. The use of the term ''area'' in that provision naturally flows from the fact that this requirement is limited to metropolitan areas and linguistically fits with the second clause of the sentence—''and that is a metropolitan statistical area.'' This reason for the use of the term ''area'' in CAA section 184(b)(1)(A) is at least as plausible as the reasoning commenter puts forth. Commenter's argument would have it that Congress intended—without any other indication in the statute or legislative history—to require

just one of the OTR requirements to apply statewide, regardless of OTR status, while all other requirements in CAA section 184(b) are limited only to that area of the state in the OTR.

Fifth, adopting commenter's interpretation would also undercut the purpose of the authority granted to the EPA in CAA section 176A(a)(1) and (2) to add or remove portions of a state to the OTR. If one of the major, substantive OTR requirements applies statewide, without regard to which portions of that state were in the OTR or not, there would be little purpose to providing the Agency with the authority to tailor the boundaries of the OTR not to include entire states. While commenter may view the authority to tailor transport region boundaries as somehow ''inconsistent'' with CAA section 184, Congress did just that when it included only the northern portion of Virginia in the OTR by statute, *in CAA section 184.*

We also do not think the legislative history supports commenter's interpretation. Nothing in the House Report accompanying the Amendments suggests Congress intended OTR requirements to be imposed outside of the OTR (*e.g.,* application of VOC CTG RACT in the entire state of Virginia, as opposed to the portion of the state within the OTR). That would have been a drastic departure from the overall structure of CAA sections 176A and 184 about which we do not think Congress would have been silent. There are also two amendments Congress considered that may shed light on whether Congress was contemplating a state's inclusion in the OTR as being the operative condition (commenter's interpretation) or whether the actual inclusion of an area in the OTR was the operative condition for imposing OTR requirements (the EPA's interpretation). During the development of the 1990 Amendments, Congress considered creating a special permit program for small sources. In delineating the small sources that would need such a program, Congress identified those ''located within a nonattainment area, ozone transport *area,* or subject to a standard under section 112 consistent with the other provisions of this title.'' H.R. Rep. 101–490 (May 17, 1990) (see Sec. 407) (emphasis added). Similarly, in drafting a version of the $NO_X$ waiver provision that was ultimately adopted in CAA section 182(f), Congress contemplated two types of determinations under which major stationary source plan provisions would not apply for major stationary sources of $NO_X$—one type of determination for non-OTR areas and a different type of determination for OTR areas. While these provisions were not ultimately adopted in the 1990 Amendments, they shed light on what the legislative drafters considered to be the operative trigger for the application of requirements: In neither of these provisions does the drafted language suggest that a source's location within a state that was in the OTR to be the trigger; instead, both drafts suggest an intent that being in the OTR was the condition upon which the difference in the waiver requirements would hinge.

Finally, commenter does not offer any coherent policy rationale for its interpretation of CAA section 184(a)(1)(B). As explained previously, under this interpretation, RACT for sources of VOCs covered by a CTG would apply statewide for any state if any portion of that state is in the OTR. But under the last sentence of CAA section 184(b), RACT for major stationary sources of $NO_X$ only applies in the areas of a state within the OTR. The EPA has previously explained that ''authoritative assessments of ozone control approaches have concluded that VOC reductions are generally most effective for addressing ozone locally, including in dense urbanized areas and 'immediately downwind.' '' 82 FR 51238, 51248 (November 3, 2017) (citing 82 FR 6517; 76 FR 48222; and 63 FR 57381). Further,

> The EPA continues to believe that $NO_X$ emission reductions strategies are more effective than VOC reductions in lowering ozone concentrations over longer distances. The EPA believes that regional ozone formation is primarily due to $NO_X$, but VOCs are also important because VOCs influence how efficiently ozone is produced by $NO_X$, particularly in dense urban areas. Reductions in anthropogenic VOC emissions will typically have less of an impact on the long-range transport of ozone, although these emissions reductions can be effective in reducing ozone in nearby urban areas where ozone production may be limited by the availability of VOCs. Therefore, a combination of localized VOC reductions in urban areas with additional $NO_X$ reductions across a larger region will help to reduce ozone and precursors in nonattainment areas, as well as downwind transport across the eastern U.S. 82 FR 51238.

Commenter's interpretation thus runs contrary to the EPA's longstanding understanding of how to most effectively reduce ozone levels: If any ozone precursor should be reduced on a broader geographic scale, it should arguably be $NO_X$, not VOCs. But commenter's rendering of the statute would produce the opposite result, imposing VOC-reduction requirements on a broad geographic scale beyond the borders of the OTR, while $NO_X$ RACT is limited to the OTR itself.

We also do not agree with the commenter's assertion that granting Maine's petition would not be ''consistent'' with CAA section 184 because the EPA did not promulgate criteria precisely according to CAA section 184(d). We do not think this is a reasonable way to read the intersection of the statutory provisions at issue, particularly because, contrary to commenter's assertion, the EPA has substantively satisfied Congress' aims in CAA section 184(d), both in general, and with respect to its analysis of Maine's request. CAA section 184(d) required the EPA, not later than 6 months after November 15, 1990, to ''promulgate criteria for purposes of determining the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone. Such criteria will require that the best available air quality monitoring and modeling techniques be used for purposes of making such determinations.''

The EPA may not have issued a rule expressly addressing CAA section 184(d) by June 1991, but it is simply not the case that the Agency has not issued and continually updated criteria for the purposes of determining how upwind contributions affect downwind ozone air quality. The EPA has issued multiple rules related to the interstate transport of ozone under CAA section 110(a)(2)(D)(i)(I), and for each of these rules, the Agency has put forth its criteria for determining linkages and contributions between upwind areas and downwind air quality problems (both for areas in nonattainment, per CAA section 184(d), but also for areas that may be meeting the NAAQS but could face problems maintaining the standards). In each of these transport rules, the Agency has used quality-assured, certified air quality monitoring data and state-of-the-science air quality modeling.[24]

[24] *See, e.g.,* Air Quality Modeling Technical Support Document for the $NO_X$ SIP Call, September 23, 1998 (explaining the EPA's use of two types of modeling to assess interstate contributions—state-by-state zero-out modeling using UAM–V and state-by-state source apportionment modeling using CAMx APCA), available at *https://www.epa.gov/sites/default/files/2020-10/documents/nox_sip.pdf;* Air Quality Modeling Final Rule Technical Support Document, June 2011 (setting forth the EPA's use of source apportionment techniques in CAMx air quality modeling to quantify interstate contributions), available at *https://www.epa.gov/sites/default/files/2017-06/documents/epa-hq-oar-2009-0491-4140.pdf;* Air Quality Modeling Technical Support Document for the Final Revised Cross-State Air Pollution Rule Update, March 2020 (reiterating the EPA's use of the OSAT/APCA technique in CAMx air quality modeling), available at *https://www.epa.gov/sites/default/files/2021-03/*

Continued

The commenter acknowledges the body of work the EPA has developed with respect to assessing interstate contributions using air quality modeling in these transport rules, but erroneously claims that those techniques and expertise were not used in the proposed action. Agreeing that the Ozone Source Apportionment Technology (OSAT)/Anthropogenic Precursor Culpability Assessment (APCA) technique in the CAMx air quality model is an ''available'' tool and noting that the EPA has previously identified this technique to be an appropriate tool for quantifying interstate air quality contributions, the commenter states, ''The [proposed] determination does not use OSAT/APCA. Instead, it relies on weaker analyses: HYSPLIT back-trajectories and emissions trends.'' This is simply incorrect. In its proposal analyzing Maine's request, the EPA used the same source apportionment modeling techniques employed by all of the transport rules. The EPA additionally looked at back trajectories under HYSPLIT and analyzed relevant emissions inventory data. We also do not agree with the commenter's contention that the EPA's proposal cannot move forward because it relied on ''stale'' monitoring data, which it claims cannot be the ''best available.'' We note that CAA section 184(d) requires the use of ''the best available air quality monitoring and modeling *techniques*'' (emphasis added). We do not read this provision to prohibit the Agency from moving forward with an action if newer data became available or certified shortly before issuance of that action; and in any case, the Agency considered up-to-date monitoring data in the context of its proposal and for this final action.

IV. Comments Regarding Exempting an Area of the OTR From OTR Requirements for Future Ozone Standards

*Comment:* One commenter asserts that the EPA cannot exempt an OTR area from OTR requirements for future ozone standards. The commenter states that under the plain text of CAA section 176A(a), the establishment of a transport region as well as the addition and removal of a state or portion of a state from that region is based on a demonstration with respect to a particular standard (emphasizing the statute's use of the term ''*the* standard''). The commenter further argues that even if the statute is ambiguous, that it is arbitrary and capricious to remove a state from the OTR with respect to a future standard when the EPA does not know when that standard will be promulgated, what its level will be, and whether the subject area will exceed the contribution threshold for that standard. The commenter states that because the EPA's assessment of nonattainment and maintenance issues is tied to particular ozone standards, the EPA may not exempt areas from future ozone standards.

*Response:* The EPA does not agree with the commenter that CAA section 176A(a)(1) and (2)'s reference to ''the standard'' requires a reading of the Act such that the EPA's addition or removal of a state or portion of a state from the OTR must be specific only to one ozone standard. Such a reading is contrary to the larger statutory context and design, and is not compelled by the language of the Act. The EPA has interpreted the establishment of ozone transport regions, including the Congressionally created OTR in CAA section 184(a), to endure across updates to the NAAQS. We have never interpreted the Act to require a new reconstitution of an OTR specific to each NAAQS. Implementing the Act in the way that commenter suggests is required would mean that states would be added or removed, but only as to specific standards, and so a region could be a patchwork of states subject to different requirements depending on whether they were added or removed as to certain NAAQS for that CAA.

The commenter ignores the other references to the NAAQS present in CAA section 176A and section 184, which as the commenter notes, cross-references section 176A and governs the substantive requirements that apply to OTR states and other states designated in an ozone transport region. In CAA section 176A(a), the statute provides that ''whenever . . . the Administrator has reason to believe'' that interstate transport of pollutants contributes significantly to a violation of ''*a* national ambient air quality standard,'' the Administrator may establish a transport region for ''such pollutant'' that includes the involved states (emphasis added). The language governing the timing of an establishment of an OTR is therefore not tied to the promulgation of a NAAQS (unlike, for example, states' obligations to update their SIPs to address CAA section 110(a)(2)(D)(i)(I) interstate transport obligations within 3 years of the promulgation of a standard). Further, the basis for creating a transport region is the Administrator's belief that there is significant contribution to a violation of ''a'' NAAQS, not one particular NAAQS. That section also makes clear that the establishment of the transport region is for ''such pollutant,'' not such standard. The statutory language and structure comports with the EPA's longstanding interpretation of a transport region being established and existing across updates to a standard. Section 184 similarly references the establishment of transport regions ''for ozone'' (*see, e.g.,* CAA section 184(a), section 184(b)(1), section 184(c)(1)).

We do not agree that it is arbitrary and capricious to remove a state or portion of a state from general transport region obligations when they have met the required showing under CAA section 176A(a)(2) based on the NAAQS in effect at the time of the action. If, under a future ozone standard the EPA finds that there is significant contribution from Maine or other states to a violation of that standard, CAA section 176A(a)(1) clearly provides authority for the EPA to add such state or portion of a state to a transport region. Further, commenter's argument on this point would reduce CAA section 176A(a)(2) to a nullity. Effectively, no state or portion of a state could ever be removed from a transport region because there is always the hypothetical chance that the Agency will promulgate some more stringent NAAQS in the future and would be unable to evaluate transport without knowing what that standard is. The Congress that enacted CAA section 176A(a)(2) could not have intended this result.

V. Comments Regarding Environmental Justice

*Comment:* Two commenters contend that the EPA failed to consider environmental justice. One commenter contends that the EPA failed to consider Executive Order 12898 and notes that the EPA's EJSCREEN tool shows that there are potentially impacted environmental justice communities in Maine and other nearby states. The commenter contends that the counties where the EPA proposes to allow more emissions are also home to low-income households, and, in some instances, also tribal communities. The commenter points out that the areas the EPA proposes to remove from the OTR include populations that are sensitive to ozone pollution (the elderly, children and adults active outdoors, and people with asthma and other respiratory diseases). In particular, the commenter notes that Maine has a higher incidence of asthma among adults (11.2 percent) compared to the national average (7.7 percent), and that certain counties such as Androscoggin County, most of which is to be removed from the OTR, has an

*documents/air_quality_modeling_tsd_final_revised_csapr_update.pdf.*

even higher incidence (14 percent of all county residents between 2011–2014). Another commenter suggests that the EPA's action may contravene the CAA's purpose, set out in CAA section 101(b)(1), to assure that air quality is protected and enhanced while supporting the productive capacity of all regions in the country.

*Response:* Under Executive Order (E.O.) 12898, the EPA is directed, to the greatest extent practicable and permitted by law, to make environmental justice (EJ) part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Consistent with E.O. 12898 and the Presidential Memorandum that accompanies it, the EPA's EJ policies promote justice by focusing attention and efforts on addressing the types of EJ harms and risks that are prevalent among minority, low-income, and indigenous populations. E.O. 12898 and the EPA's EJ policies do not mandate particular outcomes from an action, but they require that decisions involving the action be informed by a consideration of EJ issues. With respect to this petition, the EPA determined that removing the requested areas from the OTR will not significantly contribute to nonattainment or interfere with maintenance of any ozone NAAQS in any area of the OTR, including areas where there are minority and low-income populations.

The EPA acknowledges that the area to be removed from the OTR includes areas with minority populations and low-income populations. Of the approximately 737,000 people who live in the area to be removed from the OTR, approximately 5.7 percent identify as people of color, and approximately 35 percent are identified as low income.[25] Maine has four federally recognized tribes: The Passamaquoddy, Penobscot, Maliseet and Micmac tribes. All four tribes include populations that live in the area to be removed from the OTR. Additionally, there are populations in the area to be removed from the OTR that could be sensitive to ozone, including children and those with pre-existing health conditions like asthma and chronic obstructive pulmonary disease (COPD). Maine has one of the highest rates of adult asthma in the United States.[26] Asthma is a chronic lung disease with symptoms including wheezing, coughing, chest tightness, and shortness of breath. A wide range of indoor and outdoor allergens and irritants can trigger or exacerbate asthma, including tobacco smoke, pollen, pet dander, mites, mold, and air pollution from stationary and mobile sources.[27] Pollutants including ozone, nitrogen dioxide, sulphur dioxide, and $PM_{2.5}$ have been shown to trigger or exacerbate asthma symptoms.

In 2019, the adult asthma rate in Maine was 11.8 percent, as compared to 8.0 percent for the United States.[28] While higher than the adult asthma rate in the United States, the adult asthma rate in Maine does not necessarily correlate with high ozone levels. For example, of the ozone monitoring sites in Maine located in areas that will be removed from the OTR, the monitor with the highest 2020 ozone design value of 57 ppb (and historically having higher design values) is located in Washington County, a county with one of the lowest rates of adult asthma in Maine.[29] [30] Further, other factors, such as the state's dense forests, high pollen levels, and heavy reliance on wood burning stoves for home heating, contribute to the high rate of asthma in Maine.[31]

The EPA has identified minority, low-income, and other at-risk populations that could be impacted by this action and considered whether removal of the requested part of Maine from the OTR could have disproportionately high and adverse human health or environmental effects on those populations. As explained above in the response to comments about a potential increase in ozone precursor emissions, the EPA believes that a substantial increase in ozone precursor emissions resulting from this action is highly unlikely in any area of Maine or the OTR. Thus, the EPA does not expect the action to result in disproportionally high and adverse human health or environmental effects on any population in Maine or the OTR, including minority, low-income, and at-risk populations.

## IV. Final Action To Grant Maine's CAA Section 176A Petition

Based on the considerations outlined at proposal, consideration of all public comments, and for the reasons described in this notice, the EPA finds that the portion of the state requested to be removed from the OTR does not contribute to a violation of any ozone standard in any area of the OTR, and that further control of emissions from that portion of Maine will not significantly contribute to the attainment of any ozone standard in any area of the OTR. Thus, the EPA is granting Maine's CAA section 176A petition to remove a portion of the state from the OTR.

## V. Judicial Review and Determinations Under Sections 307(b)(1) and 307(d) of the CAA

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of publication of any final action. Filing a petition for reconsideration by the Administrator of this rule will not affect the finality of the rule for the purposes of judicial review nor will it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. The Administrator of the EPA, hereby, determines that this action is subject to CAA section 307(d), as authorized by CAA section 307(d)(1)(V).

## VI. Statutory Authority

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

## List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon oxides, Greenhouse gases, Intergovernmental relations, Lead, National parks, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Sulfur

[25] U.S. EPA Environmental Justice Screening and Mapping Tool (EJSCREEN), which utilizes U.S. Census Bureau American Community Survey (ACS) data from 2014–2018. The American Community Survey information and data is available at *https://www.census.gov/programs-surveys/acs.* The EJSCREEN tool is available at *https://ejscreen.epa.gov/mapper/.*

[26] ''Current Asthma Demographics'' Current Adult Asthma by State. *American Lung Association.* Data from Centers for Disease Control and Prevention, Behavioral Risk Factor Surveillance System 2011–2018. Analysis by the American Lung Association Epidemiology and Statistics Unit. *https://www.lung.org/research/trends-in-lung-disease/asthma-trends-brief/current-demographics.*

[27] ''Common Asthma Triggers'' Centers for Disease Control and Prevention. *https://www.cdc.gov/asthma/triggers.html.*

[28] ''Most Recent Asthma State or Territory Data'' State or Territory Adult Current Asthma Prevalence by State or Territory (2019). Centers for Disease Control and Prevention. *https://www.cdc.gov/asthma/most_recent_data_states.htm.*

[29] *See* Table 2 for current design values and the ozone design value spreadsheet located in the docket for this action for historical design values.

[30] For asthma data, *see* information provided in the Maine Environmental Public Health Tracking Program using data provided by the Maine Behavioral Risk Factor Surveillance System and analyzed by the Chronic Disease & Maternal & Child Health Epidemiology Team. Available at *https://data.mainepublichealth.gov/tracking/data-topics/asthma-content.*

[31] ''Asthma in Maine'' Maine Center for Disease Control and Prevention Division of Disease Prevention. Maine Department of Health and Human Services. *https://www.maine.gov/dhhs/mecdc/population-health/mat/asthma-information/asthma-in-maine.shtml.*

oxides, Volatile organic compounds, Wilderness areas.

**Michael Regan,**

*Administrator.*

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

## PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. Subpart E, consisting of §§ 81.455 and 81.457, is added to read as follows:

### Subpart E—Identification of Interstate Transport Regions

#### § 81.455 Scope.

This subpart identifies interstate transport regions established for national ambient air quality standards pursuant to section 184 or section 176A of the Clean Air Act.

#### § 81.457 Ozone Transport Region.

Except as provided in paragraph (a), the Ozone Transport Region is comprised of the areas identified by Congress under 42 U.S.C. 7511c(a).

(a) *Ozone Transport Region boundary.* As of March 14, 2022, the boundary for the Ozone Transport Region consists of the entire States of Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; portions of Maine identified in this section under Table 1; and the Consolidated Metropolitan Statistical Area that includes the District of Columbia and the following counties and cities in Virginia: Arlington County, Fairfax County, Loudoun County, Prince William County, Strafford County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

TABLE 1 TO PARAGRAPH (a)—MAINE TOWNS AND CITIES IN THE OZONE TRANSPORT REGION

| Maine towns and cities in the ozone transport region |
|---|
| *Androscoggin County (only the following town):* Durham. |
| *Cumberland County (only the following towns and cities):* Brunswick, Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Harpswell, Long Island, New Gloucester, North Yarmouth, Portland, Pownal, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, and Yarmouth. |
| *Hancock County (only the following towns and cities):* Bar Harbor, Blue Hill, Brooklin, Brooksville, Cranberry Isles, Deer Isle, Frenchboro, Gouldsboro, Hancock, Lamoine, Mount Desert, Sedwick, Sorrento, Southwest Harbor, Stonington, Sullivan, Surry, Swans Island, Tremont, Trenton, and Winter Harbor. |
| *Knox County (only the following towns and cities):* Camden, Criehaven, Cushing, Friendship, Isle au Haut, Matinicus Isle, Muscle Ridge Shoals, North Haven, Owls Head, Rockland, Rockport, St. George, South Thomaston, Thomaston, Vinalhaven, and Warren. |
| *Lincoln County (only the following towns and cities):* Alna, Boothbay, Boothbay Harbor, Breman, Bristol, Damariscotta, Dresden, Edgecomb, Monhegan, Newcastle, Nobleboro, South Bristol, Southport, Waldoboro, Westport, and Wiscasset. |
| *Sagadahoc County (all towns and cities).* |
| *Waldo County (only the following town):* Islesboro. |
| *York County (only the following towns and cities):* Alfred, Arundel, Berwick, Biddeford, Buxton, Dayton, Eliot, Hollis, Kennebunk, Kennebunkport, Kittery, Limington, Lyman, North Berwick, Ogunquit, Old Orchard Beach, Saco, Sanford, South Berwick, Wells, and York. |

(b) *Applicability.* As of March 14, 2022, the provisions of 42 U.S.C. 7511c will no longer be applicable in the following areas of Maine: The State of Maine, with the exception of the towns and cities listed in this section under table 1 to paragraph (a).

[FR Doc. 2022–02653 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### 42 CFR Parts 403, 405, 410, 411, 414, 415, 423, 424, and 425

**[CMS–1751–F2]**

**RIN–0938–AU42**

## Medicare Program; CY 2022 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-Payment Medical Review Requirements; Corrections

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Final rule; correction and correcting amendment.

**SUMMARY:** In the November 19, 2021 issue of the **Federal Register**, we published a final rule entitled ''Medicare Program; CY 2022 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; and Provider and Supplier Prepayment and Post-Payment Medical Review Requirements'' (referred to hereafter as the ''CY 2022 PFS final rule''). The effective date was January 1, 2022. This document corrects a limited number of technical and typographical errors identified in the November 19, 2021 final rule.

**DATES:** This document is effective February 10, 2022, and is applicable beginning January 1, 2022.

**FOR FURTHER INFORMATION CONTACT:** Terri Plumb, (410) 786–4481, Gaysha Brooks, (410) 786–9649, or Annette Brewer (410) 786 6580.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In FR Doc. 2021–23972 of November 19, 2021, the CY 2022 PFS final rule (86 FR 64996), there were technical errors that are identified and corrected in this

correcting document. These corrections are applicable as if they had been included in the CY 2022 PFS final rule, which was effective January 1, 2022.

## II. Summary of Errors

### *A. Summary of Errors in the Preamble*

On page 65059, in discussing the policy we finalized for certain mental health telehealth services, we made a typographical error in indicating the number of months within which the physician or practitioner must have furnished an item or service in person, without the use of telehealth.

On page 65132 in Table 20: CY 2022 Work RVUs for New, Revised and Potentially Misvalued Codes, due to a clerical error in which the incorrect version of the table was included, the listed CMS work RVUs for CPT codes 64633 and 66989 are incorrect.

On page 65133, in Table 20: CY 2022 Work RVUs for New, Revised and Potentially Misvalued Codes, due to the same clerical error, the listed CMS work RVU for CPT code 66991 is incorrect.

On page 65274, in bulleted paragraph describing Chronic Care Management (CCM), due to a clerical error, the description of CPT code 99X21 is inaccurate.

On page 65501, we made typographical errors in the year designations of the performance period and MIPS payment year.

### *B. Summary of Errors in the Regulations Text*

On page 65674, we made typographical errors in the year designations of the performance period and MIPS payment year.

## III. Waiver of Proposed Rulemaking

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (the APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment, and delay in effective date requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements. This document merely corrects technical errors in the CY 2022 PFS final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were proposed, subject to notice and comment procedures, and adopted in the CY 2022 PFS final rule. As a result, the corrections made through this correcting document are intended to resolve inadvertent errors so that the rule accurately reflects the policies adopted in the final rule. Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the CY 2022 PFS final rule or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the rule accurately reflects our policies as of the date they take effect. Further, such procedures would be unnecessary because we are not making any substantive revisions to the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the policies that we previously proposed, received public comment on, and subsequently finalized in the final rule. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

## IV. Correction of Errors in Preamble

In FR Doc. 2021–23972 of November 19, 2021 (86 FR 64996) make the following corrections:

1. On page 65059, the sentence that continues at the top of the second column, line 2, the phrase ''6 months'' is corrected to read ''12 months''.

2. On page 65132, in Table 20: CY 2022 Work RVUs for New, Revised and Potentially Misvalued Codes, for CPT code 64633, fifth column, the second full row, the CMS work RVU that reads ''3.31'' is corrected to read ''3.32'' and for CPT code 66989, fifth column, the last row, the CMS work RVU that reads ''10.31'' is corrected to read ''12.13''.

3. On page 65133, in Table 20: CY 2022 Work RVUs for New, Revised and Potentially Misvalued Codes, for CPT code 66991, fifth column, the second full row, the CMS work RVU that reads ''7.41'' is corrected to read ''9.23''.

4. On page 65274, second column, first full bulleted paragraph, lines 5 through 8, the phrase ''CCM services furnished by clinical staff under the supervision of a physician or NPP who can bill E/M services, and'' is removed.

5. On page 65501:

a. The second column, first full paragraph, lines 4 through 6 that read ''beginning with the CY 2023 performance period/2025 MIPS payment year'' are corrected to read ''beginning with the CY 2022 performance period/2024 MIPS payment year.''

b. The third column, first full paragraph, lines 3 through 5 that read ''beginning with the CY 2023 performance period/2025 MIPS payment year'' are corrected to read ''beginning with the CY 2022 performance period/2024 MIPS payment year.''

## List of Subjects in 42 CFR Part 414

Administrative practice and procedure, Biologics, Diseases, Drugs, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

*For the reasons set forth in the preamble, CMS corrects 42 CFR part 414 by making the following correcting amendments:*

## PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

■ 1. The authority citation for part 414 continues to read as follows:

**Authority:** 42 U.S.C. 1302, 1395hh, and 1395rr(b)(l).

### § 414.1380 [Amended]

■ 2. Amend § 414.1380 by:

■ a. In paragraph (b)(1)(i)(A)(*3*), removing the text ''Beginning with the CY 2023 performance period/2025 MIPS payment year'' and adding in its place

the text ''Beginning with the CY 2022 performance period/2024 MIPS payment year''.

■ b. In paragraph (b)(1)(i)(C), removing the text ''Beginning with the CY 2023 performance period/2025 MIPS payment year'' and adding in its place the text ''Beginning with the CY 2022 performance period/2024 MIPS payment year''.

**Karuna Seshasai,**

*Executive Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2022–02623 Filed 2–9–22; 8:45 am]

**BILLING CODE 4120–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 25, 73, and 76

**[MB Docket No. 21–293; FCC 22–5; FR ID 69577]**

### Political Programming and Recordkeeping Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission updates the political programming and recordkeeping rules for broadcast licensees, cable television system operators, Direct Broadcast Satellite (DBS) service providers, and Satellite Digital Audio Radio Service (SDARS) licensees. The revisions conform the political programming and recordkeeping rules with statutory requirements, reflect modern campaign practices, and increase transparency.

**DATES:** Effective March 14, 2022, except for the amendments to §§ 25.701(d), 25.702(b), 73.1943, and 76.1701, which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date.

**FOR FURTHER INFORMATION CONTACT:** For additional information, contact Kathy Berthot, *Kathy.Berthot@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–7454.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, FCC 22–5, adopted and released on January 25, 2022. This document will be available via ECFS, *http://www.fcc.gov/cgb/ecfs/.* Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

#### Paperwork Reduction Act of 1995 Analysis

This document contains new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the OMB to comment on the information collection requirements contained in the amendments to §§ 25.701(d), 25.702(b), 73.1943(a) and (b), and 76.1701(a) and (b), in a separate **Federal Register** document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13, *see* 44 U.S.C. 3507. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

#### Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Report and Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

#### Synopsis

#### I. Introduction

1. In this *Report and Order,* we update our political programming and recordkeeping rules for broadcast licensees, cable television system operators, Direct Broadcast Satellite (DBS) service providers, and Satellite Digital Audio Radio Service (SDARS) licensees. We revise the definition of ''legally qualified candidate for public office'' to add the use of social media and creation of a campaign website to the existing list of activities that may be considered in determining whether an individual running as a write-in candidate has made a ''substantial showing'' of his or her bona fide candidacy. We also amend our political file rules consistent with the Bipartisan Campaign Reform Act of 2002 (BCRA), which extends the Commission's political file requirements to any request for the purchase of advertising time that ''communicates a message relating to any political matter of national importance'' (*i.e.,* issue ads) and specifies the records that must be maintained. These updates, which are consistent with the proposals set forth in the *Notice of Proposed Rulemaking* (*NPRM*) in this proceeding, not only conform our rules with statutory requirements, they also reflect modern campaign practices and increase transparency.

#### II. Background

2. In recognition of the critical role that political programming plays in keeping the electorate informed, Congress has long established specific requirements governing political programming. These requirements ensure that candidates for elective office have access to broadcast facilities and certain other media platforms and foster transparency about entities sponsoring advertisements.

3. *Political Programming Obligations.* Political programming obligations for certain Commission licensees and regulatees are set forth in Sections 312(a)(7) and 315 of the Communications Act of 1934, as amended (Act), 47 U.S.C. 312(a)(7), 315. Section 312(a)(7) requires broadcast licensees to give legally qualified candidates for federal office ''reasonable access'' to their facilities, or to permit them to purchase ''reasonable amounts of time.'' Section 312(a)(7) of the Act also applies to SDARS licensees and DBS service providers, but it does not apply to cable system operators. Under section 315(a), if a broadcast licensee permits one legally qualified candidate for a public office to use its station, it must afford all other candidates for that office an ''equal opportunity'' to use the station. Section 315(b) provides that, during certain periods before an election, legally qualified candidates are entitled to ''the lowest unit charge of the station for the same class and amount of time for the same period.'' The equal opportunity and lowest unit charge requirements also apply to cable system operators, SDARS licensees, and DBS service providers. The entitlements afforded by Sections 312(a)(7) and 315 of the Act are available only to individuals who have achieved the status of ''legally qualified candidate.''

4. The Communications Act does not define the term ''legally qualified candidate,'' but the Commission has adopted a definition and codified it in Section 73.1940. Generally, in order to be considered a ''legally qualified candidate,'' an individual must publicly announce his or her intention to run for office, must be qualified to hold the office for which he or she is a candidate,

and must have qualified for a place on the ballot or have publicly committed himself or herself to seeking election by the write-in method. If seeking election by the write-in method, the individual, in addition to being eligible under applicable law to be a write-in candidate, must make a ''substantial showing'' that he or she is a bona fide candidate for the office being sought. Section 73.1940(f) of the Commission's rules establishes the requirements for making a ''substantial showing'' of a bona fide candidacy. The term ''substantial showing'' of a bona fide candidacy means ''evidence that the person claiming to be a candidate has engaged to a substantial degree in activities commonly associated with political campaigning.'' Such activities include making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee, and establishing campaign headquarters.

5. *Political Recordkeeping Obligations.* The political recordkeeping requirements are integral to ensuring compliance with the statutory protections for political programming. The Commission initially adopted rules requiring broadcast stations to maintain public inspection files documenting requests for political advertising time more than 80 years ago. The Commission subsequently extended political file rules to cable television system operators, DBS providers, and SDARS licensees. Requiring these entities to maintain complete and up to date political files is critical because the information in these files directly affects, among other things, the statutory rights of opposing candidates to request equal opportunities under Section 315(a) of the Act and present their positions to the public prior to an election. In addition, the political files allow the public to verify that Commission licensees and regulatees have complied with their obligations relating to use of their facilities by candidates for political office and to obtain information about entities sponsoring candidate and issue advertisements.

6. In 2002, Congress enacted the BCRA, which amended Section 315 of the Act. The BCRA added a new Section 315(e) to codify the Commission's existing political file obligations by requiring that information regarding any request to purchase advertising time that ''is made on behalf of a legally qualified candidate for public office'' be placed in the political file. The BCRA also expanded the political file requirements to include any request to purchase political advertising time that ''communicates a message relating to any political matter of national importance,'' (*i.e.,* issue ads). Additionally, Section 315(e)(2) of the Act specifies the kinds of records that must be maintained in political files, and Section 315(e)(3) of the Act provides that ''[t]he information required by [Section 315(e)] shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.''

7. In August 2021, the Commission adopted an *NPRM* proposing to update the political programming and recordkeeping rules. The *NPRM* proposed to revise the definition of ''legally qualified candidate'' to add the use of social media and creation of a campaign website to the existing list of activities that may be considered in determining whether an individual running as a write-in candidate has made a ''substantial showing'' of his or her bona fide candidacy. The *NPRM* also proposed to revise the political file rules to conform with Section 315(e), as amended by the BCRA. Only three comments were submitted in response to the *NPRM.* The National Association of Broadcasters (NAB) supports adding the use of social media and the creation of a campaign website to the list of activities that may be taken into account in determining whether a write-in candidate has made a substantial showing that he or she is a ''legally qualified candidate for public office'' but submits that certain conditions should apply. Kenia Trujillo (Trujillo) raises concerns that adding the use of social media to this list would make it too easy for anyone to obtain status as a ''legally qualified candidate for public office.'' Canal Partners Media, LLC (Canal Partners) asserts that broadcast licensees often refuse to comply with the political file obligations, which makes it difficult to monitor their compliance with the political programming requirements. No reply comments were submitted.

## III. Discussion

### *A. Substantial Showing for Write-In Candidates*

8. We adopt our proposal and update the definition of ''legally qualified candidate for public office'' in Sections 73.1940 and 76.5(q) of the Commission's rules to add the use of social media and the creation of a campaign website to the list of activities that a broadcast licensee or cable operator may take into account in determining whether an individual running as a write-in candidate has made a ''substantial showing'' of his or her bona fide candidacy. As we explain above, only those individuals who have achieved the status of ''legally qualified candidate'' may avail themselves of the benefits bestowed by the political programming rules, including the reasonable access, equal opportunities, and lowest unit charge provisions. An individual seeking elective office using the write-in method must, in addition to being eligible under applicable law to be a write-in candidate, make a ''substantial showing'' that he or she is a bona fide candidate for the office. Sections 73.1940(f) and 76.5(q)(5) define what it means to make a ''substantial showing'' by listing various activities that are commonly associated with political campaigning, including ''making campaign speeches, distributing campaign literature, issuing press releases, [and] maintaining a campaign headquarters.''

9. We conclude that adding the use of social media and the creation of a campaign website to the list of activities that may be taken into account in determining whether there has been a ''substantial showing'' of a bona fide candidacy will ensure that our definition of ''legally qualified candidate'' more accurately reflects modern campaign practices. As stated above, NAB supports this revision. In so doing, it ''agree[s] with the FCC that modern candidates routinely use social media and campaign websites to share their views and solicit votes and financial contributions.'' Recent articles reinforce that bona fide political campaigns use major social media platforms, such as Twitter, Facebook, and Instagram, to share campaign updates, communicate with voters, advertise, solicit support, and fundraise, and that such engagement in social media use typically increases donations for new politicians. In addition, social media platforms enable political campaigns, especially for new or lesser known candidates, to build support by disseminating campaign updates and targeting advertisements to potential voters, and they provide sophisticated tools to regularly measure user engagement. It also has become common practice for bona fide candidates to use campaign websites to connect to a wide audience of potential voters and facilitate direct communication and fundraising. No commenters challenged or rebutted the proposition that candidates today regularly use social media and campaign websites to connect with voters or the articles and media reports cited in the *NPRM* to support that proposition. We therefore

conclude that revising the definition of ''legally qualified candidates'' to add the use of social media and the creation of a campaign website to the list of activities that may be considered in determining whether there has been a ''substantial showing'' of a bona fide candidacy is consistent with modern campaign practices.

10. Some examples of social media activities that may support a substantial showing of a bona fide candidacy include the use of social media to fundraise, solicit votes, share policy positions, and engage in digital dialogues with voters. These examples are intended to be illustrative, rather than an exhaustive list of the social media activities that may be relied upon in making a substantial showing of a bona fide candidacy. Other campaign-related uses of social media may be taken into account in determining whether an individual has made a substantial showing that he or she is a ''legally qualified candidate.''

11. We emphasize that the use of social media and campaign websites alone will not be sufficient to support a finding that an individual has made a substantial showing that he or she is a ''legally qualified candidate.'' As NAB points out, ''given the simplicity of creating and running a social media account or website, certain stipulations should apply to ensure the legitimacy of candidates. Otherwise, any individual with a Facebook, Twitter or Instagram account could claim status as a legally qualified candidate . . . .'' Accordingly, as proposed in the *NPRM,* social media presence and campaign websites will be treated as additional indicators of activities commonly associated with political campaigning that may be relied on to make a substantial showing of a bona fide candidacy, not as determinative factors. At NAB's suggestion, we include language in the substantial showing rules that specifically states that ''[t]he creation of campaign websites and the use of social media shall be additional indicators of a bona fide candidacy, not determinative factors.'' We therefore reject concerns raised by Trujillo that the addition of social media to the list of activities that supports a substantial showing for a write-in candidate could allow anyone to rely solely on social media and campaign websites to obtain status as a ''legally qualified candidate for public office.''

12. We agree with NAB that only digital activities that are directly related to the campaign should be counted toward the requisite substantial showing. The definition of ''legally qualified candidate'' set forth in our rules states that ''the term substantial showing of a bona fide candidacy . . . means evidence that the person claiming to be a candidate has engaged to a substantial degree in activities commonly associated with political campaigning.'' In the *NPRM,* we proposed to add to the list of activities commonly associated with political campaigning ''creating a campaign website, and using social media for the purpose of promoting or furthering a campaign for public office.'' This language, which we are including in the final rules, makes clear that only digital activities that are campaign-related should be taken into account in determining whether there has been a substantial showing of a bona fide candidacy.

13. We agree with NAB that digital activities like social media and campaign websites must be combined with campaign activities conducted in the relevant geographic area to substantiate a candidate's ''genuine interest in elective office,'' ''given the simplicity of creating and running a social media account or website.'' Therefore, we are including language in the revised substantial showing rules that specifically states that ''[t]he creation of a campaign website and the use of social media shall be additional indicators of a bona fide candidacy, not determinative factors, and that such digital activities must be combined with other activities commonly associated with political campaigning that are conducted in substantial portions of the relevant geographic area'' (*e.g.,* establishing a campaign headquarters, making campaign speeches, participating in debates, appearances at community events, and distributing campaign literature). We note that the *NPRM* contemplated a similar geographic limitation in seeking comment on whether to add any other activities consistent with modern campaign practices, such as digital marketing and advertising, to the list of recognized campaign activities, specifically asking whether the substantial showing analysis should ''involve any limiting factors, such as requiring that the marketing and advertising be directed toward persons in areas where votes are being solicited.'' We find that the requirement that digital activities like social media and campaign websites must be combined with campaign activities conducted in the relevant geographic area is an appropriate and necessary limitation on our original proposal to ensure a candidate's legitimacy when relying on social media and campaign websites. We will consider what constitutes the ''relevant geographic area'' on a case-by-case basis. In general, however, the ''relevant geographic area'' will consist of the legislative, congressional, or other electoral district in which the candidate is soliciting votes from eligible voters.

14. NAB requests that we amend our substantial showing rules to specify that write-in candidates ''bear the burden of demonstrating the substantial showing required'' to be a legally qualified candidate, and that a Commission licensee or regulatee's ''reasonable, good faith determination as to whether a candidate has fulfilled this requirement is entitled to deference.'' We agree with these interpretations and note that the Media Bureau has long interpreted the Commission's substantial showing rules in this manner. Given the dearth of comments on this question, including from political candidates and the public, we decline to amend our rules. However, we will address these issues based on the facts and circumstances of each particular case in keeping with this interpretation.

15. Additionally, we decline to add any other activities consistent with modern campaign practices, such as the use of digital marketing and advertising, to the list of recognized campaign activities in Sections 73.1940(f) and 76.5(q)(5) of our rules. No commenter expressly supported or even addressed the addition of other such activities to the list of recognized campaign activities set forth in the rules. In the absence of any support or comment in the record on this issue, we conclude that the addition of other activities to the list is not warranted at this time.

### *B. Implementation of the BCRA and Section 315 of the Act*

16. We adopt our proposal and amend the political file rules for broadcast licensees, cable operators, DBS providers, and SDARS licensees consistent with the BCRA and Section 315(e) of the Act. No commenter objects to this update. Enacted in 2002, the BCRA, among other things, added a new Section 315(e) of the Act. Section 315(e)(1)(A) codifies the Commission's long-standing requirement that records of a request to purchase advertising time that ''is made on behalf of a legally qualified candidate for public office,'' known as a candidate ad, be maintained in the political file. Section 315(e)(1)(B) extends political recordkeeping obligations to records of a request for the purchase of advertising time that ''communicates a message relating to any political matter of national importance,'' known as an issue ad.

Section 315(e)(2) identifies the specific records that must be placed in political files for both candidate and issue ads. These records include (1) whether the request to purchase broadcast time is accepted or rejected by the licensee; (2) the rate charged for the broadcast time; (3) the date and time on which the communication is aired; (4) the class of time that is purchased; (5) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable); (6) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and (7) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person. Although the Commission has provided guidance on political recordkeeping consistent with these statutory requirements following their adoption in 2002, the political file rules were not previously updated to reflect these statutory requirements.

17. We accordingly revise the political file rules for broadcast licensees, cable television system operators, DBS providers, and SDARS licensees to bring them into conformity with Section 315(e) of the Act. Specifically, we revise our rules to require these entities to maintain in their online political files not only records of each request for advertising time that is made by or on behalf of a legally qualified candidate for public office, but also records of each request for advertising time that ''communicates a message relating to any political matter of national importance.'' Additionally, we amend the rules to specify the particular records that must be maintained in online political files for both candidate ads and issue ads, consistent with the list set forth in Section 315(e)(2). These revisions ensure that the political recordkeeping rules fully and accurately reflect statutory requirements. Further, these revisions will foster greater transparency about the entities sponsoring candidate and issue ads.

18. We do not believe this is the appropriate proceeding to address Canal Partners' proposed interpretation of the phrase ''a message relating to any political matter of national importance'' in Section 315(e)(1)(B). Canal Partners asserts that ''licensees regularly refuse to comply with their public-disclosure obligations'' and urges the Commission to make clear that ''the phrase 'a message relating to any political matter of national importance' should be interpreted broadly in favor of full disclosure and transparency and that licensees must act fairly, sensibly, honestly, and without any intent to seek commercial advantage when deciding whether to place information in their public political files.'' Canal Partners makes allegations against two broadcast stations to support its assertion that licensees regularly refuse to comply with their public-disclosure obligations.

19. As an initial matter, we decline to address this issue as we did not seek comment on the interpretation of this phrase in the *NPRM.* Even assuming that there was misconduct by the two stations referenced by Canal Partners, we see no need to adopt a rule on this issue at this time. The Commission addresses complaints on their individual merits. To the extent that Canal Partners maintains that licensees regularly refuse to comply with their political file obligations, specific allegations of such misconduct are properly addressed through the complaint process. Furthermore, the Commission recently clarified the standard of review of broadcasters' compliance with their political file disclosure obligations. Specifically, the Commission clarified that the agency will apply a standard of reasonableness and good faith decision-making with respect to the efforts of broadcasters to comply with their obligations under Section 315(e) of the Act. To the extent that Canal Partners challenges the Commission's clarifications, we find that challenge is an untimely petition for reconsideration of that prior order and accordingly we decline to adopt it.

### *C. Cost-Benefit Analysis*

20. We conclude that to the extent that the revised rules impose any costs on Commission licensees and regulatees, such costs will be minimal and are outweighed by the benefits to the public of the revised rules. No commenters explicitly addressed the costs and benefits of the proposed rules or provided specific data and analysis supporting claimed costs and benefits in response to the *NPRM.* As noted above, however, NAB states that the revision to the definition of ''legally qualified candidates'' will not drastically alter current industry practices because broadcasters already consider digital activities in determining whether an individual has established that he or she is a bona fide candidate. In addition, the revisions to the political file rules merely conform our rules to longstanding statutory requirements and the Commission has provided licensees and regulatees guidance on political recordkeeping consistent with these statutory requirements since their adoption in 2002. Thus, we expect that any costs imposed by the updated rules will be minimal and outweighed by the public benefits of transparency and clarity.

## Final Regulatory Flexibility Act Analysis

21. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *NPRM* released in this proceeding. The Federal Communications Commission (Commission) sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. The Commission received no comments on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

### *A. Need for, and Objectives of, the Report and Order*

22. The *Report and Order* updates the political programming and recordkeeping rules for broadcast licensees, cable television system operators, Direct Broadcast Satellite (DBS) service providers, and Satellite Digital Audio Radio Service (SDARS) licensees to conform these rules with modern campaign practices and statutory requirements and increase transparency. The *Report and Order* revises the definition of ''legally qualified candidate for public office'' to add the use of social media and creation of a campaign website to the existing list of campaign-related activities that may be considered in determining whether an individual running as a write-in candidate has made a ''substantial showing'' of his or her bona fide candidacy. The *Report and Order* makes clear that social media presence and campaign websites will be treated as additional indicators of activities commonly associated with political campaigning needed to make substantial showing of a bona fide candidacy, not as determinative factors, and such digital activities must be combined with other activities commonly associated with political campaigning that are conducted in substantial portions of the relevant geographic area.

23. The *Report and Order* also amends the political file rules consistent with the Bipartisan Campaign Reform Act of 2002 (BCRA), which extends the Commission's political file requirements to any request for the purchase of

advertising time that ''communicates a message relating to any political matter of national importance'' (*i.e.,* issue ads) and specifies the records that must be maintained. The *Report and Order* revises the rules to require that broadcast licensees, cable operators, DBS providers, and SDARS licensees maintain in their online political files not only records of each request for advertising time that is made by or on behalf of a legally qualified candidate for public office, but also records of each request for advertising time that ''communicates a message relating to any political matter of national importance.'' Further, the *Report and Order* amends the rules to specify that the following record must be placed in online political files for both candidate ads and issue ads:

(1) Whether the request to purchase advertising time is accepted or rejected by the licensee or regulatee;

(2) the rate charged for the advertising time;

(3) the date and time on which the communication is aired;

(4) the class of time that is purchased;

(5) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(6) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(7) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

*B. Summary of Significant Issues Raised in Response to the IRFA*

24. No comments were filed in response to the IRFA.

*C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

25. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

*D. Description and Estimate of the Number of Small Entities To Which the Rules Will Apply*

26. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The rules proposed herein will directly affect small television broadcast stations. Below, we provide a description of these small entities, as well as an estimate of the number of such small entities, where feasible.

27. The rules adopted herein will directly affect small television broadcast stations. Below, we provide a description of these small entities, as well as an estimate of the number of such small entities, where feasible.

28. *Television Broadcasting.* This U.S. Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: those having $41.5 million or less in annual receipts. According to the 2012 Economic Census (when the SBA's size standard was set at $38.5 million or less in annual receipts), 751 firms in the small business size category operated in that year. Of that number, 656 had annual receipts of $25 million or less, 25 had annual receipts between $25 million and $49,999,999 and 70 had annual receipts of $50 million or more. Based on this data, we estimate that the majority of commercial television broadcast stations are small entities under the applicable size standard.

29. Additionally, the Commission has estimated the number of licensed commercial television stations to be 1,372. Of this total, 1,263 stations (or 92%) had revenues of $41.5 million or less in 2019, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on July 30, 2020, and therefore these stations qualify as small entities under the SBA definition. In addition, the Commission estimates the number of noncommercial educational television stations to be 384. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 385 Class A stations. Given the nature of this service, the Commission presumes that all of these stations qualify as small entities under the applicable SBA size standard.

30. *Radio Broadcasting.* This U.S. Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public.'' Programming may originate in the establishment's own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: those having $41.5 million or less in annual receipts. According to Economic Census data for 2012 (when the SBA's size standard was set at $38.5 million or less in annual receipts), 2,849 firms in this category operated in that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Based on this data, we estimate that the majority of commercial radio broadcast stations were small under the applicable SBA size standard.

31. The Commission has estimated the number of licensed commercial AM radio stations to be 4,519 and the number of commercial FM radio stations to be 6,682 for a total of 11,201 commercial stations. According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on July 30, 2020, 99% of commercial radio stations had revenues of $41.5 million or less in 2019, and therefore these stations qualify as small entities under the SBA definition. In addition, there were 4,211 noncommercial, educational (NCE) FM stations. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

32. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

33. *Cable Companies and Systems (Rate Regulation Standard).* The Commission has also developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicates that, of the 777 cable companies currently operating in the United States, 766 serve 400,000 or fewer subscribers. Additionally, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. According to industry data, there are currently 4,336 active cable systems in the United States. Of this total, 3,650 cable systems have fewer than 15,000 subscribers. Thus, the Commission believes that the vast majority of cable companies and cable systems are small entities.

34. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' As of 2019, there were approximately 48,646,056 basic cable video subscribers in the United States. Accordingly, an operator serving fewer than 486,460 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but five cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

35. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. For the purposes of economic classification, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in the Wired Telecommunications Carriers industry. The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. The SBA determines that a wireline business is small if it has fewer than 1,500 employees. Economic census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on that data, we conclude that the majority of wireline firms are small under the applicable standard. However, currently only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. According to industry data, DIRECTV and DISH serve 14,831,379 and 8,957,469 subscribers respectively, and count the third and fourth most subscribers of any multichannel video distribution system in the U.S. Given the capital required to operate a DBS service, its national scope, and the approximately one-third share of the video market controlled by these two companies, we presume that neither would qualify as a small business.

36. *Satellite Radio.* Sirius-XM, which offers subscription services, is the sole, current U.S. provider of satellite radio (SDARS) services, Sirius-XM. Sirius-XM reported revenue of $8.04 billion and a net income of $131 million in 2020. In light of these figures, we believe it is unlikely that this entity would be considered small

### *E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

37. In this section, we identify the reporting, recordkeeping, and other compliance requirements adopted in the *Report and Order* and consider whether small entities are affected disproportionately by any such requirements.

38. *Reporting Requirements.* The *Report and Order* does not adopt any new or modified reporting requirements.

39. *Recordkeeping Requirements.* The *Report and Order* revises the political file rules, consistent with the BCRA's amendment to Section 315(e) of the Act, to reflect the statutory requirements that broadcast licensees, cable television system operators, DBS providers, and SDARS licensees are obligated to maintain in their online political inspection files records of each request for advertising time that ''is made on behalf of a legally qualified candidate for public office'' and each request for advertising time that ''communicates a message relating to any political matter of national importance'' (*i.e.,* issue ads). In addition, the *Report and Order* revises the political file rules to list the specific records that must be maintained in political files.

40. *Other Compliance Requirements.* The *Report and Order* revises the political programming rules to add the use of social media and the creation of campaign websites to the list of activities that may be considered in determining whether an individual who is running as a write-in candidate has made a ''substantial showing'' of his or her bona fide candidacy.

*F. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered*

41. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.''

42. The *Report and Order* revises the political programming and political file rules to bring them into conformity with modern campaign practices and statutory requirements. As discussed below, the updates are not expected to significantly impact small entities.

43. The changes in the Recordkeeping Requirements merely conform our rules with the statutory requirements in Section 315(e) of the Act, which was added in 2002 by the BCRA. The Commission has provided guidance on political recordkeeping consistent with these statutory requirements since their adoption in 2002. The revisions ensure that the political file rules fully and accurately reflect the statutory requirements.

44. The changes in the Compliance Requirements conform with modern campaign practices. NAB states that these changes will not drastically alter current industry practices because broadcasters already consider digital activities in determining whether an individual has made a substantial showing that he or she is a bona fide candidate.

*G. Report to Congress*

45. The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. The *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

**Ordering Clauses**

46. Accordingly, *it is ordered,* pursuant to the authority contained in Sections 1, 4(i), 4(j), 303, 307, 312, 315, and 335 of the Communications Act, as amended, 47 U.S.C 151, 154(i), 154(j), 303, 307, 312, 315, and 335, that this *Report and Order is adopted.*

47. *It is further ordered* that the Commission's rules *are hereby amended* as set forth below.

48. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order* including the Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Parts 25, 73, and 76**

Cable television, Political candidates, Radio, Reporting and recordkeeping requirements, Satellites, Television.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 25, 73, and 76 as follows:

## PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721.

■ 2. Delayed indefinitely, amend § 25.701 by revising paragraph (d) to read as follows:

**§ 25.701 Other DBS Public interest obligations.**

* * * * *

(d) *Political file.* (1) Each DBS operator engaged in origination programming shall maintain, and make available for public inspection, a complete record of a request to purchase adverting time that:

(i) Is made by or on behalf of a legally qualified candidate for public office; or

(ii) Communicates a message relating to any political matter of national importance, including:

(A) A legally qualified candidate;

(B) Any election to Federal office; or

(C) A national legislative issue of public importance.

(2) A record maintained under this paragraph shall contain information regarding:

(i) Whether the request to purchase advertising time is accepted or rejected by the DBS operator;

(ii) The rate charged for the advertising time;

(iii) The date and time on which the communication is aired;

(iv) The class of time that is purchased;

(v) The name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(vi) In the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(vii) In the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

(3) When free time is provided for use by or on behalf of candidates, a record of the free time provided shall be placed in the political file.

(4) All records required by this paragraph shall be placed in the online public file hosted by the Commission as soon as possible and shall be retained for a period of two years. As soon as possible means immediately absent unusual circumstances.

* * * * *

■ 3. Delayed indefinitely, amend § 25.702 by revising paragraph (b) to read as follows:

**§ 25.702 Other SDARS Public interest obligations.**

* * * * *

(b) *Political file.* (1) Each SDARS licensee engaged in origination programming shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that:

(i) Is made by or on behalf of a legally qualified candidate for public office; or

(ii) Communicates a message relating to any political matter of national importance, including:

(A) A legally qualified candidate;

(B) Any election to Federal office; or

(C) A national legislative issue of public importance.

(2) A record maintained under this paragraph shall contain information regarding:

(i) Whether the request to purchase broadcast time is accepted or rejected by the licensee;

(ii) The rate charged for the broadcast time;

(iii) The date and time on which the communication is aired;

(iv) The class of time that is purchased;

(v) The name of the candidate to which the communication refers and the

office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(vi) In the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(vii) n the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

(3) When free time is provided for use by or on behalf of candidates, a record of the free time provided shall be placed in the political file.

(4) All records required by this paragraph shall be placed in the online public file hosted by the Commission as soon as possible and shall be retained for a period of two years. As soon as possible means immediately absent unusual circumstances.

* * * * *

## PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 303, 309, 310, 334, 336, and 339.

■ 5. Effective March 14, 2022, amend § 73.1940 by revising paragraph (f) to read as follows:

### § 73.1940 Legally qualified candidates for public office.

* * * * *

(f) The term ''substantial showing'' of a bona fide candidacy as used in paragraphs (b), (d), and (e) of this section means evidence that the person claiming to be a candidate has:

(1) Satisfied the requirements under applicable law to run as a write-in (such as registering, collecting signatures, paying fees, etc.); and

(2) Has engaged to a substantial degree in activities commonly associated with political campaigning. Such activities normally would include making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee, establishing campaign headquarters (even though the headquarters in some instances might be the residence of the candidate or his or her campaign manager), creating a campaign website, and using social media for the purpose of promoting or furthering a campaign for public office. Not all of the listed activities are necessarily required in each case to demonstrate a substantial showing, and there may be activities not listed herein which would contribute to such a showing. The creation of a campaign website and the use of social media shall be additional indicators of a bona fide candidacy, not determinative factors, and such digital activities must be combined with other activities commonly associated with political campaigning that are conducted in substantial portions of the relevant geographic area.

■ 6. Delayed indefinitely, amend § 73.1943 by revising paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (c) and (d), and adding new paragraph (b).

The revision and addition read as follows:

### § 73.1943 Political file.

(a) A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that:

(1) Is made by or on behalf of a legally qualified candidate for public office; or

(2) Communicates a message relating to any political matter of national importance, including:

(i) A legally qualified candidate;

(ii) Any election to Federal office; or

(iii) A national legislative issue of public importance.

(b) A record maintained under paragraph (a) shall contain information regarding:

(1) Whether the request to purchase broadcast time is accepted or rejected by the licensee;

(2) The rate charged for the broadcast time;

(3) The date and time on which the communication is aired;

(4) The class of time that is purchased;

(5) The name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(6) In the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(7) In the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

* * * * *

## PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 7. The authority citation for part 76 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 8. Effective March 14, 2022, amend § 76.5 by revising paragraph (q)(5) to read as follows:

### § 76.5 Definitions.

* * * * *

(q) * * *

(5) The term ''substantial showing'' of a bona fide candidacy as used in paragraphs (q)(2) through (4) of this section means evidence that the person claiming to be a candidate has:

(i) Satisfied the requirements under applicable law to run as a write-in (such as registering, collecting signatures, paying fees, etc.); and

(ii) Has engaged to a substantial degree in activities commonly associated with political campaigning. Such activities normally would include making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee, establishing campaign headquarters (even though the headquarters in some instances might be the residence of the candidate or his or her campaign manager), creating a campaign website, and using social media for the purpose of promoting or furthering a campaign for public office. Not all of the listed activities are necessarily required in each case to demonstrate a substantial showing, and there may be activities not listed herein which would contribute to such a showing. The creation of a campaign website and the use of social media shall be additional indicators of a bona fide candidacy, not determinative factors, and such digital activities must be combined with other activities commonly associated with political campaigning that are conducted in substantial portions of the relevant geographic area.

* * * * *

■ 9. Delayed indefinitely, amend § 76.1701 by revising paragraph (a), redesignating paragraphs (b) through (d) as paragraphs (c) through (e), and adding new paragraph (b).

The revision and addition read as follows:

**§ 76.1701 Political file.**

(a) Every cable television system operator engaged in origination programming shall maintain, and make available for public inspection, a complete record of a request to purchase cablecast time that:

(1) Is made by or on behalf of a legally qualified candidate for public office; or

(2) Communicates a message relating to any political matter of national importance, including:

(i) A legally qualified candidate;

(ii) Any election to Federal office; or

(iii) A national legislative issue of public importance.

(b) A record maintained under paragraph (a) shall contain information regarding:

(1) Whether the request to purchase cablecast time is accepted or rejected by the cable television system operator;

(2) The rate charged for the cablecast time;

(3) The date and time on which the communication is aired;

(4) The class of time that is purchased;

(5) The name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to whih the communication refers (as applicable);

(6) In the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(7) In the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

* * * * *

[FR Doc. 2022–02484 Filed 2–9–22; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

### 49 CFR Part 391

**[Docket No. FMCSA–2019–0049]**

**RIN 2126–AC21**

### Qualifications of Drivers; Vision Standard; Correction

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Final rule; correction.

**SUMMARY:** In a final rule published in the **Federal Register** on January 21, 2022, FMCSA amended its regulations to permit individuals who do not satisfy, with the worse eye, either the existing distant visual acuity standard with corrective lenses or the field of vision standard, or both, to be physically qualified to operate a commercial motor vehicle in interstate commerce under specified conditions. The document included an incorrect date for grandfathered drivers who participated in a vision waiver study program to come into compliance with the provisions in the final rule.

**DATES:** This correction is effective March 22, 2022.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.*

**SUPPLEMENTARY INFORMATION:** In FR Doc. 2022–01021 appearing on page 3419 in the **Federal Register** of January 21, 2022 (87 FR 3390), the following corrections are made:

**§ 391.64 [Corrected]**

■ On page 3419, in the third column, in § 391.64, in paragraph (b) introductory text and paragraph (b)(4), ''March 22, 2022'' is corrected to read ''March 22, 2023''.

Issued under authority delegated in 49 CFR 1.87.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2022–02758 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 210210–0018; RTID 0648–XB777]**

### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Non-American Fisheries Act Crab Vessels Operating as Catcher Vessels Using Pot Gear in the Western Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by non-American Fisheries Act (AFA) crab vessels that are subject to sideboard limits, and operating as catcher vessels (CVs) using pot gear, in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2022 sideboard limit established for non-AFA crab vessels that are operating as CVs using pot gear in the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 7, 2022, through 1200 hrs, A.l.t., June 10, 2022.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2022 Pacific cod sideboard limit established for non-AFA crab vessels, and that are operating as CVs using pot gear in the Western Regulatory Area of the GOA, is 442 metric tons (mt), as established by the final 2021 and 2022 harvest specification for groundfish in the GOA (86 FR 10184, February 19, 2021) and inseason adjustment (86 FR 74384, December 30, 2021).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2022 Pacific cod sideboard limit established for non-AFA crab vessels that are operating as CVs using pot gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 442 mt and is setting aside the remaining 0 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 680.22(e)(3), the Regional Administrator finds that this sideboard directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**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 sideboard directed fishing closure of Pacific cod for non-AFA crab vessels that are subject to sideboard limits, and that are operating as CVs using pot gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 4, 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: February 7, 2022.

**Ngagne Jafnar Gueye,**

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

[FR Doc. 2022–02845 Filed 2–7–22; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
Vol. 87, No. 28
Thursday, February 10, 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 430

**[EERE–2021–BT–STD–0011]**

**RIN 1904–AE99**

## Energy Conservation Program: Energy Conservation Standards for Ceiling Fans, Webinar and Availability of the Preliminary Technical Support Document

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

**ACTION:** Notification of a webinar and availability of preliminary technical support document.

**SUMMARY:** The U.S. Department of Energy (''DOE'' or ''the Department'') will hold a webinar to discuss and receive comments on the preliminary analysis it has conducted for purposes of evaluating energy conservation standards for ceiling fans. The meeting will cover the analytical framework, models, and tools that DOE is using to evaluate potential standards for this product; the results of preliminary analyses performed by DOE for this product; the potential energy conservation standard levels derived from these analyses that DOE could consider for this product should it determine that proposed amendments are necessary; and any other issues relevant to the evaluation of energy conservation standards for ceiling fans. In addition, DOE encourages written comments on these subjects. To inform interested parties and to facilitate this process, DOE has prepared an agenda, a preliminary technical support document (''TSD''), and briefing materials, which are available on the DOE website at: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=5.*

**DATES:**

*Meeting:* DOE will hold a webinar on Wednesday, March 16, 2022, from 1 to 4 p.m. See section IV, ''Public Participation,'' for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

*Comments:* Written comments and information will be accepted on or before, April 11, 2022.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2021–BT–STD–0011, by any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* to *CeilingFans2021STD0011@ee.doe.gov.* Include docket number EERE–2021–BT–STD–0011 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 IV of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including the Federal eRulemaking Portal, email, postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing coronavirus 2019 (COVID–19) pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

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

The docket web page can be found at *www.regulations.gov/docket/EERE–2021–BT–STD–0011.* The docket web page contains instructions on how to access all documents, including public comments in the docket. See section IV for information on how to submit comments through *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:**

Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588. Email: *amelia.whiting@hq.doe.gov.*

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

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

## I. Introduction

### A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include ceiling fans, the subject of this document. (42 U.S.C. 6291(49); 42 U.S.C. 6293(b)(16)(A)(i) and (B); and 42 U.S.C. 6295(ff))

EPCA established certain design requirements for ceiling fans. (42 U.S.C. 6295(ff)(1)(A)) EPCA also authorizes the Secretary to issue, subject to certain statutory criteria, energy efficiency or energy use standards for electricity used by ceiling fans to circulate air in a room. (42 U.S.C. 6295(ff)(6)(A)) In issuing such standards the Secretary shall consider exempting, or setting different standards for, certain product classes for which the primary standards are not technically feasible or economically justified; and establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature. (42 U.S.C. 6295(ff)(6)(B))

EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) Not later than three years after issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

Under EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE is publishing this Preliminary Analysis to collect data and information to inform its decision consistent with its obligations under EPCA.

### B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including ceiling fans. As noted, EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy efficiency (or water efficiency for certain products specified by EPCA) that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3))

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[3] For example, the United States rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing greenhouse gas (''GHG'') emissions in order to limit the rise in mean global temperature. As such, energy savings that reduce GHG emissions have taken on greater importance. Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in primary energy and full-fuel cycle (''FFC'') effects for different covered products and equipment when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus present a more complete picture of the impacts of energy conservation standards. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

Accordingly, DOE evaluates the significance of energy on a case-by-case basis. DOE estimates a combined total of 3.53 quads of FFC energy savings at the max-tech efficiency levels for ceiling fans, which represents 41 percent energy savings relative to the no-new-standards case energy consumption for ceiling fans. DOE has initially determined the energy savings for the candidate standard levels considered in this preliminary analysis are ''significant'' within the meaning of 42 U.S.C. 6295(o)(3)(B). To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

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

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

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

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

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

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

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

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

| EPCA requirement | Corresponding DOE analysis |
| --- | --- |
| Significant energy savings | • Shipments Analysis. |

[1] All references to EPCA in this document refer to the statute as amended through the Infrastructure Investment and Jobs Act, Public Law 117–58 (Nov. 15, 2021).

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

[3] See 86 FR 70892, 70901 (Dec. 13, 2021).

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS—Continued

| EPCA requirement | Corresponding DOE analysis |
|---|---|
| Technological Feasibility | • National Impact Analysis.<br>• Energy Analysis.<br>• Market and Technology Assessment.<br>• Screening Analysis.<br>• Engineering Analysis. |
| **Economic Justification** | |
| 1. Economic impact on manufacturers and consumers | • Manufacturer Impact Analysis.<br>• Life-Cycle Cost and Payback Period Analysis.<br>• Life-Cycle Cost Subgroup Analysis.<br>• Shipments Analysis. |
| 2. Lifetime operating cost savings compared to increased cost for the product | • Markups for Product Price Analysis.<br>• Energy Analysis.<br>• Life-Cycle Cost and Payback Period Analysis. |
| 3. Total projected energy savings | • Shipments Analysis.<br>• National Impact Analysis. |
| 4. Impact on utility or performance | • Screening Analysis.<br>• Engineering Analysis. |
| 5. Impact of any lessening of competition | • Manufacturer Impact Analysis. |
| 6. Need for national energy and water conservation | • Shipments Analysis.<br>• National Impact Analysis. |
| 7. Other factors the Secretary considers relevant | • Employment Impact Analysis.<br>• Utility Impact Analysis.<br>• Emissions Analysis.<br>• Monetization of Emission Reductions Benefits.<br>• Regulatory Impact Analysis. |

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Finally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for ceiling fans address standby mode and off mode energy use. In this rulemaking, DOE intends to incorporate such energy use into any amended energy conservation standards it adopts in the final rule for small-diameter ceiling fans and establish a separate standard for large-diameter ceiling fan standby energy use.

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE intends to use to evaluate standards for the product at issue and the results of preliminary analyses DOE performed for the product.

DOE is examining whether to amend the current standards pursuant to its obligations under EPCA. This notification announces the availability of the preliminary TSD, which details the preliminary analyses and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

### *C. Deviation From Appendix A*

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (''appendix A''), DOE notes that it is deviating from the provision in appendix A regarding the pre-NOPR

stages for an energy conservation standards rulemaking. Section 6(a)(2) of appendix A states that if the Department determines it is appropriate to proceed with a rulemaking (after initiating the rulemaking process through an early assessment), the preliminary stages of a rulemaking to issue or amend an energy conservation standard that DOE will undertake will be a framework document and preliminary analysis, or an advance notice of proposed rulemaking (''ANOPR''). DOE is opting to deviate from this step by publishing a preliminary analysis without a framework document. A framework document is intended to introduce and summarize the various analyses DOE conducts during the rulemaking process and requests initial feedback from interested parties. As discussed further in the following section, prior to this notification of the preliminary analysis, DOE issued an early assessment request for information on May 7, 2021 (''May 2021 RFI'') in which DOE identified and sought data, information, and comment to evaluate whether the existing energy conservation standards for ceiling fans should be amended. 86 FR 24538, 24539. DOE provided an initial 30-day comment period for the RFI, which was then extended for an additional 21 days. 86 FR 29704. As DOE is intending to rely on substantively the same analytical methods as in the most recent rulemaking for ceiling fans, publication of a framework document would be largely redundant with the published May 2021 RFI. DOE notes that eliminating unnecessary rulemaking documents allows DOE and stakeholders to use their resources more efficiently and does not unnecessarily delay the benefits of a potential energy conservation standard. DAs such, DOE is not publishing a framework document.

Section 6(d)(2) of appendix A specifies that the length of the public comment period for pre-NOPR rulemaking documents will vary depending upon the circumstances of the particular rulemaking, but will not be less than 75 calendar days. For this preliminary analysis, DOE has opted to instead provide a 60-day comment period. As stated, DOE requested comment in the May 2021 RFI on the analysis conducted in support of the last energy conservation standard rulemaking for ceiling fans. For this preliminary analysis, DOE has relied on many of the same analytical assumptions and approaches as used in the previous rulemaking and has determined that a 60-day comment period in conjunction with the prior comment period provides sufficient time for interested parties to review the preliminary analysis and develop comments.

## II. Background

### *A. Current Standards*

In a final rule published on October 18, 2005, DOE codified the design standards prescribed by EPCA for ceiling fans. 70 FR 60407, 60413. These standards are set forth in DOE's regulations at 10 CFR 430.32(s)(1) and require all ceiling fans manufactured on or after January 1, 2007 to have (1) fan speed controls separate from any lighting controls; (2) adjustable speed controls (either more than one speed or variable speed); and (3) the capability for reverse action (other than fans sold for industrial or outdoor application or where safety would be an issue). (42 U.S.C. 6295(ff)(1)(A))

In a final rule published on January 19, 2017 (''January 2017 Final Rule''), DOE prescribed the current energy conservation standards for ceiling fans manufactured in, or imported into, the United States on and after January 21, 2020. 82 FR 6826, 6827.

On December 27, 2020, the Energy Act of 2020 (Pub. L. 116–260) was signed into law. The Energy Act of 2020 amended performance standards for large-diameter ceiling fans.[4] (42 U.S.C. 6295(ff)(6)(C)(i), as codified) Pursuant to the Energy Act of 2020, large-diameter ceiling fans are subject to standards in terms of the Ceiling Fan Energy Index (''CFEI'') metric, with one standard based on operation of the fan at high speed and a second standard based on operation of the fan at 40 percent speed or the nearest speed that is not less than 40 percent speed. (42 U.S.C. 6295(ff)(6)(C)(i), as codified)

On May 27, 2021, DOE published a final rule to amend the current regulations for large-diameter ceiling fans. 86 FR 28469 (''May 2021 Technical Amendment'') The technical amendment was published to codify provisions enacted by Congress through the Energy Act of 2020. Specifically, section 1008 of the Energy Act of 2020 amended section 325(ff)(6) of EPCA to specify that large-diameter ceiling fans manufactured on or after January 21, 2020, are not required to meet minimum ceiling fan efficiency requirements in terms of the ratio of the total airflow to the total power consumption as established in a final rule published January 19, 2017 (82 FR 6826; ''January 2017 Final Rule''), and instead are required to meet specified minimum efficiency requirements based on the CFEI metric. 86 FR 28469, 28469–28470.

The current standards are set forth in DOE's regulations at 10 CFR 430.32(s) and are summarized in Table II.1.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR CEILING FANS

| Product class as defined in Appendix U [of 10 CFR 430.32(s)] | Minimum efficiency (CFM/W) [1] |
|---|---|
| Very small-diameter (VSD) | D ≤12 in.: 21. |
| | D >12 in.: 3.16D—17.04. |
| Standard | 0.65D + 38.03. |
| Hugger | 0.29D + 34.46. |
| High-speed small-diameter (HSSD) | 4.16D + 0.02. |
| **Product class as defined in Appendix U [of 10 CFR 430.32(s)]** | **Minimum efficiency (CFEI)** |
| Large-Diameter Ceiling Fans | 1.00 at high speed.<br>1.31 at 40 percent speed or the nearest speed that is not less than 40 percent speed. |

[1] D is the ceiling fan's blade span, in inches, as determined in Appendix U of 10 CFR 430.32(s).

[4] A large-diameter ceiling fan is a ceiling fan that is greater than seven feet in diameter. 10 CFR part 430 subpart B appendix U section 1.11.

*B. Current Process*

On May 7, 2021, DOE published a request for information that it was initiating an early assessment review to determine whether any new or amended standards would satisfy the relevant requirements of EPCA for a new or amended energy conservation standard for ceiling fans and a request for information. 86 FR 24538, 24539. Specifically, through the published request for information, DOE sought data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of foregoing. *Id.*

Comments received to date as part of the current process have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

## III. Summary of the Analyses Performed by DOE

For the products covered in this preliminary analysis, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) markups to determine product price; (3) energy use; (4) life cycle cost (''LCC'') and payback period (''PBP''); and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at *www.regulations.gov/docket/EERE–2021–BT–STD–0011.*

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded if DOE determines that a NOPR is warranted to propose amended energy conservation standards. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the national impact analysis (''NIA''). In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR should one be issued.

*A. Market and Technology Assessment*

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including general characteristics of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment include: (1) A determination of the scope of the rulemaking and product classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of the product.

See chapter 3 of the preliminary TSD for further discussion of the market and technology assessment.

*B. Screening Analysis*

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

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

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

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

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

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

10 CFR part 430, subpart C, appendix A, sections 6(b)(3) and 7(b).

If DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis.

See chapter 4 of the preliminary TSD for further discussion of the screening analysis.

*C. Engineering Analysis*

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of ceiling fans. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the manufacturer production cost (''MPC'') for the baseline as well as higher efficiency levels. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA).

DOE converts the MPC to the manufacturer selling price (''MSP'') by applying a manufacturer markup. The MSP is the price the manufacturer charges its first customer, when selling into the product distribution channels. The manufacturer markup accounts for manufacturer non-production costs and profit margin. DOE developed the manufacturer markup by examining publicly available financial information for manufacturers of the covered product.

See Chapter 5 of the preliminary TSD for additional detail on the engineering analysis.

*D. Markups Analysis*

The markups analysis develops appropriate markups (*e.g.,* retailer markups, distributor markups, contractor markups) in the distribution chain and sales taxes to convert MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin.

DOE developed baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of products with baseline efficiency, while incremental markups are applied to the

difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.[5]

Chapter 6 of the preliminary TSD provides details on DOE's development of markups for ceiling fans.

*E. Energy Use Analysis*

The purpose of the energy use analysis is to determine the annual energy consumption of ceiling fans at different efficiencies in representative U.S. single-family homes, multi-family residences, commercial and industrial buildings, and to assess the energy savings potential of increased ceiling fan efficiency. The energy use analysis estimates the range of energy use of ceiling fans in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

Chapter 7 of the preliminary TSD addresses the energy use analysis.

*F. Life-Cycle Cost and Payback Period Analyses*

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

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

*G. National Impact Analysis*

The NIA estimates the national energy savings (''NES'') and the net present value (''NPV'') of total consumer costs and savings expected to result from amended standards at specific efficiency levels (referred to as candidate standard levels).[6] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of ceiling fans sold from 2027 through 2056.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards (''no-new-standards case'') with standards-case projections. The no-new-standards case characterizes energy use and consumer costs for each product class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels for that class. For each efficiency level, DOE considers how a given standard would likely affect the market shares of product with efficiencies greater than the standard.

DOE uses a software package written in the Python programming language to calculate the energy savings and the national consumer costs and savings at each standard level and in the no-new-standards case. The NIA model uses average values (as opposed to probability distributions) as inputs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy consumption, the base case efficiency projection, and discount rates.

DOE estimates a combined total of 1.3 quads of site energy savings at the max-tech efficiency levels for ceiling fans. Combined site energy savings at Efficiency Level 1 for all product classes are estimated to be 0.3 quads.

Chapter 10 of the preliminary TSD addresses the NIA.

## IV. Public Participation

DOE invites public participation in this process through participation in the webinar and submission of written comments and information. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Following such consideration, the Department will publish either a determination that the standards for ceiling fans need not be amended or a NOPR proposing to amend those standards. The NOPR, should one be issued, would include proposed energy conservation standards for the products covered by that rulemaking, and members of the public would be given an opportunity to submit written and oral comments on the proposed standards.

*A. Participation in the Webinar*

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. If no participants register for the webinar, it will be cancelled. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=5.* 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 document, 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. Such persons may submit such request to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in 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.

[5] Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

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

DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. 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 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. 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 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 a general overview of the topics addressed in this rulemaking, 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 allows, 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. Participants should be prepared to answer questions 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 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.

A transcript of the webinar 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 invites all interested parties, regardless of whether they participate in the public meeting, to submit in writing by April 11, 2022, comments and information on matters addressed in this notification and on other matters relevant to DOE's consideration of amended energy conservations standards for ceiling fans. 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. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit 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 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).

### V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of a webinar and availability of preliminary technical support document.

### Signing Authority

This document of the Department of Energy was signed on February 3, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for 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 February 4, 2022.

**Treena V. Garrett,**

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

[FR Doc. 2022–02719 Filed 2–9–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–0098; Project Identifier MCAI–2021–01084–T]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by a report indicating that on the A350 final assembly line (FAL), certain load sensing drive struts (LSDS) and drive struts (DS) were found not adjusted (the nut was not torqued) and not locked. Investigation revealed that the LSDS and DS had been changed as re-work action due to pre-installation damage, but production operations (adjustment and locking) were not done afterwards. This proposed AD would require, for certain airplanes, inspection of the LSDS for correct adjustment and locking, and replacement if necessary, and, for certain other airplanes, replacement of each affected DS with a serviceable part, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. 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 March 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 material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0098.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0098; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@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–2022–0098; Project Identifier MCAI–2021–01084–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend 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 Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax

206–231–3225; email *dan.rodina@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**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0220, dated October 1, 2021 (EASA AD 2021–0220), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes.

This proposed AD was prompted by a report indicating that on the A350 FAL, LSDS track 1 and DS track 2 were found not adjusted (the nut was not torqued) and not locked. Investigation revealed that the LSDS and DS had been changed as re-work action due to pre-installation damage, but production operations (adjustment and locking) were not done afterwards. The FAA is proposing this AD to prevent degradation of the load-carrying capability of an LSDS or DS, which could result in the in-flight detachment of a flap, resulting in structural damage and reduced controllability of the airplane. See the MCAI for additional background information.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021–0220 describes procedures for a detailed inspection of the LSDS for correct adjustment and locking, and replacement of the LSDS if any discrepancy (movement of either nut) is found, for airplanes in Configurations 1 through 4. The service information also describes procedures for replacement of each affected DS with a serviceable part, for airplanes in Configurations 5 and 6. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

**Proposed AD Requirements in This NPRM**

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0220 described previously, 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 2021–0220 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0220 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 2021–0220 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 2021–0220. Service information required by EASA AD 2021–0220 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0098 after the FAA final rule is published.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 6 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| LSDS inspection: Up to 14 work-hours × $85 per hour = Up to $1,190. | $0 | $Up to $1,190 | Up to $7,140 (6 airplanes). |
| DS replacement: Up to 11 work-hours × $85 per hour = Up to $935. | $Up to 84,470 | Up to $85,405 | Up to $85,405 (1 airplane). |

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| Up to 10 work-hours (2 per LSDS) × $85 per hour = Up to $850 | Up to $76,173 | Up to $77,023. |

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all known costs in the cost estimate.

**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 SAS:** Docket No. FAA–2022–0098; Project Identifier MCAI–2021–01084–T.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by March 28, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0220, dated October 1, 2021 (EASA AD 2021–0220).

**(d) Subject**

Air Transport Association (ATA) of America Code 27, Flight Controls.

**(e) Unsafe Condition**

This AD was prompted by a report indicating that on the A350 final assembly line (FAL), certain load sensing drive struts (LSDS) and drive struts (DS) were found not adjusted (the nut was not torqued) and not locked. Investigation revealed that the LSDS and DS had been changed as re-work action due to pre-installation damage, but production operations (adjustment and locking) were not done afterwards. The FAA is issuing this AD to prevent degradation of the load-carrying capability of an LSDS or DS, which could result in the in-flight detachment of a flap, resulting in structural damage and reduced controllability of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0220.

**(h) Exceptions to EASA AD 2021–0220**

(1) Where EASA AD 2021–0220 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (2) of EASA AD 2021–0220 refers to a ''discrepancy, as defined in the SB,'' this AD defines a discrepancy as movement of either nut.

(3) The ''Remarks'' section of EASA AD 2021–0220 does not apply to this AD.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021–0220 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

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

**(k) Related Information**

(1) For information about EASA AD 2021–0220 contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0098.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@faa.gov.*

Issued on February 4, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02723 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2022–0097; Project Identifier MCAI–2021–01115–R]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus 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 Model EC 155B and EC155B1 helicopters. This proposed AD was prompted by a report of a discrepancy in the rotorcraft flight manual (RFM) where the rotorcraft stay-up flying capabilities for Category B operation were provided through performance data only, not as airworthiness limitations that are dependent upon on the number of passengers on board. This proposed AD would require revising the existing RFM for your helicopter, 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 March 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 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 this 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. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0097.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0097; 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. Comments will be available in the AD docket shortly after receipt.

**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; phone: (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–2022–0097; Project Identifier MCAI–2021–01115–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 proposal.

### 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; phone: (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

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0225, dated October 8, 2021 (EASA AD 2021–0225) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus Helicopters (formerly Eurocopter, Eurocopter France) Model EC 155 B and EC 155 B1 helicopters.

This proposed AD was prompted by a report of a discrepancy in the RFM, where rotorcraft stay-up flying capabilities for Category B operation were provided through performance data only, but not as airworthiness limitations depending on the number of passengers on board. The FAA is proposing this AD to address this discrepancy in the RFM, which could lead to an incorrect determination of the stay-up flying capabilities, possibly resulting in reduced control of the helicopter. See EASA AD 2021–0225 for additional background information.

### Related Service Information Under 1 CFR Part 51

EASA AD 2021–0225 requires amending (revising) the Limitation Section of the applicable RFM by incorporating new weight limitations that are dependent upon the number of passengers on board. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

### FAA's Determination and Requirements of This Proposed AD

These helicopters have been approved by EASA and are approved for operation

in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of these same type designs.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0225, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the MCAI.''

**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 2021–0225 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0225 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 the EASA AD 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 the EASA AD. Service information specified in EASA AD 2021–0225 that is required for compliance with EASA AD 2021–0225 will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0097 after the FAA final rule is published.

**Differences Between This Proposed AD and the MCAI**

EASA AD 2021–0225 requires operators to ''inform all flight crew'' of revisions to the RFM and, thereafter, to ''operate the helicopter accordingly.'' However, this proposed AD would not specifically require those actions. Nonetheless, the FAA recommends that flight crews of the helicopters listed in the applicability be made aware of the flight manual changes.

14 CFR 91.9 requires that no person may operate a civil aircraft without complying with the operating limitations specified in the RFM. Therefore, including a requirement in this AD to operate the helicopter according to the revised RFM would be redundant and unnecessary. Further, compliance with such a requirement in an AD would be impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to operate the helicopter in such a manner would be unenforceable.

This proposed AD would allow the owner/operator (pilot) holding at least a private pilot certificate to revise the existing RFM for your helicopter and do the logbook entry, whereas EASA AD 2021–0225 does not specify this. This proposed AD would require these actions to be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v), and the record to be maintained as required by 14 CFR 91.417 or 135.439.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 18 helicopters of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 1 work-hours × $85 per hour = $85 | $0 | $85 | $1,530 |

**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:** Docket No. FAA–2022–0097; Project Identifier MCAI–2021–01115–R.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by March 28, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Airbus Helicopters Model EC 155B and EC155B1 helicopters, certificated in any category.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by a report of a discrepancy in the Rotorcraft Flight Manual (RFM) where the rotorcraft stay-up flying capabilities for Category B operation were provided through performance data only, not as airworthiness limitations that are dependent upon the number of passengers on board. The FAA is issuing this AD to address this discrepancy in the RFM, which could lead to an incorrect determination of the stay-up flying capabilities, possibly resulting in 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 2021–0225, dated October 8, 2021 (EASA AD 2021–0225).

**(h) Exceptions to EASA AD 2021–0225**

(1) Where EASA AD 2021–0225 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2021–0225 specifies to ''inform all flight crew and, thereafter, operate the helicopter accordingly,'' this AD does not require those actions.

(3) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0225.

(4) Where paragraph (2) of EASA AD 2021–0225 specifies an acceptable compliance method, replace the text ''which includes information of equal effect to that presented'' with ''which includes information identical to that presented.''

(5) The action required by paragraphs (1) and (2) of EASA AD 2021–0225 may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417 or 135.439.

**(i) Special Flight Permit**

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, provided that no passengers are onboard.

**(j) 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 (k)(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.

**(k) Related Information**

(1) For EASA AD 2021–0225, 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 this EASA AD 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 may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0097.

(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; phone: (516) 228–7330; email: *andrea.jimenez@faa.gov.*

Issued on February 4, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02769 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–0096; Project Identifier MCAI–2021–01092–R]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2020–22–01 which applies to all Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. AD 2020–22–01 requires inspecting the affected parts and associated frame bores for discrepancies, applicable corrective actions, and reporting certain information if necessary. Since the FAA issued AD 2020–22–01, a significant number of reports were received of finding corrosion on the affected parts. This proposed AD would retain the requirements of AD 2020–22–01, add recurring inspections, and update the applicable service information. 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 March 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 Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX, 75052, telephone: (972) 641–0000; or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* 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.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0096; 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 European Union Aviation Safety Agency (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 proposed AD. Send your comments to an address listed under the **ADDRESSES**. Include ''Docket No. FAA–2022–0096; Project Identifier MCAI–2021–01092–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 2020–22–01, Amendment 39–21297 (85 FR 69126, November 2, 2020), (AD 2020–22–01), for all Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. AD 2020–22–01 requires, within certain compliance times specified in the manufacturers service information, inspecting the attachment fittings and attachment screws of the main gearbox (MGB) suspension bars and their frame bores for discrepancies and corrective actions in accordance with the actions specified in the service information. AD 2020–22–01 also requires sending certain information to the manufacturer. AD 2020–22–01 resulted from reports of corrosion on attachment screws and fittings fastening the MGB suspension bars to the fuselage. The FAA issued AD 2020–22–01 to address corrosion on attachment fittings and attachment screws for the MGB suspension bars.

AD 2020–22–01 was prompted by EASA AD 2019–0295, dated December 5, 2019 (EASA AD 2019–0295), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for all Airbus Helicopters Model AS 332 C, AS 332 C1, AS 332 L, and AS 332 L1 helicopters, all manufacturer serial numbers. EASA advised that there were reports of corrosion on attachment screws and fittings fastening the rear MGB suspension bars, right and left hand sides, to the fuselage, and the attachment screws and fitting fastening the front MGB suspension bar to the fuselage. EASA advised that subsequent investigation determined that during maintenance visits of an identified batch of helicopters between September 2012 and April 2019, application of compound sealant on MGB suspension bar attachment screws may not have been accomplished using the approved maintenance data. This condition, if not addressed, could lead to structural failure of the MGB attachment screws, resulting in detachment of MGB suspension bars from the fuselage and subsequent loss of control of the helicopter.

Accordingly, EASA AD 2019–0295 required a one-time inspection of the affected parts, and depending on findings, accomplishment of applicable corrective actions. The compliance times varied depending on helicopter configuration.

**Actions Since AD 2020–22–01 Was Issued**

Since the FAA issued AD 2020–22–01, EASA issued EASA AD 2021–0222, dated October 6, 2021 (EASA AD 2021–0222), which supersedes EASA AD 2019–0295. EASA advises a significant number of reports were received about corrosion being detected on the affected parts. EASA also advises Airbus Helicopters issued updated service information, which includes instructions for repetitive inspections. Accordingly, EASA AD 2021–0222 retains the requirements of EASA AD 2019–0295 and adds repetitive inspections and updated service information. Additionally, Airbus Helicopters advised of a typo in the applicable service information in the reference to G.2 of one of the work cards. Accordingly, the FAA has identified this typo in the exceptions in the regulatory text of this proposed AD.

**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 products of the same type design.

**Related Service Information Under 1 CFR Part 51**

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. AS332–53.02.05, Revision 2, and ASB No. AS332–53.02.07, Revision 1, both dated August 19, 2021, which specify procedures for inspecting the attachment fittings and attachment screws of the MGB suspension bars and their frame bores for discrepancies and corrective actions. This inspection includes inspecting the attachment fittings for corrosion and inspecting the attachment screws for corrosion and evidence of sealing compound. The corrective actions include replacing or

repairing corroded parts and replacing screws that have sealing compound on them. These documents are distinct since they apply to different helicopter models in different configurations.

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.

**Other Related Service Information**

The FAA also reviewed Airbus Helicopters ASB No. AS332–53.02.05, Revision 0, dated April 18, 2019; Airbus Helicopters ASB No. AS332–53.02.05, Revision 1, dated March 2, 2020; and Airbus Helicopters ASB No. AS332–53.02.07, Revision 0, dated October 21, 2019, which also specify procedures for inspecting the attachment fittings and attachment screws of the MGB suspension bars and their frame bores for discrepancies and corrective actions.

**Proposed AD Requirements**

This proposed AD would retain all requirements of AD 2020–22–01. This proposed AD would add repetitive inspections and update the applicable service information. This proposed AD would require accomplishing the actions specified in the service information described previously.

**Costs of Compliance**

The FAA estimates that this AD would affect 10 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this proposed AD.

Inspecting each attachment screw and fitting of the rear MGB suspension bars; each attachment screw and fitting of the front MGB suspension bar; and the frame bores would take about 16 work-hours, for an estimated cost of $1,360 per helicopter and $13,600 for the U.S. fleet per inspection cycle.

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

If required, replacing an affected screw, nut, split pin, concave washer, convex washer, or peel shim would take a minimal amount of time with a minimal cost.

If required, replacing an affected MGB attachment fitting would take about 8 work-hours and parts would cost about $7,000 for an estimated cost of $7,680 per replacement.

If required, reporting any discrepancies to Airbus Helicopters would take about 1 work-hour for an estimated cost of $85 per helicopter.

**Paperwork Reduction Act**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour 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. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

The FAA has determined that this 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 AD 2020–22–01, Amendment 39–21297 (85 FR 69126, November 2, 2020); and

■ b. Adding the following new airworthiness directive:

**Airbus Helicopters:** Docket No. FAA–2022–0096; Project Identifier MCAI–2021–01092–R.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) action by March 28, 2022.

**(b) Affected ADs**

This AD replaces AD 2020–22–01, Amendment 39–21297 (85 FR 69126, November 2, 2020) (AD 2020–22–01).

**(c) Applicability**

This AD applies to all Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters, certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 5340, Fuselage main, attach fittings.

**(e) Reason**

This AD was prompted by reports of corrosion on attachment screws and fittings fastening the main gearbox (MGB) suspension bars to the fuselage. The FAA is issuing this AD to address corrosion on

attachment fittings and attachment screws for the MGB suspension bars. The unsafe condition, if not addressed, could lead to structural failure of the MGB attachment screws, resulting in detachment of MGB suspension bars from the fuselage and subsequent loss of control of the helicopter.

**(f) Compliance**

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

**(g) Definitions**

Affected parts are attachment screws and fitting(s) fastening the parts identified in paragraphs (g)(1) and (2) of this AD.

(1) Rear MGB suspension bars, right and left sides, to the fuselage.

(2) Front MGB suspension bar to the fuselage.

**(h) Repetitive Inspections**

Except as specified in paragraphs (j)(1) through (10) of this AD: Within the applicable compliance times identified in paragraphs (h)(1) or (2) of this AD, inspect each affected part and its frame bores for discrepancies, in accordance with the Accomplishment Instructions, paragraphs 3.B.2. through 3.B.2.b.3 of Airbus Helicopters Alert Service Bulletin (ASB) No. AS332–53.02.05, Revision 2, dated August 19, 2021 (ASB AS332–53.02.05 Rev 2); or in accordance with the Accomplishment Instructions, paragraphs 3.B.2. through 3.B.2.d. of Airbus Helicopters ASB No. AS332–53.02.07, Revision 1, dated August 19, 2021 (ASB AS332–53.02.07 Rev 1), as applicable to your model helicopter. For the purposes of this inspection, a discrepancy may be indicated by corrosion on the MGB attachment fitting or by sealing compound on the attachment screws.

(1) Perform the initial inspection within the applicable compliance times identified in the ''Deadlines'' column of Tables 1 through 4, as applicable, of paragraph 1.E.2, ''Compliance in service,'' of ASB AS332–53.02.05 Rev 2, and thereafter, at intervals not to exceed the compliance time identified in the ''Periodicity'' column of Table 1 through 4, as applicable.

(2) Perform the initial inspection within the applicable compliance times identified in the ''Deadlines'' column of Tables 1 and 2, as applicable, of paragraph 1.E.2, ''Compliance in service,'' of ASB AS332–53.02.07 Rev 1, and thereafter, at intervals not to exceed the compliance time identified in the ''Periodicity'' column of Table 1 and 2, as applicable.

**(i) Corrective Action**

Except as required by paragraphs (j)(7) through (10) of this AD: If, during any inspection required by paragraph (h) of this AD, there is any discrepancy, before further flight, perform the applicable corrective action (including replacing or repairing corroded parts and replacing screws that have sealing compound on them), in accordance with the Accomplishment Instructions, paragraphs 3.B.2. through 3.B.2.b.3 of ASB AS332–53.02.05 Rev 2 or in accordance with the Accomplishment Instructions, paragraphs 3.B.2. through 3.B.2.d. of ASB AS332–53.02.07 Rev 1, as applicable.

**(j) Exceptions to Service Information Specifications**

(1) Where Tables 1 and 3 of ASB AS332–53.02.05 Rev 2 use the phrase ''receipt of Revision 0 of this Alert Service Bulletin issued April 18, 2019,'' this AD requires using December 7, 2020 (the effective date of AD 2020–22–01).

(2) Where Table 1 of ASB AS332–53.02.07 Rev 1 uses the phrase ''receipt of Revision 0 of this Alert Service Bulletin,'' this AD requires using December 7, 2020 (the effective date of AD 2020–22–01).

(3) Where Tables 2 and 4 of ASB AS332–53.02.05 Rev 2 use the phrase ''receipt of Revision 2 of this Alert Service Bulletin,'' this AD requires using the effective date of this AD.

(4) Where Table 2 of ASB AS332–53.02.07 Rev 1, uses the phrase ''that follow receipt of Revision 1 of this Alert Service Bulletin,'' this AD requires using the effective date of this AD.

(5) Where Tables 2 and 4 of ASB AS332–53.02.05 Rev 2, and Table 2 of ASB AS332–53.02.07 Rev 1, specify certain configurations in the ''Configuration'' column, this AD requires compliance for those configurations as of the effective date of this AD. Note 1 to paragraph (h)(5): An example for the exception specified in (h)(5) of this AD is where a service bulletin specifies, ''3700 flight hours or more since compliance with this Alert Service Bulletin,'' use ''3700 flight hours or more since compliance with this Alert Service Bulletin as of the effective date of this AD.''

(6) Where Tables 1 and 3 of ASB AS332–53.02.05 Rev 2, and Table 1 of ASB AS332–53.02.07 Rev 1, specify certain configurations in the ''Configuration'' column, this AD requires compliance for those configurations as of December 7, 2020 (the effective date of AD 2020–22–01).

(7) Where the Accomplishment Instructions, paragraph 3.B.2.b.3) of ASB AS332–53.02.05 Rev 2, and the Accomplishment Instructions, paragraph 3.B.2.b.2) of ASB AS332–53.02.07 Rev 1 specify performing a check of the condition of the bores and frames, for this AD for ASB AS332–53.02.05 Rev 2 replace the text, ''Perform a check of the state of the frame bores as per paragraph G.2. of the Work Card 53–10–00–402 (MET),'' with ''Perform a check of the state of the frame bores as per paragraph F.2.b.(2) of the Work Card 53–10–00–402 (MET);'' and for ASB AS332–53.02.07 Rev 1 replace the text, ''Check the condition of the bores and the frames using the endoscope (yy) as per paragraph G.2. of Work Card 53–10–00–402 (MET),'' with ''Check the condition of the bores and the frames using the endoscope (yy) as per paragraph F.2.b.(2) of Work Card 53–10–00–402 (MET).''

(8) Where ASB AS332–53.02.05 Rev 2 and ASB AS332–53.02.07 Rev 1 specify discarding parts, you are not required to discard parts.

(9) Where ASB AS332–53.02.05 Rev 2 and ASB AS332–53.02.07 Rev 1 specify contacting Airbus Helicopters for repair instructions, this AD requires repair done in accordance with a method approved by the Manager, General Aviation and 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.

(10) Where ASB AS332–53.02.05 Rev 2, and ASB AS332–53.02.07 Rev 1, specify if sealing compound is present, or if no sealing compound is present but there is corrosion, take a photo, place the part in quarantine, and contact Airbus Helicopters for repair instructions, this AD requires repair done in accordance with a method approved by the Manager, General Aviation and Rotorcraft Section, International Validation Branch, FAA; or EASA; or Airbus Helicopters' EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature. This AD does not require taking a photo or placing the part in quarantine.

**(k) Reporting**

If, during any inspection required by paragraph (h) of this AD, there is any discrepancy, report the inspection results to Airbus Helicopters at the applicable time specified in paragraphs (k)(1) or (2) of this AD. The report should include the information specified in Appendix 4.A. of Airbus Helicopters ASB AS332–53.02.05 Rev 2; or ASB AS332–53.02.07 Rev 1, as applicable.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**(l) Credit for Previous Actions**

(1) For helicopters identified in ASB AS332–53.02.05 Rev 2: This paragraph provides credit for initial inspections required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Helicopters ASB AS332–53.02.05, Revision 1, dated March 2, 2020, or Airbus Helicopters ASB AS332–53.02.05, Revision 0, dated April 18, 2019.

(2) For helicopters identified in ASB AS332–53.02.07 Rev 1: This paragraph provides credit for initial inspections required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Helicopters ASB AS332–53–02.07 Revision 0, dated October 21, 2019.

**(m) Special Flight Permit**

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, provided no passengers are onboard.

**(n) 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 (o)(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.

**(o) 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 Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX, 75052, telephone: (972) 641–0000; or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* 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 European Union Aviation Safety Agency (EASA) AD 2021–0222, dated October 6, 2021, for more information. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2022–0096.

Issued on February 4, 2022.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02768 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–0092; Project Identifier MCAI–2020–01428–A]**

**RIN 2120–AA64**

## Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC–12/47E airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as a batch of incorrectly sized fuel transfer ejector nozzles that were installed on Model PC–12/47E airplanes during production. This proposed AD would require removing the affected fuel transfer ejectors from service and prohibiting installation of the affected fuel transfer ejectors. 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 March 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 Pilatus Aircraft Ltd., CH–6371, Stans, Switzerland; phone: +41 848 24 7 365; email: *techsupport.ch@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com/.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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–2022–0092; 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 MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4059; email: *doug.rudolph@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 the **ADDRESSES** section. Include ''Docket No. FAA–2022–0092; Project Identifier MCAI–2020–01428–A'' 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 NPRM 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 Doug Rudolph, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

### Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0229, dated October 20, 2020 (referred to after this as ''the MCAI''), to correct an unsafe condition on Pilatus Model PC–12/47E airplanes with serial

number 2001 and larger. The MCAI states:

> An occurrence was reported where, on the production line, a batch of fuel transfer ejectors with an incorrect (too small) nozzle diameter were installed on some PC–12/47E aeroplanes. Such fuel transfer ejectors are not in compliance with the latest approved design data.
>
> This condition, if not corrected, could result in a restriction of the motive fuel flow due to ice accumulation, possibly resulting in a reduction of safety margins in the fuel system.
>
> To address this potential unsafe condition, Pilatus issued the SB [Service Bulletin] to provide replacement instructions.
>
> For the reason described above, this [EASA] AD requires replacement of the affected parts with serviceable parts, as defined in the [EASA] AD. This [EASA] AD also prohibits (re-)installation of affected parts.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0092.

**Related Service Information Under 1 CFR Part 51**

The FAA reviewed Pilatus PC–12 Service Bulletin No. 28–014, dated August 12, 2020. This service information contains the serial numbers of the affected fuel transfer ejectors and specifies procedures for replacing the affected fuel transfer ejectors. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the agency of the unsafe condition described in the MCAI and service information referenced above. 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.

**Proposed AD Requirements in This NPRM**

This proposed AD would require accomplishing the actions specified in the service information already described. This proposed AD would also prohibit installation of any affected fuel transfer ejector on any airplane.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 10 airplanes of U.S. Registry. Although there are 54 affected fuel transfer ejectors worldwide, the FAA has no way of knowing how many affected parts may be installed on airplanes of U.S. Registry. The estimated cost on U.S. operators reflects the maximum possible cost based on the 10 airplanes 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 airplane | Cost on U.S. operators |
|---|---|---|---|---|
| Replace an affected fuel transfer ejector ..... | 5.5 work-hours × $85 per hour = $467.50 ..... | $2,109 | $2,576.50 | $25,765 |

**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:

**Pilatus Aircraft Ltd.:** Docket No. FAA–2022–0092; Project Identifier MCAI–2020–01428–A.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by March 28, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Pilatus Aircraft Ltd. Model PC–12/47E airplanes, serial numbers 2001 and larger, certificated in any category.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 2800, Aircraft Fuel System.

**(e) Unsafe Condition**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a batch of incorrectly sized fuel transfer ejector nozzles that were installed on Model PC–12/47E airplanes during production. The FAA is issuing this AD to correct the installation of

incorrectly sized fuel transfer ejectors nozzles. If not addressed, this unsafe condition could result in a restriction of motive fuel flow due to ice accumulation and lead to a reduction of safety margins in the fuel system with consequent loss of control of the airplane.

**(f) Compliance**

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

**(g) Definitions**

(1) For purposes of this AD, an ''affected fuel transfer ejector'' is a fuel transfer ejector part number (P/N) 968.84.71.112 with a serial number listed in the table on page 1 in section 1.C. of Pilatus PC–12 Service Bulletin No. 28–014, dated August 12, 2020 (Pilatus SB 28–014).

(2) For purposes of this AD, a ''Group 1 airplane'' is an airplane with an affected fuel transfer ejector installed.

(3) For purposes of this AD, a ''Group 2 airplane'' is an airplane without an affected fuel transfer ejector installed.

**(h) Required Actions**

*For Group 1 airplanes:* Within 4 months after the effective date of this AD, remove each fuel transfer ejector from service and install a serviceable part in accordance with Paragraph 3.B.(1) of the Accomplishment Instructions in Pilatus SB 28–014.

**(i) Parts Installation Prohibition**

As of the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, do not install an affected fuel transfer ejector on any airplane.

(1) *For Group 1 airplanes:* After replacing the fuel transfer ejector as required by paragraph (h) of this AD.

(2) *For Group 2 airplanes:* As of the effective date of this AD.

**(j) 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 (k)(1) of this AD and email 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.

**(k) Related Information**

(1) For more information about this AD, contact Doug Rudolph, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4059; email: *doug.rudolph@faa.gov.*

(2) Refer to MCAI European Union Aviation Safety Agency (EASA) AD 2020–0229, dated October 20, 2020, for related information. You may examine the EASA at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0092.

(3) For service information related to this AD, contact Pilatus Aircraft Ltd., Customer Support General Aviation, CH–6371 Stans, Switzerland; phone: +41 848 24 7 365; email: *techsupport.ch@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on February 2, 2022.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–02714 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2022–0043; Airspace Docket No. 22–ACE–2]**

**RIN 2120–AA66**

## Proposed Amendment of Class E Airspace; Emmetsburg, IA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend the Class E airspace at Emmetsburg, IA. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Emmetsburg non-directional beacon (NDB). The geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

**DATES:** Comments must be received on or before March 28, 2022.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0043/Airspace Docket No. 22–ACE–2 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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:** Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Emmetsburg Municipal Airport, Emmetsburg, IA, to support instrument flight rule operations at this 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. Commenters 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–2022–0043/Airspace Docket No. 22–ACE–2.'' 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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 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.

**The Proposal**

The FAA is proposing an amendment to 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface at Emmetsburg Municipal Airport, Emmetsburg, IA, by removing the Emmetsburg NDB and associated extension from the airspace legal description; and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is necessary due to an airspace review caused by the decommissioning of the Emmetsburg NDB which provided navigation information for the instrument procedures this airport.

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 designation 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*

* * * * *

**ACE IA E5 Emmetsburg, IA [Amended]**

Emmetsburg Municipal Airport, IA
(Lat. 43°06′07″ N, long. 94°42′16″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Emmetsburg Municipal Airport, and within 3.8 miles each side of the 316° bearing from the airport extending from the 6.5-mile radius to 10.3 miles northwest of the airport.

Issued in Fort Worth, Texas, on February 7, 2022.

**Martin A. Skinner,**

*Acting Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2022–02805 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF COMMERCE

## Bureau of Industry and Security

## 15 CFR Chapter VII

**[Docket No. 220204–0041]**

**RIN 0694–XC086**

## Request for Public Comments on the Section 232 Exclusions Process

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

**ACTION:** Request for public comments.

**SUMMARY:** The Bureau of Industry and Security (BIS) is hereby seeking public comments regarding the Section 232 exclusions process. A presidential proclamation (Adjusting Imports of Steel into the United States), published on January 3, 2022, directed the Secretary of Commerce to seek public comment on the Section 232 exclusions process, including the responsiveness of the exclusions process to market

demand and enhanced consultation with U.S. firms and labor organizations.

**DATES:** The due date for filing comments is March 28, 2022.

**ADDRESSES:** *Submissions:* All written comments on this request must be filed through the Federal eRulemaking Portal: *https://www.regulations.gov.* To submit comments via *https://www.regulations.gov,* enter the docket number BIS–2021–0042 on the home page and click ''Search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this document and click the button entitled ''Comment.'' (For further information on using *https://www.regulations.gov,* please consult the resources provided on the website by clicking on ''FAQ'').

**FOR FURTHER INFORMATION CONTACT:** Erika Maynard by telephone at 202–482–5642 or by email at *Steel232@bis.doc.gov.*

**SUPPLEMENTARY INFORMATION:**

## Background

Presidential Proclamations 10327 (87 FR 1) and 10328 (87 FR 11) published on January 3, 2022, implemented an understanding reached between the United States and the European Union including the establishment of tariff rate quotas for steel and aluminum articles imported from the European Union member countries. Proclamation 10328 also directed the Secretary of Commerce to seek public comment on the Section 232 exclusions process, including the responsiveness of the exclusions process to market demand and enhanced consultation with U.S. firms and labor organizations.

Since March 19, 2018, Commerce has published five interim final rules that established and made various revisions to the Section 232 exclusions process, as well as a Notice of Inquiry seeking public comment on certain aspects of the Section 232 exclusions process.

On March 19, 2018, Commerce issued an interim final rule, *Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel into the United States and Adjusting Imports of Aluminum into the United States; and the filing of Objections to Submitted Exclusion Requests for Steel and Aluminum* (83 FR 12106), laying out procedures for the Section 232 exclusions process.

On September 11, 2018, Commerce issued a second interim final rule, *Submissions of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum* (83 FR 46026), which revised the two supplements added by the March 19 rule with revisions designed to further ensure a transparent, fair, and efficient exclusions process.

On June 10, 2019, Commerce issued a third interim final rule, *Implementation of New Commerce Section 232 Exclusions Portal* (84 FR 26751), that revised the two supplements added by the March 19 and September 11 rules to grant the public the ability to submit new exclusion requests through the Section 232 Exclusions Portal while still allowing the opportunity for public comment on the portal.

On May 26, 2020, Commerce issued a notice of inquiry with request for comment, *Notice of Inquiry Regarding the Exclusions process for Section 232 Steel and Aluminum Import Tariffs and Quotas* (85 FR 31441), that sought public comment on the appropriateness of the information requested and considered in applying the exclusion criteria and the efficiency and transparency of the process employed.

On December 14, 2020, Commerce issued a fourth interim final rule, *Implementation of New Commerce Section 232 Exclusions Portal* (85 FR 81060), which established General Approved Exclusions (GAEs) to reduce the number of exclusion requests for products consistently found not to be produced in the United States, reducing the submission burden on both industry and the Section 232 exclusions process. The December 14, 2020, Interim Final Rule identified 123 GAEs that had never received an objection via the Section 232 exclusions process. GAEs are available to all requestors for steel and aluminum products imported under 10-Digit Harmonized Tariff Schedule of the United States classifications without quantity limit or expiration date.

On December 9, 2021, BIS subsequently suspended 30 GAEs in its fifth Interim Final Rule (86 FR 70003) on the Section 232 Exclusions process because some exclusion requests subsequently received objections under the associated HTSUS Classifications.

## Exclusions Process

As of January 30, 2022, BIS has processed over 382,000 exclusion requests and has rejected or made determinations on more than 369,000 requests. Approximately seventy percent of exclusion requests do not receive objections. The most recent average processing time for exclusion requests that do not receive objections is 43 days. The most recent average processing time for exclusion requests that receive objections is 98 days. Less than ten percent of the volume of steel (about eight percent) and aluminum (about seven percent) articles granted exclusions is utilized with the articles being imported into the United States.

BIS seeks public comment on the Section 232 exclusions process. In particular, as directed in Proclamation 10327, BIS seeks public comment on the responsiveness of the exclusions process to market demand and enhanced consultation with U.S. firms and labor organizations.

BIS also welcomes comment on more specific aspects of the Section 232 exclusions process, including: Potential changes to the associated forms and required information; the request, objection, rebuttal, and surrebuttal process; the standards of review; General Approved Exclusions; and the overall transparency of the process. Specific topics include:

(1) How to reduce the volume of submission errors and rejected filings in the Section 232 Exclusions Portal;

(2) how to address the time for processing of exclusion requests, including but not limited to reducing length or type of attachments;

(3) requiring public summaries of any confidential business information in exclusion requests and objections, similar to the existing requirement for rebuttal and surrebuttals;

(4) requiring public disclosure of delivery times on the Exclusion Request and Objection Forms;

(5) requiring recent (*i.e.,* from the last quarter or 90 days) evidence supporting claims made in a Request or Objection;

(6) streamlining the online forms or otherwise reducing administrative burden; and

(7) assessing the General Approved Exclusions' (GAEs) criteria and identification of specific products.

Commenters are encouraged to identify which of these particular issues their comments are related to. Commenters are requested to provide information supporting their stance on that issue.

## Requirements for Written Comments

The *https://www.regulations.gov* website allows users to provide comments by filling in a ''Type Comment'' field or by attaching a document using an ''Upload File'' field. BIS prefers that comments be provided in an attached document. BIS prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application format other than Microsoft Word or Adobe Acrobat, please indicate the name of the application in the ''Type Comment'' field. Please do not attach separate cover letters to electronic submissions; rather, include any information that might

appear in a cover letter within the comments. Similarly, to the extent possible please include any exhibits, annexes, or other attachments in the same file, so that the submission consists of one instead of multiple files. Comments will be placed in the docket and open to public inspection, except information determined to be confidential. Comments may be viewed on *https://www.regulations.gov* by entering docket number BIS–2021–0042 in the search field on the home page.

All filers should name their files using the name of the person or entity submitting the comments. Communications from agencies of the United States Government will not be made available for public inspection.

Material submitted by members of the public that is properly marked as business confidential information with a valid statutory basis for confidentiality and which is accepted as such by BIS will not be disclosed publicly. Guidance on submitting business confidential information is as follows: Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, include a statement justifying nondisclosure and referring to the specific legal authority claimed with the submission, and provide a non-confidential version of the submission which will be placed in the public file on *https://www.regulations.gov.* For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The file name of the non-confidential version should begin with the character ''P''. The non-confidential version must be clearly marked ''PUBLIC'' on the top of the first page. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or rebuttal comments.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2022–02870 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–33–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2021–0818; FRL–9264–01–R9]**

## Air Plan Approval; California; Northern Sierra Air Quality Management District; Reasonably Available Control Technology

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Northern Sierra Air Quality Management District (NSAQMD or ''District'') portion of the California State Implementation Plan (SIP). This revision concerns the District's demonstration regarding reasonably available control technology (RACT) requirements for the 2015 8-hour ozone national ambient air quality standard (NAAQS or ''standards'') in the Western Nevada County (''Western Nevada'') ozone nonattainment area (NAA), which is under the jurisdiction of the NSAQMD. We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before March 14, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0818 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Nancy Levin, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3848 or by email at *levin.nancy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

### Table of Contents



### I. The State's Submittal

#### *A. What document did the State submit?*

On January 25, 2021, the NSAQMD adopted the ''Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision for Western Nevada County 8-Hour Ozone Nonattainment Area'' (''2015 ozone RACT SIP''), and on March 23, 2021, the California Air Resources Board (CARB) submitted it to the EPA for approval as a revision to the California SIP.

On September 23, 2021, the submittal for the NSAQMD 2015 ozone RACT SIP was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

#### *B. Are there other versions of this document?*

There are no previous versions of this document in the NSAQMD portion of the California SIP for the 2015 8-hour ozone NAAQS.

#### *C. What is the purpose of the submitted document?*

Volatile organic compounds (VOCs) and oxides of nitrogen ($NO_X$) contribute to the production of ground-level ozone, smog, and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOCs and $NO_X$ emissions. CAA

sections 182(b)(2) and (f) require that SIPs for areas designated nonattainment for the ozone NAAQS and classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or $NO_X$.[1]

The NSAQMD is subject to this RACT SIP requirement, as the District regulates the Western Nevada NAA, which was classified as Moderate for the 2015 8-hour ozone NAAQS on June 4, 2018.[2] Therefore, to satisfy sections 182(b)(2) and (f) of the Act, the NSAQMD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or $NO_X$ within the ozone nonattainment area that it regulates.

We note that the EPA issued a final rule on October 28, 2021, in which it reclassified Western Nevada County as ''Serious'' nonattainment for the 2015 8-hour ozone NAAQS (''2015 ozone NAAQS'').[3] This final rule established a Serious area RACT SIP deadline and implementation schedule. NSAQMD adopted its Moderate area 2015 ozone RACT SIP in January 2021, when it was classified as a Moderate ozone NAA. We are addressing the Moderate area requirements in this notice.

Section III.F of the preamble to the EPA's final rule to implement the 2015 ozone NAAQS (''2015 State Requirements Rule'') finalized the proposal ''to retain our existing RACT requirements codified in 40 CFR 51.1112 and to add new deadline requirements for certain RACT SIP submissions . . .''.[4] It states ''[F]or reference, the final 2008 Ozone NAAQS SIP Requirements Rule provides an extensive discussion of the EPA's rationale and approach for how air agencies can provide for RACT in their nonattainment SIPs (80 FR 12278; March 6, 2015).'' The 2008 ozone SIP Requirements Rule states, in part, that RACT SIPs must contain adopted RACT regulations, certifications (where appropriate) that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG.[5] It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS.[6]

The 2015 ozone RACT SIP, including its negative declarations, provide the NSAQMD's analysis of its compliance with CAA section 182 RACT requirements for the 2015 8-hour ozone NAAQS. The EPA's technical support document (TSD) for this action has more information about the District's submittal and the EPA's evaluation thereof.

## II. The EPA's Evaluation and Proposed Action

### *A. How is the EPA evaluating the submitted document?*

Generally, SIP rules must require RACT for each category of sources covered by a CTG document and for each major source of VOCs or $NO_X$ in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and (f), and 40 CFR 51.1312(a) and (b)). At the time of submittal, NSAQMD regulated an ozone nonattainment area classified as Moderate for the 2015 ozone standard (40 CFR 81.305). Therefore, NSAQMD rules must implement RACT.[7]

States should also submit for SIP approval negative declarations for those source categories for which they have not adopted RACT-level regulations (because they have no sources above the CTG-recommended applicability threshold), regardless of whether such negative declarations were made for an earlier SIP.[8] To do so, the submittal should provide reasonable assurance that no sources subject to the CTG requirements currently exist in the portion of the ozone nonattainment area that is regulated by the District.

With respect to NSAQMD, the District's analysis must demonstrate that each major source of VOCs or $NO_X$ in the Western Nevada NAA is covered by a RACT-level rule. In addition, for each CTG source category, the District must either demonstrate that a RACT-level rule is in place, or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

2. EPA Office of Air Quality Planning and Standards, ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' May 25, 1988 (''the Bluebook,'' revised January 11, 1990).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

4. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (''the $NO_X$ Supplement''), 57 FR 55620, (November 25, 1992).

5. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: ''RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers.''

6. ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2,'' 70 FR 71612 (November 29, 2005).

7. ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,'' 80 FR 12264 (March 6, 2015).

8. ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,'' 83 FR 62998 (December 6, 2018).

### *B. Does the document meet the evaluation criteria?*

NSAQMD's 2015 ozone RACT SIP provides the District's demonstration that the applicable SIP for the Western Nevada NAA, which is under the jurisdiction of the NSAQMD, satisfies CAA section 182 RACT requirements for the 2015 ozone NAAQS. The District's conclusion is based on its analysis of SIP-approved requirements that apply to the following: (1) Source categories for which a CTG has been issued, and (2) major non-CTG stationary sources of VOC or $NO_X$ emissions.

With respect to CTG source categories, the NSAQMD determined that it only had sources subject to the CTGs covering gasoline service stations and vapor recovery operations, gasoline tank truck vapor tightness, and cutback asphalt. For each of these CTG source categories, the District's submittal provided an analysis to support the District's finding that a District rule previously approved by the EPA into the SIP as RACT for Western Nevada remains RACT for the 2015 ozone NAAQS. Specifically, the ''Staff Report analyzing RACT for the 2015 Ozone NAAQS SIP'' provides a discussion of the following District rules and why they continue to implement RACT: Rule 214, ''Phase I Vapor Recovery Requirements;'' and Rule 227, ''Cutback and Emulsified Asphalt Paving

[1] Any stationary source that emits or has the potential to emit at least 100 tpy of VOCs or $NO_X$ is a major stationary source in a Moderate ozone nonattainment area (CAA section 182(b)(2), (f), and 302(j)).

[2] 83 FR 25776.

[3] 86 FR 59648.

[4] 83 FR 62998, 63007.

[5] 80 FR 12264, 12278.

[6] Id.; 70 FR 71612, 71652 (November 29, 2005).

[7] On October 28, 2021, the EPA reclassified the Western Nevada 2015 ozone nonattainment area from ''Moderate'' to ''Serious,'' and established a Serious area RACT SIP deadline of November 29, 2023 (86 FR 59648).

[8] 57 FR 13498, 13512 (April 16, 1992).

Materials.''[9] We reviewed the NSAQMD's evaluation of its rules addressing the CTG source categories that are subject to RACT in Western Nevada, which are as follows: ''Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations'' (EPA–450/R–75–102),''Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems'' (EPA–450/2–78–051), and ''Control of Volatile Organic Compounds from Use of Cutback Asphalt'' (EPA–450/2–77–37).[10] We agree that the District's rules are generally consistent with the CTGs and with recently adopted rules in other air districts, and therefore satisfy CAA RACT requirements for the 2015 ozone NAAQS. In this rulemaking, we propose to find that NSAQMD Rules 214 and 227 establish RACT-level controls for the sources within the applicable CTG categories. Our TSD has additional information about our evaluation of these rules.

Where there are no existing sources covered by a particular CTG document, or no major non-CTG sources of $NO_X$ or VOC, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area.

The submittal contains a table listing the EPA's CTGs and annotates those CTGs for which the District is adopting a negative declaration, indicating that the District has no sources subject to the applicable CTG for the 2015 ozone NAAQS. These negative declarations are listed in Table 1 below. The District concludes that it has no sources subject to the relevant CTGs, based on a review of its permit files, planning documents, and the emissions inventory.

In addition, the NSAQMD determined ''there are no existing or anticipated major sources'' of VOC or $NO_X$ located in the Western Nevada NAA. The NSAQMD states ''the largest-emitting stationary source of ozone precursors in the nonattainment area (an asphalt batch plant) emitted 0.79 tons of $NO_X$ (4.3 pounds/day) and 0.02 tons of TOG [VOC] (0.1 pounds/day) in 2019.''

We reviewed the District's list of negative declarations in the submittal and CARB Emissions Inventory data and performed a general internet search to verify the District's conclusion that it has no sources subject to the CTGs for which it has adopted negative declarations, and has no non-CTG major sources of VOC or $NO_X$. Based on our review, we agree with the District's negative declarations in the 2015 ozone RACT SIP, including negative declarations for non-CTG major sources of VOC and $NO_X$, and propose to approve them into the SIP.

TABLE 1—CTG NEGATIVE DECLARATIONS FOR 2015 OZONE NAAQS—WESTERN NEVADA NAA

| CTG No. | CTG title |
|---|---|
| EPA–450/2–77–008 ..... | Surface Coating of Cans. |
| EPA–450/2–77–008 ..... | Surface Coating of Coils. |
| EPA–450/2–77–008 ..... | Surface Coating of Paper. |
| EPA–450/2–77–008 ..... | Surface Coating of Fabric. |
| EPA–450/2–77–008 ..... | Surface Coating of Automobiles and Light-Duty Trucks. |
| EPA–450/2–77–022 ..... | Solvent Metal Cleaning. |
| EPA–450/2–77–025 ..... | Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds. |
| EPA–450/2–77–026 ..... | Tank Truck Gasoline Loading Terminals. |
| EPA–450/2–77–032 ..... | Surface Coating of Metal Furniture. |
| EPA–450/2–77–033 ..... | Surface Coating for Insulation of Magnet Wire. |
| EPA–450/2–77–034 ..... | Surface Coating of Large Appliances. |
| EPA–450/2–77–035 ..... | Bulk Gasoline Plants. |
| EPA–450/2–77–036 ..... | Storage of Petroleum Liquids in Fixed-Roof Tanks. |
| EPA–450/2–78–015 ..... | Surface Coating of Miscellaneous Metal Parts and Products. |
| EPA–450/2–78–029 ..... | Manufacture of Synthesized Pharmaceutical Products. |
| EPA–450/2–78–030 ..... | Manufacture of Pneumatic Rubber Tires. |
| EPA–450/2–78–032 ..... | Factory Surface Coating of Flat Wood Paneling. |
| EPA–450/2–78–033 ..... | Graphic Arts-Rotogravure and Flexography. |
| EPA–450/2–78–036 ..... | Leaks from Petroleum Refinery Equipment. |
| EPA–450/2–78–047 ..... | Petroleum Liquid Storage in External Floating Roof Tanks. |
| EPA–450/3–82–009 ..... | Large Petroleum Dry Cleaners. |
| EPA–450/3–83–006 ..... | Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment. |
| EPA–450/3–83–007 ..... | Equipment Leaks from Natural Gas/Gasoline Processing Plants. |
| EPA–450/3–83–008 ..... | Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins. |
| EPA–450/3–84–015 ..... | Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry. |
| EPA–450/4–91–031 ..... | Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry. |
| EPA–453/R–96–007 ..... | Wood Furniture Manufacturing Operations. |
| EPA–453/R–94–032 ..... | ACT Surface Coating Operations at Shipbuilding and Ship Repair Facilities. |
| 61 FR 44050; 8/27/96 .... | Shipbuilding and Ship Repair Operations (Surface Coating). |
| 59 FR 29216; 6/06/94 .... | NESHAPS Aerospace Manufacturing and Rework. |
| EPA–453/R–97–004 ..... | Coating Operations at Aerospace Manufacturing and Rework Operations. |
| EPA–453/R–06–001 ..... | Industrial Cleaning Solvents. |
| EPA–453/R–06–002 ..... | Offset Lithographic Printing and Letterpress Printing. |
| EPA–453/R–06–003 ..... | Flexible Package Printing. |
| EPA–453/R–06–004 ..... | Flat Wood Paneling Coatings. |

[9] The Staff Report also includes a discussion of two rules that the NSAQMD states are not needed for the 2015 ozone RACT SIP: Rule 215, ''Phase II Vapor Recovery System Requirements;'' and Rule 228, ''Surface Coating of Metal Parts and Products.'' While NSAQMD reviewed Rule 215, ''Phase II Vapor Recovery System Requirements,'' as meeting RACT, and the EPA has approved the rule as meeting RACT for the 2008 ozone NAAQS, the EPA has not published a CTG for vehicle refueling operations. District Rule 228, corresponds to the CTG entitled ''Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products, and Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings'' (EPA–453/R–08–003).

[10] District Rule 214 corresponds to the CTGs entitled ''Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations'' (EPA–450/R–75–102) and ''Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems'' (EPA–450/2–78–051). District Rule 227 corresponds to the CTG entitled, ''Cutback and Emulsified Asphalt Paving Materials,'' corresponds to the CTG entitled ''Control of Volatile Organic Compounds from Use of Cutback Asphalt'' (EPA–450/2–77–37).

TABLE 1—CTG NEGATIVE DECLARATIONS FOR 2015 OZONE NAAQS—WESTERN NEVADA NAA—Continued

| CTG No. | CTG title |
|---|---|
| EPA 453/R–07–003 ..... | Paper, Film, and Foil Coatings. |
| EPA 453/R–07–004 ..... | Large Appliance Coatings. |
| EPA 453/R–07–005 ..... | Metal Furniture Coatings. |
| EPA 453/R–08–003 ..... | Miscellaneous Metal and Plastic Parts Coatings; Table 2—Metal Parts and Products. |
| EPA 453/R–08–003 ..... | Miscellaneous Metal and Plastic Parts Coatings; Table 3—Plastic Parts and Products. |
| EPA 453/R–08–003 ..... | Miscellaneous Metal and Plastic Parts Coatings; Table 4—Automotive/Transportation and Business Machine Plastic Parts. |
| EPA 453/R–08–003 ..... | Miscellaneous Metal and Plastic Parts Coatings; Table 5—Pleasure Craft Surface Coating. |
| EPA 453/R–08–003 ..... | Miscellaneous Metal and Plastic Parts Coatings; Table 6—Motor Vehicle Materials. |
| EPA 453/R–08–004 ..... | Fiberglass Boat Manufacturing Materials. |
| EPA 453/R–08–005 ..... | Miscellaneous Industrial Adhesives. |
| EPA 453/R–08–006 ..... | Automobile and Light-Duty Truck Assembly Coatings. |
| EPA 453/B–16–001 ..... | Oil and Natural Gas Industry. |

*C. The EPA's Recommendations To Further Improve the RACT SIP*

Our TSD includes recommendations for future rule improvements.

*D. Public Comment and Proposed Action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve CARBs submittal of the NSAQMD RACT SIP for the 2015 ozone NAAQS, as reflected in Tables 2 and 3, because the submittal fulfills the RACT SIP requirements under CAA sections 182(b) and (f) and 40 CFR 51.1312(a) and (b) for the 2015 ozone NAAQS. We will accept comments from the public on this proposal until March 14, 2022. If we take final action to approve the submitted document, our final action will incorporate this document into the federally enforceable SIP.

TABLE 2—CTGS FOR 2015 OZONE NAAQS—WESTERN NEVADA NAA

| CTG No. | CTG title | Rule claimed as current RACT | Negative declaration adopted |
|---|---|---|---|
| EPA–450/R–75–102 ..... | Design Criteria for Stage I Vapor Control—Gasoline Service Stations .... | Rule 214 (78 FR 897, 1/7/13). | |
| EPA–450/2–77–008 ..... | Surface Coating of Cans ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–008 ..... | Surface Coating of Coils ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–008 ..... | Surface Coating of Paper ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–008 ..... | Surface Coating of Fabric ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–008 ..... | Surface Coating of Automobiles and Light-Duty Trucks ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–022 ..... | Solvent Metal Cleaning ..... | ..... | [b] 1/25/2021 |
| EPA–450/2–77–025 ..... | Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds. | ..... | [a] 1/25/2021 |
| EPA–450/2–77–026 ..... | Tank Truck Gasoline Loading Terminals ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–032 ..... | Surface Coating of Metal Furniture ..... | ..... | [c] 1/25/2021 |
| EPA–450/2–77–033 ..... | Surface Coating for Insulation of Magnet Wire ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–034 ..... | Surface Coating of Large Appliances ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–035 ..... | Bulk Gasoline Plants ..... | ..... | [d] 1/25/2021 |
| EPA–450/2–77–036 ..... | Storage of Petroleum Liquids in Fixed-Roof Tanks ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–77–037 ..... | Cutback Asphalt ..... | Rule 227, 74 FR 56120 (10/30/09). | |
| EPA–450/2–78–015 ..... | Surface Coating of Miscellaneous Metal Parts and Products ..... | ..... | [a j] 1/25/2021 |
| EPA–450/2–78–029 ..... | Manufacture of Synthesized Pharmaceutical Products ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–78–030 ..... | Manufacture of Pneumatic Rubber Tires ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–78–032 ..... | Factory Surface Coating of Flat Wood Paneling ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–78–033 ..... | Graphic Arts-Rotogravure and Flexography ..... | ..... | [e] 1/25/2021 |
| EPA–450/2–78–036 ..... | Leaks from Petroleum Refinery Equipment ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–78–047 ..... | Petroleum Liquid Storage in External Floating Roof Tanks ..... | ..... | [a] 1/25/2021 |
| EPA–450/2–78–051 ..... | Leaks from Gasoline Tank Trucks and Vapor Collection Systems ..... | Rule 214 (78 FR 897, 1/7/13). | |
| EPA–450/3–82–009 ..... | Large Petroleum Dry Cleaners ..... | ..... | [f] 1/25/2021 |
| EPA–450/3–83–006 ..... | Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment. | ..... | [a] 1/25/2021 |
| EPA–450/3–83–007 ..... | Equipment Leaks from Natural Gas/Gasoline Processing Plants ..... | ..... | [a] 1/25/2021 |
| EPA–450/3–83–008 ..... | Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins. | ..... | [a] 1/25/2021 |
| EPA–450/3–84–015 ..... | Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry. | ..... | [f] 1/25/2021 |
| EPA–450/4–91–031 ..... | Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry. | ..... | [a] 1/25/2021 |
| EPA–453/R–96–007 ..... | Wood Furniture Manufacturing Operations ..... | ..... | [i] 1/25/2021 |

TABLE 2—CTGS FOR 2015 OZONE NAAQS—WESTERN NEVADA NAA—Continued

| CTG No. | CTG title | Rule claimed as current RACT | Negative declaration adopted |
|---|---|---|---|
| EPA–453/R–94–032 | ACT Surface Coating Operations at Shipbuilding and Ship Repair Facilities. | | [a] 1/25/2021 |
| 61 FR 44050; 8/27/96 | Shipbuilding and Ship Repair Operations (Surface Coating). | | |
| 59 FR 29216; 6/06/94 | NESHAPS Aerospace Manufacturing and Rework | | [a] 1/25/2021 |
| EPA–453/R–97–004 | Coating Operations at Aerospace Manufacturing and Rework Operations. | | |
| EPA–453/R–06–001 | Industrial Cleaning Solvents | | [c] 1/25/2021 |
| EPA–453/R–06–002 | Offset Lithographic Printing and Letterpress Printing | | [g] 1/25/2021 |
| EPA–453/R–06–003 | Flexible Package Printing | | [g] 1/25/2021 |
| EPA–453/R–06–004 | Flat Wood Paneling Coatings | | [a] 1/25/2021 |
| EPA 453/R–07–003 | Paper, Film, and Foil Coatings | | [a] 1/25/2021 |
| EPA 453/R–07–004 | Large Appliance Coatings | | [a] 1/25/2021 |
| EPA 453/R–07–005 | Metal Furniture Coatings | | [a] 1/25/2021 |
| EPA 453/R–08–003 | Miscellaneous Metal and Plastic Parts Coatings; Table 2—Metal Parts and Products. | | [h j] 1/25/2021 |
| EPA 453/R–08–003 | Miscellaneous Metal and Plastic Parts Coatings; Table 3—Plastic Parts and Products. | | [h] 1/25/2021 |
| EPA 453/R–08–003 | Miscellaneous Metal and Plastic Parts Coatings; Table 4—Automotive/Transportation and Business Machine Plastic Parts. | | [h] 1/25/2021 |
| EPA 453/R–08–003 | Miscellaneous Metal and Plastic Parts Coatings; Table 5—Pleasure Craft Surface Coating. | | [h] 1/25/2021 |
| EPA 453/R–08–003 | Miscellaneous Metal and Plastic Parts Coatings; Table 6—Motor Vehicle Materials. | | [h] 1/25/2021 |
| EPA 453/R–08–004 | Fiberglass Boat Manufacturing Materials | | [h] 1/25/2021 |
| EPA 453/R–08–005 | Miscellaneous Industrial Adhesives | | [g] 1/25/2021 |
| EPA 453/R–08–006 | Automobile and Light-Duty Truck Assembly Coatings | | [c] 1/25/2021 |
| EPA 453/B–16–001 | Oil and Natural Gas Industry | | [a] 1/25/2021 |

[a] No existing or anticipated sources.
[b] Exempt—rural (pop. <200,000).
[c] No sources exceed actual emissions of 15 lbs/day.
[d] No sources exceed 4,000 gallons per day throughput on a 30-day rolling average.
[e] No sources that exceed 100 tpy.
[f] No sources exceed 32,500 gallons/year.
[g] No sources exceed actual emissions of 15 lbs./day or 3 tons per 12-month period.
[h] No sources that exceed actual emissions of 15 lbs./day or 2.7 tons per 12-month period.
[i] No sources exceed 25 tons per year of VOCs PTE.
[j] 2021–11–23 email from S. Longmire, NSAQMD to N. Levin, EPA Re_RACT Submittal for 2015 Ozone NAAQS.

TABLE 3—MAJOR SOURCES OF $NO_X$ AND NON-CTG VOC FOR 2015 OZONE NAAQS—WESTERN NEVADA NAA

| Category | Major sources in NAA? | Rule(s) claimed as current RACT | Negative declaration adopted |
|---|---|---|---|
| Major non-CTG sources of VOC | No | N/A | [a] 1/25/2021 |
| Major sources of $NO_X$ | No | N/A | [a] 1/25/2021 |

[a] No existing or anticipated sources.

## III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) 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 Clean Air Act; and

• Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

**List of Subjects in 40 CFR Part 52**

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

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

Dated: February 3, 2022.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

[FR Doc. 2022–02772 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2021–0748; FRL–9217–01–R9]**

## Air Plan Approval; Arizona; Maricopa County Air Quality Department

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Maricopa County Air Quality Department (MCAQD or County) portion of the Arizona State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs). We are proposing action on rescissions of local rules that regulate these pollutants under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before March 14, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0748 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** La Kenya Evans, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3245 or by email at *evans.lakenya@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

**Table of Contents**



## I. The State's Submittal

### *A. What is the County rescinding?*

On September 13, 2017, the Arizona Department of Environmental Quality (ADEQ) submitted to the EPA a request from MCAQD to act on a series of rules from the SIP, including the rescission of various local rules. Table 1 lists the portion of the SIP approved rules from MCAQD's 2017 rescission request that the EPA is proposing to act on in this notice. The table includes the dates that the rules were adopted by the MCAQD and the dates they were approved into the SIP by the EPA.

TABLE 1—SIP APPROVED RULES

| Rule No. | Title | Local adopted date | SIP approved date | FR citation |
|---|---|---|---|---|
| 27 | Performance Tests | June 23, 1980 | April 12, 1982 | 47 FR 15579. |
| 32 A | Odors and Gaseous Emissions (General prohibitions). | August 12, 1971 | July 27, 1972 | 37 FR 15080. |
| 32 B | Odors and Gaseous Emissions (Treatment or processing of animal or vegetable matter). | August 12, 1971 | July 27, 1972 | 37 FR 15080. |
| 32 C | Odors and Gaseous Emissions (Storage requirements). | August 12, 1971 | July 27, 1972 | 37 FR 15080. |
| 32 D | Odors and Gaseous Emissions (Stack, vent, or other outlet). | August 12, 1971 | July 27, 1972 | 37 FR 15080. |
| 32 E | Odors and Gaseous Emissions (Hydrogen sulfide). | August 12, 1971 | July 27, 1972 | 37 FR 15080. |
| 32 F | Odors and Gaseous Emissions (Relating to sulfur oxide and sulfuric acid). | August 12, 1971 | July 27, 1972 | 37 FR 15080. |
| 34 A | Organic Solvents-Volatile Organic Compounds (VOC). | June 23, 1980 | May 5, 1982 | 47 FR 19326. |
| 34 D.1 | Dry Cleaning | June 23, 1980 | May 5, 1982 | 47 FR 19326. |

TABLE 1—SIP APPROVED RULES—Continued

| Rule No. | Title | Local adopted date | SIP approved date | FR citation |
|---|---|---|---|---|
| 34 E.1 | Spray Paint and Other Surface Coating Operations (General Requirements). | June 23, 1980 | May 5, 1982 | 47 FR 19326. |
| 34 E.3 | Spray Paint and Other Surface Coating Operations (Architectural Coating). | June 23, 1980 | May 5, 1982 | 47 FR 19326. |
| 34 L | Cutback Asphalt | June 23, 1980 | May 5, 1982 | 47 FR 19326. |
| 81 | Operation | August 12, 1971 | July 27, 1972 | 37 FR 15080. |
| 340 | Cutback and Emulsified Asphalt | September 13, 1988 | February 1, 1996 | 61 FR 3578. |

On March 13, 2018, the submittal for MCAQD's rescission request was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review. The SIP-approved sections from Rules 32 and 34 not described in Table 1, along with other rules in this submittal, will be addressed in a separate rulemaking.

*B. What is the purpose of the rules and what is the impact of the EPA's rescission?*

MCAQD has revised many of its rules to comply with the CAA national ambient air quality standards (NAAQS) requirement to implement reasonably available control technology (RACT) for various source categories in nonattainment areas. These rules, including Rules 27, 32, 34, 81, and 340, were submitted to the EPA for incorporation into the Arizona SIP at various times. In 2016, the EPA reformatted the Arizona SIP as codified in the Code of Federal Regulations into a tabulated ''notebook'' format. While developing the updated SIP tables for that conversion, the EPA worked closely with the ADEQ and local air agencies to clarify what was in their applicable SIP, including older provisions that had not been updated or replaced to reflect local rulemakings. The result of that coordination was the MCAQD's September 13, 2017 request to rescind or replace many obsolete rules in their federally enforceable SIP in favor of rules that reflect their current locally enforceable rulebook. What follows is a summary of the rules that we are proposing for rescission.

Rule 27 states the need for performance testing within 60, but no later than 180, days after the initial start-up of sources or facilities.

Rule 32.A prohibits emitting gaseous or odorous emissions in such quantities as to cause air pollution. Rule 32.B covers treatment or processing of animal or vegetable matter and prohibits such operations unless all effluents from such operations have been incinerated under certain specified conditions. Rule 32.B also requires the use of control devices as necessary to prevent air pollution. Rule 32.C requires reasonable measures and installation of control devices to reduce emissions from evaporation, leakage or discharge from the processing, storage, use and transport of materials such as solvents, paints, acids, fertilizers and manure. Rule 32.D relates to nuisance effects from emissions on adjoining properties and authorizes the Control Officer to require abatement equipment or alterations to the stack to reduce nuisance impacts. Rule 32.E establishes a property line concentration standard for hydrogen sulfide. Rule 32.F establishes ambient air standards for any sulfur oxide and sulfuric acid ground level concentrations beyond the premises of a facility. Rule 32.F was superseded by Rule 510 (86 FR 54628, October 04, 2021). The remainder of Rule 32 (sections G, H, J, and K) are not addressed in this rulemaking.

Rule 34.A defines the term volatile organic compound. Rule 34.D.1 describes the operating requirements for dry cleaning equipment using chlorinated synthetic solvents. Rule 34.E.1 describes the requirements for containing overspray from surface coating operations. Rule 34.E.3 defines architectural coating. Rule 34.L limits the application of cutback asphalt or an emulsified asphalt containing petroleum solvents. In addition, the rule limits the VOC content of the emulsified asphalts and dust palliatives to no more than three percent (3%) by volume of VOC. Rule 34.L was superseded by Rule 340. The remainder of Rule 34 (sections B, C, D.2, E, E.2, E.4, F, G, H, I, J, and K) are not addressed in this rulemaking.

Rule 81 states that no other provision of the County's rulebook shall in any manner be constructed as authorizing or permitting the creation or maintenance of a nuisance.

Rule 340 regulates cutback and emulsified asphalt and replaced Rule 34.L in 1988 after the MCAQD revised and renumbered all of their local rules.

The EPA's technical support document (TSD) has more information about these rules.

## II. The EPA's Evaluation and Action

*A. How is the EPA evaluating the request for rescission?*

Once a rule has been approved as part of a SIP, the rescission of that rule from the SIP constitutes a SIP revision. To approve such a revision, the EPA must determine whether the revision meets relevant CAA criteria for stringency, if any, and complies with restrictions on relaxation of SIP measures under CAA section 110(l), and the General Savings Clause in CAA section 193 for SIP-approved control requirements in effect before November 15, 1990.

*Stringency:* Generally, rules must be protective of the NAAQS, and must require RACT in nonattainment areas for ozone. Maricopa County is currently designated as nonattainment for ozone and classified as Moderate for the 2008 8-hour NAAQS (see 40 CFR 81.303, 81 FR 26699).

*Plan Revisions:* States must demonstrate that SIP revisions would not interfere with attainment, reasonable further progress or any other applicable requirement of the CAA under the provisions of CAA section 110(l) and section 193.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

*B. Do the rule rescissions meet the evaluation criteria?*

We have concluded that the rules in Table 1 are appropriate for rescission. The reasons for the rule rescissions are described in the following categories:

Category 1—Rules that do not establish emission limits or enforce the NAAQS; rules that do not improve or impact the stringency of other measures in the SIP and are not appropriate for the SIP: Rules 27, 32.A, B, C, D, and E, 34.D.1 and E.3, and 81.

Category 2—Rules that have a negative declaration stating that the facilities they covered are no longer located in Maricopa County: Rules 34.L and 340.

Category 3—Rules that have been superseded by a newer SIP-approved rule and are no longer needed in the SIP: Rules 32.F and 34.A.

Category 4—Rules that are not enforceable: Rule 34E.1.

These rules address local issues but are not connected to the purposes for which SIPs are developed and approved—namely the implementation, maintenance, and enforcement of the NAAQS. Thus, they are not required to be included in the SIP.[1] The TSD has more information on our evaluation.

*C. Public Comment and Proposed Action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the requested rescission of the rules because the request fulfills all relevant requirements. We will accept comments from the public on this proposal until March 14, 2022. If we take final action to approve the rescission of the submitted rules, our final action will remove these rules from the federally enforceable SIP.

## III. Incorporation by Reference

In this action, the EPA is proposing to delete rules that were previously incorporated by reference from the applicable Arizona SIP. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to delete certain Maricopa County rules, as described in Table 1 of this preamble. The EPA has made, and will continue to make, incorporation by reference documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

## List of Subjects in 40 CFR Part 52

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

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

Dated: February 2, 2022.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

[FR Doc. 2022–02570 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

[1] See CAA section 110(a)(1).

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R04–OAR–2020–0702 FRL–9537–01–R4]**

### Air Plan Approval; Georgia; Air Quality Control, Miscellaneous Rule Revisions to Definitions and Permitting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve changes to the Georgia state implementation plan (SIP) submitted on behalf of the State of Georgia by the Georgia Environmental Protection Division (GA EPD) through a letter dated September 1, 2020. This revision includes changes to the State's air quality regulations incorporated into the SIP by changing the definition of ''pollution control project'' and making minor changes to the corresponding minor new source review (NSR) permitting regulations for consistency. EPA is proposing to approve this SIP revision because the State has demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before March 14, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2020–0702 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9144. Ms. Williams can also be reached via electronic mail at *williams.pearlene@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Section 110(a)(2)(C) of the CAA requires that SIPs include a program for regulating the construction and modification of stationary sources as necessary to ensure that the national ambient air quality standards (NAAQS) are achieved. This program is known as NSR and is composed of three separate programs for issuing permits for the construction of new sources and the modification of existing sources: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and minor NSR. PSD applies to major stationary sources in areas designated as attainment or unclassifiable for a NAAQS; NNSR applies to major stationary sources in nonattainment areas; and the minor NSR program applies to new or modified stationary sources that do not require PSD or NNSR permits, as necessary to assure that NAAQS are achieved.[1] Georgia has a SIP-approved minor NSR program at Georgia Rule 391–3–1–.03, and this notice of proposed rulemaking (NPRM) pertains to certain Georgia SIP-approved rules regulating minor NSR program permit exemptions.

EPA is proposing to approve a SIP revision submitted on behalf of the State of Georgia by GA EPD through a letter dated September 1, 2020.[2] This revision changes the definition of ''pollution control project'' (PCP) at Georgia Rule 391–3–1–.01(qqqq). Pursuant to Rule 391–3–1–.03(6), ''Exemptions,'' at subsection (j),[3] PCPs are exempt from the requirement to obtain a minor source construction permit under Georgia Rule 391–3–1–.03(1), ''Construction (SIP) Permits.'' The submittal first changes the definition of PCP to require that any collateral emissions increase from a PCP must be lower than the emissions thresholds established to exempt cumulative modifications at Rule 391–3–1–.03(6)(i)3.(i)–(v) from minor source construction permitting.[4] Secondly, the definition is changed to revise the list of projects that are presumed to be environmentally beneficial and qualify as PCPs. Lastly, the definition is revised to change rule cross-references for consistency with the revision to the list of projects. The September 1, 2020, SIP revision also makes changes to Rule 391–3–1–.03, ''Permits,'' at section (6)(j), ''Construction Permit Exemption for Pollution Control Projects'' to update the cross-references to Rule 391–3–1–.01(qqqq) to correspond to the updated list of projects. The changes to Rule 391–3–1–.03(6) also include minor administrative edits that do not change the meaning of the existing SIP-approved provisions.

Federal regulations governing the implementation of minor NSR programs are codified at 40 CFR 51.160 through 51.164. With regard to revisions to SIPs, CAA section 110(l) provides that EPA shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA Section 171), or any other applicable requirement of the CAA. Section 193 of the CAA provides, in part, that ''No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990, in any area which is a nonattainment area for any air pollutant may be modified after November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.''[5] EPA believes the proposed changes submitted by Georgia will not lead to any increases of NAAQS pollutants and will not otherwise interfere with any CAA applicable requirement. The changes to the PCP rules and EPA's rationale for proposing approval are described in more detail in section II of this NPRM.

## II. Analysis of the State's Submission

EPA is proposing to approve changes to the definition of ''pollution control project'' at section (qqqq) of Rule 391–3–1–.01, ''Definitions.'' The changes add language to ensure that an environmentally beneficial activity, set of work practices, or projects at an existing emissions unit that reduces emissions may be considered a PCP only if any associated collateral emissions increase is less than the thresholds listed in Rule 391–3–1–.03(6)(i)3.(i)–(v). This change to the definition is SIP-strengthening as it acts to restrict the PCP construction permitting exemption in SIP-approved Rule 391–3–1–.03(6)(j) to projects with emissions below the thresholds in Rule 391–3–1–.03(6)(i)3.

The State revised the number of projects listed in section 391–3–1–.01(qqqq) that are presumed to be environmentally beneficial and qualify as PCPs by removing subsections (qqqq)1., 3., 5., 6., 7. and 8. However, subsections (qqqq)1. and 3. through 8. are not in the SIP.[6] Therefore, the net proposed change to the Georgia SIP is that SIP-approved subsection (qqqq)2. is renumbered as (qqqq)1.[7] and a new (qqqq)2 is added.[8] Adding the projects

[1] Areas that EPA has determined to be in attainment with a NAAQS are designated as ''attainment areas;'' areas that EPA has determined to have insufficient information to determine whether the area meets a NAAQS are designated as ''unclassifiable areas;'' and areas that EPA has determined to be in violation of a NAAQS are designated as ''nonattainment areas.''

[2] The September 1, 2020, submittal contains changes to other SIP-approved rules that are not addressed in this notice. EPA will be acting on those rules separately.

[3] EPA approved the PCP definition into the SIP, with the exception of subsections (qqqq)1. and (qqqq)3.–8., on May 29, 2020. *See* 85 FR 32300.

[4] SIP-approved Rule 391–3–1–.03(6)(i)3 states ''Cumulative modifications not covered in an existing permit to an existing permitted facility where the combined emission increases (excluding any contemporaneous emission decreases, *i.e.,* ''netting'' is not allowed) from all nonexempt modified activities are below the following thresholds for all pollutants: (i) 25 tons per year of carbon monoxide; (ii) 150 pounds per year total with a 1.5 pound per day maximum emission of lead; (iii) 10 tons per year of particulate matter, $PM_{10}$ or sulfur dioxide; (iv) 10 tons per year of nitrogen oxides or volatile organic compounds (VOCs) except in the counties of Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, or Rockdale, where less than 2.5 tons per year of nitrogen oxides or VOCs is exempted; and (v) 2 tons per year total with a 15 pound per day maximum emission of any single hazardous air pollutant and less than 5 tons per year of any combination of hazardous air pollutants.''

[5] Several counties in the Atlanta, Georgia metropolitan area are designated as marginal nonattainment for the 2015 8-hour ozone NAAQS. *See* 40 CFR 81.311.

[6] *See* 85 FR 32300 (May 29, 2020).

[7] SIP-approved Subsection (qqqq)2., proposed to be renumbered as (qqqq)1., lists ''[e]lectrostatic precipitators, baghouses, high-efficiency multiclones, or scrubbers for control of particulate matter or other air contaminants.''

[8] The new subsection (qqqq)2. states ''[r]egenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For this section, 'hydrocarbon combustion flare' means either a flare used to comply with an applicable New Source Performance Standard or Maximum Available Control Technology standard (including uses of flares during startup, shutdown, or

Continued

listed in subsection (qqqq)2. would not increase the number of projects exempt from permitting under the SIP because they must have emissions below the thresholds in the revised PCP definition, and therefore, already qualify for the SIP permitting exemption found at subsection 391–3–1–.03(6)(i)3. Lastly, the definition is revised to change rule cross-references to the listed PCP subsections from 391–3–1-.01(qqqq)1. through 8. to 391–3–1–.01(qqqq)1. and 2. for consistency with the revision to the list of projects.

In addition, this revision modifies cross-references in Rule 391–3–1–.03(6), ''Exemptions,'' to align with revisions made in section .01(qqqq) by changing the citation ''subsection 391–3–1–.01(qqqq)1. through 8.'' to ''subsection 391–3–1–.01(qqqq)1. and 2.'' Furthermore, this revision replaces the phrase ''million BTUs per hour'' with its abbreviated form, ''MMBtu/hr,'' throughout Rule 391–3–1–.03(6) and makes a change at subparagraph 391–3–1–.03(6)(h)14.(vii) by adding the word ''and'' to the end of a phrase for clarity.

Because the aforementioned changes do not alter the universe of sources exempted from minor source construction permitting under the SIP with this revision, Georgia's SIP is not being relaxed. Therefore, EPA believes that these changes are consistent with CAA sections 110(l) and 193, and requirements for minor source permitting in CAA section 110(a)(2)(C) and federal regulations. Thus, EPA is proposing to approve the SIP revision.

## II. Incorporation by Reference

In this document, EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Georgia Rule 391–3–1–.01, ''Definitions'' at section (qqqq), state effective on July 29, 2020, which revises the definition of ''Pollution control project,'' and Georgia Rule 391–3–1–.03(6), ''Exemptions,'' also state effective on July 29, 2020, which is revised to establish consistency with the proposed revisions to 391–3–1–.01(qqqq). EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** Section of this preamble for more information).

## III. Proposed Action

EPA is proposing to approve the aforementioned changes to the Georgia SIP. Specifically, EPA is proposing to approve the revisions to section (qqqq) of Rule 391–3–1–.01, ''Definitions'' and throughout section 391–3–1–.03(6), ''Exemptions.'' EPA is proposing to approve these changes because they are consistent with the CAA.

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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 they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 3, 2022.

**Daniel Blackman,**

*Regional Administrator, Region 4.*

[FR Doc. 2022–02721 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

malfunction permitted under such a standard), or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than 230 mg/dscm hydrogen sulfide.''

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R04–OAR–2021–0362; FRL–9502–01–R4]**

## Air Plan Approval; Kentucky; 2015 8-Hour Ozone Nonattainment New Source Review Permit Program Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, on October 15, 2020. EPA is proposing to approve Kentucky's certification that existing Nonattainment New Source Review (NNSR) permitting regulations meet the nonattainment planning requirements for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) for Bullitt and Oldham Counties in the Louisville, KY-IN 2015 8-hour ozone Marginal nonattainment area and portions of Boone, Kenton, and Campbell Counties in the Cincinnati, OH-KY Marginal nonattainment area.

This action is being proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

**DATES:** Comments must be received on or before March 14, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0362 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, GA 30303–8960. The telephone number is (404) 562–9144. Ms. Williams can also be reached via electronic mail at *williams.pearlene@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

The New Source Review (NSR) program is a preconstruction permitting program that requires certain stationary sources of air pollution to obtain permits prior to beginning construction. The NSR permitting program applies to new construction and modification of existing sources. New construction and modifications that emit ''regulated NSR pollutants'' over certain thresholds are subject to major NSR requirements, while smaller emitting sources and modifications may be subject to minor NSR requirements.

Major NSR permits for sources that are in attainment or unclassifiable areas are referred to as Prevention of Significant Deterioration (PSD) permits. Major NSR permits for sources in nonattainment areas and that emit pollutants above the specified thresholds for which the area is in nonattainment are referred to as NNSR permits.

A new stationary source is subject to major NSR requirements if its potential to emit a regulated NSR pollutant exceeds certain emission thresholds. If it exceeds the applicable threshold, the NSR regulations define it as a ''major stationary source.'' An existing major stationary source triggers major NSR permitting requirements when it undergoes a ''major modification,'' which occurs when a source undertakes a physical change or change in method of operation (*i.e.,* a ''project'') that would result in: (1) A significant emissions increase from the project, and (2) a significant net emissions increase from the source. *See, e.g.,* 40 CFR 51.165(a)(1)(v)(A) and 40 CFR 51.165(a)(1)(xxxix).

On October 1, 2015, EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). *See* 80 FR 65292 (October 26, 2015). Upon promulgation of a new or revised ozone NAAQS, section 107(d) of the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS (or that contributes to ambient air quality in a nearby area that is violating the NAAQS). As part of the designations process for the 2015 8-hour ozone NAAQS, EPA designated two areas in Kentucky as Marginal ozone nonattainment areas, effective August 3, 2018.[1] *See* 83 FR 25776 (June 4, 2018). Areas that were designated as ''Marginal'' ozone nonattainment areas were required to attain the 2015 8-hour ozone NAAQS no later than three years after the effective date of designation. *See* 40 CFR 51.1303.

On December 6, 2018, EPA issued a final rule entitled ''Implementation of the 2015 National Ambient Air Quality Standards for ozone: State Implementation Plan Requirements'' (SIP Requirements Rule), which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2015 8-hour ozone NAAQS. *See* 83 FR 62998; 40 CFR part 51, subpart CC. Based on the nonattainment designation for the 2015 8-hour ozone NAAQS, Kentucky was required to develop a SIP revision addressing the requirements of CAA sections 172(c)(5) and 173 for Kentucky's 2015 8-hour ozone Marginal nonattainment areas. *See* 42 U.S.C. 7502(c). Section 172(c)(5) of the CAA requires each state with a nonattainment area to submit a SIP revision requiring NNSR permits in the nonattainment area in accordance with the permitting requirements of CAA section 173.[2] The minimum SIP requirements for NNSR permitting for the 2015 8-hour ozone NAAQS are located in 40 CFR 51.165. *See* 40 CFR 51.1314.

On October 15, 2020, Kentucky submitted a SIP revision addressing, among other things,[3] permit program requirements (*i.e.,* NNSR) for the 2015 8-hour ozone NAAQS for Kentucky's 2015 8-hour ozone Marginal nonattainment areas. EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2015 8-hour ozone NAAQS is provided below.

## II. Analysis of the Commonwealth's Submittal

Kentucky's longstanding, SIP-approved NNSR regulation at 401 Kentucky Administrative Regulation (KAR) 51:052, *Review of new sources in or impacting upon nonattainment areas,* establishes air quality permitting requirements for the construction or modification of major stationary sources located within, or impacting, areas designated as nonattainment.[4] In its October 15, 2020, SIP revision, Kentucky certifies that the version of 401 KAR 51:052 in the SIP satisfies the federal NNSR requirements for the Kentucky 2015 8-hour ozone Marginal nonattainment areas. EPA approved Kentucky's NNSR certification for the 2008 8-hour ozone NAAQS into the Kentucky SIP on April 10, 2017. *See* 82 FR 17131.[5] The SIP-approved version of 401 KAR 51:052 has not been updated since that 2017 rulemaking.

The current SIP-approved version of 401 KAR 51:052 covers Kentucky's 2015 8-hour ozone Marginal nonattainment

[1] The Kentucky 2015 8-hour ozone NAAQS nonattainment areas are the Kentucky portions of the Cincinnati, OH-KY, and Louisville, KY-IN areas. The Kentucky portion of the Cincinnati, OH-KY nonattainment area consists of portions of Boone, Kenton, and Campbell Counties. The Kentucky portion of the Louisville, KY-IN ozone nonattainment area consists of Jefferson, Bullitt, and Oldham Counties. The NNSR requirement for Jefferson County, Kentucky, will be addressed in a separate action.

[2] CAA section 173 requires, among other things, emissions offsets. The emissions offset ratio for Marginal ozone nonattainment areas is found in CAA section 182(a)(4).

[3] The other elements of Kentucky's submittal are being addressed in separate rulemakings.

[4] This SIP-approved rule also requires offsets for nitrogen oxides and volatile organic compounds of at least 1.1:1 in Marginal nonattainment areas. *See* 401 KAR 51:052, Section 4, Paragraph 3(b).

[5] While this proposed rulemaking pertains to Bullitt and Oldham Counties and portions of Boone, Campbell and Kenton Counties, 401 KAR 51:052 applies to any areas in the Commonwealth designated as nonattainment.

areas (*i.e.,* the counties and partial counties to which this proposed action pertains) and remains adequate to meet all applicable NNSR requirements for the 2015 8-hour ozone NAAQS. EPA is therefore proposing to approve Kentucky's certification that 401 KAR 51:052 meets the NNSR requirements for implementation of the 2015 8-hour ozone NAAQS.

### III. Proposed Action

EPA is proposing to approve Kentucky's SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for Kentucky's 2015 8-hour ozone Marginal nonattainment areas, submitted on October 15, 2020. EPA has preliminarily determined that Kentucky's submission fulfills the 40 CFR 51.1314 requirement and meets the requirements of CAA section 172(c)(5) and 173 and the minimum SIP requirements of 40 CFR 51.165.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. This proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 3, 2022.

**Daniel Blackman,**

*Regional Administrator, Region 4.*

[FR Doc. 2022–02720 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 55

**[EPA–R03–OAR–2021–0767; FRL–9366–01–R3]**

## Outer Continental Shelf Air Regulations; Consistency Update for Virginia

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; consistency update.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by section 328(a)(1) of the Clean Air Act (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which Virginia is the designated COA. The Commonwealth of Virginia's requirements discussed in this document are proposed to be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

**DATES:** Written comments must be received on or before March 14, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2021–0767 at *https://www.regulations.gov,* or via email to *Opila.MaryCate@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:** Gwendolyn Supplee, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2763. Ms. Supplee can also be reached via electronic mail at *Supplee.Gwendolyn@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated

established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the CAA. The regulations at 40 CFR part 55 apply to all OCS sources except those located in the Gulf of Mexico west of 87.5 degrees longitude. See 40 CFR 55.3(a). Section 328 of the CAA requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to 40 CFR 55.12, consistency reviews will occur: (1) At least annually where an OCS activity is occurring within 25 miles of a State seaward boundary; (2) upon receipt of a Notice of Intent (NOI) under 40 CFR 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in 40 CFR part 55. This proposed action is being done as part of an annual review because of OCS activity occurring within 25 miles of Virginia's seaward boundary—in particular the Dominion Energy Virginia 12-megawatt offshore wind technology testing facility located approximately 24 nautical miles east of the City of Virginia Beach, Virginia. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

Section 328(a) of the CAA requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into 40 CFR part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into 40 CFR part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the CAA. Consistency updates may result in the inclusion of state or local rules or regulations into 40 CFR part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

## II. EPA Analysis

EPA reviewed Virginia's rules for inclusion in 40 CFR part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards and compliance with part C of title I of the CAA, that they are not designed expressly to prevent exploration and development of the OCS, and that they are potentially applicable to OCS sources. See 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. See 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules, and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.[2]

## III. Proposed Action

EPA last did a consistency update for Virginia on October 21, 2019 (84 FR 56121). In that action, EPA incorporated by reference into 40 CFR part 55 all Virginia regulations that EPA believed were relevant to the OCS requirements. For this action, EPA has reviewed changes that Virginia has made to its underlying regulatory programs. This action will have no effect on any provisions that were not subject to changes by Virginia and were also previously incorporated by reference into 40 CFR part 55 through EPA's October 21, 2019 rulemaking. The rules that EPA proposes to incorporate are applicable provisions of the Virginia Administrative Code (VAC). The intended effect of proposing approval of the OCS requirements for the Virginia Department of Environmental Quality (VADEQ) is to regulate emissions from OCS sources in accordance with the requirements for onshore sources. The Virginia regulatory changes EPA proposes to incorporate are:

(1) Chapter 20, General Provisions—9VAC5–20–21, Documents incorporated by reference;

(2) Chapter 50, New and Modified Stationary Sources—9VAC5–50–400. General;

(3) Chapter 60, Hazardous Air Pollutant Sources—9VAC5–60–60. General;

(4) Chapter 60, Hazardous Air Pollutant Sources—9VAC5–60–90. General.

EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the applicable provisions of the Virginia Administrative Code set forth below. EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore air pollution control requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. See 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the CAA. Accordingly, this action simply updates the existing OCS requirements that have been revised since the last consistency review to make them consistent with requirements onshore, without the exercise of any policy direction by EPA. 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 (PRA) (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a

September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

[2] Each COA which has been delegated the authority to implement and enforce 40 CFR part 55 will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce 40 CFR part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. See 40 CFR 55.14(c)(4).

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).

This proposed rulemaking incorporating by reference sections of the Virginia Administrative Code, does not apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule incorporating by reference sections of the Virginia Administrative Code does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 55 and, by extension, this update to part 55, and has assigned OMB control number 2060–0249. This action does not impose a new information burden under PRA because this action only updates the state rules that are incorporated by reference into 40 CFR part 55, appendix A.[3]

EPA is proposing to incorporate the rules potentially applicable to sources for which the Commonwealth of Virginia will be the COA that have been revised since the last consistency review. The rules that EPA proposes to incorporate are applicable provisions of the Virginia Administrative Code.

**List of Subjects in 40 CFR Part 55**

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

Dated: January 20, 2022.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

Part 55 of Chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

## PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

■ 1. The authority citation for part 55 continues to read as follows:

**Authority:** Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by revising paragraph (e)(22)(i)(A) to read as follows:

**§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.**

* * * * *

(e) * * *

(22) * * *

(i) * * *

(A) Commonwealth of Virginia Requirements Applicable to OCS Sources, September 8, 2021.

* * * * *

■ 3. Appendix A to part 55 is amended by revising paragraph (a)(1) under the heading ''Virginia'': To read as follows:

**Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference into Part 55, by State**

* * * * *

**Virginia**

(a) State Requirements.

(1) The following Commonwealth of Virginia requirements are applicable to OCS Sources, September 8, 2021, Commonwealth of Virginia—Virginia Department of Environmental Quality.

The following sections of Virginia Regulations for the Control and Abatement of Air Pollution Control (VAC), Title 9, Agency 5:

*Chapter 10—General Definitions (Effective 05/19/2017)*

9VAC5–10–10. General.
9VAC5–10–20. Terms defined.
9VAC5–10–30. Abbreviations.

*Chapter 20—General Provisions (Effective 02/19/2018 Except Where Noted)*

Part I—Administrative

9VAC5–20–10. Applicability.
9VAC5–20–21. Documents incorporated by reference. (Effective 11/11/2020)
9VAC5–20–50. Variances.
9VAC5–20–70. Circumvention.
9VAC5–20–80. Relationship of state regulations to federal regulations.
9VAC5–20–121. Air quality program policies and procedures.

Part II—Air Quality Programs

9VAC5–20–160. Registration.
9VAC5–20–170. Control programs.
9VAC5–20–180. Facility and control equipment maintenance or malfunction.
9VAC5–20–200. Air quality control regions.
9VAC5–20–203. Maintenance areas.
9VAC5–20–204. Nonattainment areas.
9VAC5–20–205. Prevention of significant deterioration areas.
9VAC5–20–206. Volatile organic compound and nitrogen oxides emission control areas.
9VAC5–20–220. Shutdown of a stationary source.
9VAC5–20–230. Certification of documents.

*Chapter 30—Ambient Air Quality Standards (Effective 05/15/2017)*

9VAC5–30–10. General.
9VAC5–30–15. Reference conditions.
9VAC5–30–30. Sulfur oxides (sulfur dioxide).
9VAC5–30–40. Carbon monoxide.
9VAC5–30–50. Ozone (1-hour).
9VAC5–30–55. Ozone (8-hour, 0.08 ppm).
9VAC5–30–56. Ozone (8-hour, 0.075 ppm).
9VAC5–30–57. Ozone (8-hour, 0.070 ppm).
9VAC5–30–60. Particulate matter ($PM_{10}$).
9VAC5–30–65. Particulate matter ($PM_{2.5}$).
9VAC5–30–66. Particulate matter ($PM_{2.5}$).
9VAC5–30–67. Particulate matter ($PM_{2.5}$).
9VAC5–30–70. Oxides of nitrogen with nitrogen dioxide as the indicator.
9VAC5–30–80. Lead.

*Chapter 40—Existing Stationary Sources*

Part I—Special Provisions (Effective 12/12/2007)

9VAC5–40–10. Applicability.
9VAC5–40–20. Compliance.
9VAC5–40–21. Compliance schedules.
9VAC5–40–22. Interpretation of emission standards based on process weight-rate tables.
9VAC5–40–30. Emission testing.
9VAC5–40–40. Monitoring.
9VAC5–40–41. Emission monitoring procedures for existing sources.
9VAC5–40–50. Notification, records and reporting.

Part II—Emission Standards

Article 1—Visible Emissions and Fugitive Dust/Emissions (Effective 02/01/2003)

9VAC5–40–60. Applicability and designation of affected facility.
9VAC5–40–70. Definitions.
9VAC5–40–80. Standard for visible emissions.
9VAC5–40–90. Standard for fugitive dust/emissions.

[3] OMB's approval of the ICR can be viewed at *www.reginfo.gov.*

9VAC5–40–4810. Standard for fugitive dust/emissions.
9VAC5–40–4840. Compliance.
9VAC5–40–4850. Test methods and procedures.
9VAC5–40–4860. Monitoring.
9VAC5–40–4870. Notification, records and reporting.
9VAC5–40–4880. Registration.
9VAC5–40–4890. Facility and control equipment maintenance or malfunction.
9VAC5–40–4900. Permits.

Article 37—Petroleum Liquid Storage and Transfer Operations (Effective 07/30/2015)

9VAC5–40–5200. Applicability and designation of affected facility.
9VAC5–40–5210. Definitions.
9VAC5–40–5220. Standard for volatile organic compounds.
9VAC5–40–5230. Control technology guidelines.
9VAC5–40–5240. Standard for visible emissions.
9VAC5–40–5250. Standard for fugitive dust/emissions.
9VAC5–40–5280. Compliance.
9VAC5–40–5290. Test methods and procedures.
9VAC5–40–5300. Monitoring.
9VAC5–40–5310. Notification, records and reporting.
9VAC5–40–5320. Registration.
9VAC5–40–5330. Facility and control equipment maintenance or malfunction.
9VAC5–40–5340. Permits.

Article 41—Mobile Sources (Effective 08/01/1991)

9VAC5–40–5650. Applicability and designation of affected facility.
9VAC5–40–5660. Definitions.
9VAC5–40–5670. Motor vehicles.
9VAC5–40–5680. Other mobile sources.
9VAC5–40–5690. Export/import of motor vehicles.

Article 45—Commercial/Industrial Solid Waste Incinerators (Effective 11/16/2016)

9VAC5–40–6250. Applicability and designation of affected facility.
9VAC5–40–6260. Definitions.
9VAC5–40–6270. Standard for particulate matter.
9VAC5–40–6360. Standard for visible emissions.
9VAC5–40–6370. Standard for fugitive dust/emissions.
9VAC5–40–6400. Operator training and qualification.
9VAC5–40–6410. Waste management plan.
9VAC5–40–6420. Compliance schedule.
9VAC5–40–6430. Operating limits.
9VAC5–40–6440. Facility and control equipment maintenance or malfunction.
9VAC5–40–6450. Test methods and procedures.
9VAC5–40–6460. Compliance.
9VAC5–40–6470. Monitoring.
9VAC5–40–6480. Recordkeeping and reporting.
9VAC5–40–6490. Requirements for air curtain incinerators.
9VAC5–40–6500. Registration.
9VAC5–40–6510. Permits.
9VAC5–40–6520. Documents Incorporated by Reference.

Article 46—Small Municipal Waste Combustors (Effective 05/04/2005)

9VAC5–40–6550. Applicability and designation of affected facility.
9VAC5–40–6560. Definitions.
9VAC5–40–6570. Standard for particulate matter.
9VAC5–40–6580. Standard for carbon monoxide.
9VAC5–40–6590. Standard for dioxins/furans.
9VAC5–40–6600. Standard for hydrogen chloride.
9VAC5–40–6610. Standard for sulfur dioxide.
9VAC5–40–6620. Standard for nitrogen oxides.
9VAC5–40–6630. Standard for lead.
9VAC5–40–6640. Standard for cadmium.
9VAC5–40–6650. Standard for mercury.
9VAC5–40–6660. Standard for visible emissions.
9VAC5–40–6670. Standard for fugitive dust/emissions.
9VAC5–40–6700. Operator training and certification.
9VAC5–40–6710. Compliance schedule.
9VAC5–40–6720. Operating requirements.
9VAC5–40–6730. Compliance.
9VAC5–40–6740. Test methods and procedures.
9VAC5–40–6750. Monitoring.
9VAC5–40–6760. Recordkeeping.
9VAC5–40–6770. Reporting.
9VAC5–40–6780. Requirements for air curtain incinerators that burn 100 percent yard waste.
9VAC5–40–6790. Registration.
9VAC5–40–6800. Facility and control equipment maintenance or malfunction.
9VAC5–40–6810. Permits.

Article 47—Solvent Cleaning (Effective 03/24/2004)

9VAC5–40–6820. Applicability and designation of affected facility.
9VAC5–40–6830. Definitions.
9VAC5–40–6840. Standard for volatile organic compounds.
9VAC5–40–6850. Standard for visible emissions.
9VAC5–40–6860. Standard for fugitive dust/emissions.
9VAC5–40–6890. Compliance.
9VAC5–40–6900. Compliance schedules.
9VAC5–40–6910. Test methods and procedures.
9VAC5–40–6920. Monitoring.
9VAC5–40–6930. Notification, records and reporting.
9VAC5–40–6940. Registration.
9VAC5–40–6950. Facility and control equipment maintenance or malfunction.
9VAC5–40–6960. Permits.

Article 48—Mobile Equipment Repair and Refinishing (Effective 10/01/2013)

9VAC5–40–6970. Applicability and designation of affected facility.
9VAC5–40–6975. Exemptions.
9VAC5–40–6980. Definitions.
9VAC5–40–6990. Standard for volatile organic compounds.
9VAC5–40–7000. Standard for visible emissions.
9VAC5–40–7010. Standard for fugitive dust/emissions.
9VAC5–40–7040. Compliance.
9VAC5–40–7050. Compliance schedule.
9VAC5–40–7060. Test methods and procedures.
9VAC5–40–7070. Monitoring.
9VAC5–40–7080. Notification, records and reporting.
9VAC5–40–7090. Registration.
9VAC5–40–7100. Facility and control equipment maintenance or malfunction.
9VAC5–40–7110. Permits.

Article 51—Stationary Sources Subject to Case-by-Case RACT Determinations (Effective 12/02/2015)

9VAC5–40–7370. Applicability and designation of affected facility.
9VAC5–40–7380. Definitions.
9VAC5–40–7390. Standard for volatile organic compounds (1-hour ozone standard)
9VAC5–40–7400. Standard for volatile organic compounds (8-hour ozone standard).
9VAC5–40–7410. Standard for nitrogen oxides (1-hour ozone standard).
9VAC5–40–7420. Standard for nitrogen oxides (8-hour ozone standard).
9VAC5–40–7430. Presumptive reasonably available control technology guidelines for stationary sources of nitrogen oxides.
9VAC5–40–7440. Standard for visible emissions.
9VAC5–40–7450. Standard for fugitive dust/emissions.
9VAC5–40–7480. Compliance.
9VAC5–40–7490. Test methods and procedures.
9VAC5–40–7500. Monitoring.
9VAC5–40–7510. Notification, records and reporting.
9VAC5–40–7520. Registration.
9VAC5–40–7530. Facility and control equipment maintenance or malfunction.
9VAC5–40–7540. Permits.

Article 54—Large Municipal Waste Combustors (Effective 07/01/2003)

9VAC5–40–7950. Applicability and designation of affected facility.
9VAC5–40–7960. Definitions.
9VAC5–40–7970. Standard for particulate matter.
9VAC5–40–7980. Standard for carbon monoxide.
9VAC5–40–7990. Standard for cadmium.
9VAC5–40–8000. Standard for lead.
9VAC5–40–8010. Standard for mercury.
9VAC5–40–8020. Standard for sulfur dioxide.
9VAC5–40–8030. Standard for hydrogen chloride.
9VAC5–40–8040. Standard for dioxin/furan.
9VAC5–40–8050. Standard for nitrogen oxides.
9VAC5–40–8060. Standard for visible emissions.
9VAC5–40–8070. Standard for fugitive dust/emissions.
9VAC5–40–8100. Compliance.
9VAC5–40–8110. Compliance schedules.
9VAC5–40–8120. Operating practices.
9VAC5–40–8130. Operator training and certification.
9VAC5–40–8140. Test Methods and Procedures.
9VAC5–40–8150. Monitoring.

9VAC5–40–8160. Notification, Records and Reporting.
9VAC5–40–8170. Registration.
9VAC5–40–8180. Facility and control equipment maintenance or malfunction.
9VAC5–40–8190. Permits.

*Chapter 50—New and Modified Stationary Sources*

Part I—Special Provisions (Effective 12/12/2007)

9VAC5–50–10. Applicability.
9VAC5–50–20. Compliance.
9VAC5–50–30. Performance testing.
9VAC5–50–40. Monitoring.
9VAC5–50–50. Notification, records and reporting.

Part II—Emission Standards

Article 1—Visible Emissions and Fugitive Dust/Emissions (Effective 02/01/2003)

9VAC5–50–60. Applicability and designation of affected facility.
9VAC5–50–70. Definitions.
9VAC5–50–80. Standard for visible emissions.
9VAC5–50–90. Standard for fugitive dust/emissions.
9VAC5–50–100. Monitoring.
9VAC5–50–110. Test methods and procedures.
9VAC5–50–120. Waivers.

Article 4—Stationary Sources (Effective 11/07/2012)

9VAC5–50–240. Applicability and designation of affected facility.
9VAC5–50–250. Definitions.
9VAC5–50–260. Standard for stationary sources.
9VAC5–50–270. Standard for major stationary sources (nonattainment areas).
9VAC5–50–280. Standard for major stationary sources (prevention of significant deterioration areas).
9VAC5–50–290. Standard for visible emissions.
9VAC5–50–300. Standard for fugitive dust/emissions.
9VAC5–50–330. Compliance.
9VAC5–50–340. Test methods and procedures.
9VAC5–50–350. Monitoring.
9VAC5–50–360. Notification, records and reporting.
9VAC5–50–370. Registration.
9VAC5–50–380. Facility and control equipment maintenance or malfunction.
9VAC5–50–390. Permits.

Article 5—Environmental Protection Agency Standards of Performance for New Stationary Sources (Rule 5–5) (Effective 02/20/2019 Except Where Noted)

9VAC5–50–400. General. (Effective 11/11/2020)
9VAC5–50–405. Authority to implement and enforce standards as authorized by EPA.
9VAC5–50–410. Designated standards of performance.
9VAC5–50–420. Word or phrase substitutions.

*Chapter 60—Hazardous Air Pollutant Sources*

Part I—Special Provisions (Effective 08/01/2002)

9VAC5–60–10. Applicability.
9VAC5–60–20. Compliance.
9VAC5–60–30. Emission testing.
9VAC5–60–40. Monitoring.
9VAC5–60–50. Notification, records and reporting.

*Part II—Emission Standards*

Article 1—Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants (Rule 6–1) (Effective 02/20/2019 Except Where Noted)

9VAC5–60–60. General. (Effective 11/11/2020)
9VAC5–60–65. Authority to implement and enforce standards as authorized by EPA.
9VAC5–60–70. Designated emission standards.
9VAC5–60–80. Word or phrase substitutions.

Article 2—Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants for Source Categories (Rule 6–2) (Effective 03/02/2011 Except Where Noted)

9VAC5–60–90. General. (Effective 11/11/2020)
9VAC5–60–95. Authority to implement and enforce standards as authorized by EPA.
9VAC5–60–100. Designated emission standards.
9VAC5–60–110. Word or phrase substitutions.

Article 3—Control Technology Determinations for Major Sources of Hazardous Air Pollutants (Effective 07/01/2004)

9VAC5–60–120. Applicability.
9VAC5–60–130. Definitions.
9VAC5–60–140. Approval process for new and existing affected sources.
9VAC5–60–150. Application content for case-by-case MACT determinations.
9VAC5–60–160. Preconstruction review procedures for new affected sources subject to 9VAC5–60–140 C 1.
9VAC5–60–170. Maximum achievable control technology (MACT) determinations for affected sources subject to case-by-case determination of equivalent emission limitations.
9VAC5–60–180. Requirements for case-by-case determination of equivalent emission limitations after promulgation of a subsequent MACT standard.

*Chapter 70—Air Pollution Episode Prevention (Effective 04/01/1999)*

9VAC5–70–10. Applicability.
9VAC5–70–20. Definitions.
9VAC5–70–30. General.
9VAC5–70–40. Episode determination
9VAC5–70–50. Standby emission reduction plans.
9VAC5–70–60. Control requirements.
9VAC5–70–70. Local air pollution control agency participation.

*Chapter 80—Permits for Stationary Sources*

Part II—Permit Procedures

Article 1—Federal (Title V) Operating Permits for Stationary Sources (Effective 11/16/2016)

9VAC5–80–50. Applicability.
9VAC5–80–60. Definitions.
9VAC5–80–70. General.
9VAC5–80–80. Applications.
9VAC5–80–90. Application information required.
9VAC5–80–100. Emission caps.
9VAC5–80–110. Permit content.
9VAC5–80–120. General permits.
9VAC5–80–130. Temporary sources.
9VAC5–80–140. Permit shield.
9VAC5–80–150. Action on permit application.
9VAC5–80–160. Transfer of permits.
9VAC5–80–170. Permit renewal and expiration.
9VAC5–80–180. Permanent shutdown for emissions trading.
9VAC5–80–190. Changes to permits.
9VAC5–80–200. Administrative permit amendments.
9VAC5–80–210. Minor permit modifications.
9VAC5–80–220. Group processing of minor permit modifications.
9VAC5–80–230. Significant modification procedures.
9VAC5–80–240. Reopening for cause.
9VAC5–80–250. Malfunction.
9VAC5–80–260. Enforcement.
9VAC5–80–270. Public participation.
9VAC5–80–280. Operational flexibility.
9VAC5–80–290. Permit review by EPA and affected states.
9VAC5–80–300. Voluntary inclusions of additional state-only requirements as applicable state requirements in the permit.

Article 2—Permit Program (Title V) Fees for Stationary Sources (Effective 01/01/2018)

9VAC5–80–310. Applicability.
9VAC5–80–320. Definitions.
9VAC5–80–330. General.
9VAC5–80–340. Annual permit program fee calculation prior to January 1, 2018.
9VAC5–80–342. Annual Permit program emissions fee calculation on and after January 2, 2018.
9VAC5–80–350. Annual permit program emissions fee payment.

Article 4—Insignificant Activities (Effective 01/01/2001)

9VAC5–80–710. General.
9VAC5–80–720. Insignificant activities.

Article 5—State Operating Permits (Effective 12/31/2008)

9VAC5–80–800. Applicability.
9VAC5–80–810. Definitions.
9VAC5–80–820. General.
9VAC5–80–830. Applications.
9VAC5–80–840. Application information required.
9VAC5–80–850. Standards and conditions for granting permits.
9VAC5–80–860. Action on permit application.
9VAC5–80–870. Application review and analysis.
9VAC5–80–880. Compliance determination and verification by testing.

[FR Doc. 2022–01629 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register
Vol. 87, No. 28
Thursday, February 10, 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.

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meetings of the California Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meetings.

**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 California Advisory Committee (Committee) will hold a series of meetings via Webex on the dates and times listed below for the purpose of gathering testimony on their project assessing the civil rights implications on AB5.

**DATES:** These meetings will be held on:

- *Panel 1:* Monday, March 7, 2022, from 10:30 a.m.–12:30 p.m. Pacific Time
- *Panel 2:* Tuesday, March 8, 2022, from 10:30 a.m.–12:30 p.m. Pacific Time

*Panel 1—Public Webex Registration Link: https://tinyurl.com/43yk9xt4.*

*Panel 2—Public Webex Registration Link: https://tinyurl.com/5n6ec2xm.*

**FOR FURTHER INFORMATION CONTACT:** Brooke Peery, Designated Federal Officer (DFO), at *bpeery@usccr.gov* or by phone at (202) 701–1376.

**SUPPLEMENTARY INFORMATION:** Members of the public may listen to the discussion. This meeting is available to the public through the public WebEx registration link listed above. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. 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. Persons with hearing impairments 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 also entitled to submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Brooke Peery at *bpeery@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office/Advisory Committee Management Unit at (202) 701–1376.

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 at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzkUAAQ.*

Please click on the ''Meeting Details'' and ''Documents'' links. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email address.

**Agenda**

I. Welcome & Opening
II. Panelist Remarks
III. Committee Q&A
IV. Public Comment
V. Adjournment

Dated: February 7, 2022.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2022–02892 Filed 2–9–22; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meetings of the California Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meetings.

**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 California Advisory Committee (Committee) will hold a series of meetings via web video conference on the dates and times listed below for the purpose of debriefing previous panels and planning future panels.

**DATES:** These meetings will be held on:

- Monday, March 21, 2022, from 2:00 p.m.–3:30 p.m. Pacific Time
- Friday, April 15, 2022, from 12:30 p.m.–2:00 p.m. Pacific Time

*March 21st WEBEX Registration Link: https://tinyurl.com/2p84n79h.*

*April 15th WEBEX Registration Link: https://tinyurl.com/yckr8fpr.*

**FOR FURTHER INFORMATION CONTACT:** Brooke Peery, Designated Federal Officer (DFO), at *bpeery@usccr.gov* or by phone at (202) 701–1376.

**SUPPLEMENTARY INFORMATION:** Members of the public may listen to the discussion. This meeting is available to the public through the public WebEx registration link listed above. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. 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. Persons with hearing impairments 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 also entitled to submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Brooke Peery at *bpeery@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office/Advisory Committee Management Unit at (202) 701–1376.

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 at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzkUAAQ.*

Please click on the ''Meeting Details'' and ''Documents'' links. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email address.

**Agenda**

I. Welcome & Roll Call
II. Committee Discussion
III. Public Comment
IV. Adjournment

Dated: February 7, 2022.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2022–02891 Filed 2–9–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–201–848]**

### Emulsion Styrene-Butadiene Rubber From Mexico: Final Results of Antidumping Duty Administrative Review; 2019–2020

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

**SUMMARY:** The Department of Commerce (Commerce) determines that Industrias Negromex S.A. de C.V. (Negromex) sold emulsion styrene-butadiene rubber (ESB rubber) from Mexico in the United States at less than normal value during the period of review (POR) September 1, 2019, through August 31, 2020.

**DATES:** Applicable February 10, 2022.

**FOR FURTHER INFORMATION CONTACT:** Brittany Bauer or Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3860 or (202) 482–0413, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 6, 2021, Commerce published the *Preliminary Results.*[1] We invited interested parties to comment on the *Preliminary Results.*[2] Because we received no comments, the final results remain unchanged from the *Preliminary Results.*

Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

**Scope of the Order**

The merchandise covered by the order is ESB rubber from Mexico. For a complete description of the scope of the order, *see Preliminary Results* PDM.

**Final Results of the Review**

We determine that the following weighted-average dumping margin exists for the respondent for the POR, September 1, 2019, through August 31, 2020:

| Exporter/producer | Weighted-average dumping margin (percent) |
|---|---|
| Industrias Negromex S.A. de C.V | 2.65 |

**Disclosure**

As noted above, no party commented on the *Preliminary Results.* As a result, we have not modified our analysis from the *Preliminary Results,* and we will not issue a decision memorandum to accompany this **Federal Register** notice. We are adopting the *Preliminary Results* as the final results of this review. Further, because we have not changed our calculations since the *Preliminary Results,* there are no new calculations to disclose in accordance with 19 CFR 351.224(b) for these final results.

**Assessment Rates**

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For Negromex, because its weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we will calculate importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those same sales.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Negromex for which Negromex did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[3]

Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a).

**Cash Deposit Requirements**

The following cash deposit requirements for estimated antidumping duties will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Negromex will be equal to its weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a producer or exporter not covered in this review, but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer has been covered in a prior completed segment of this proceeding, the cash deposit rate will be the company-specific rate established for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.52 percent,[4] the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries

[1] *See Emulsion Styrene-Butadiene Rubber from Mexico: Preliminary Results of the Antidumping Duty Administrative Review; 2019–2020,* 86 FR 55579 (October 6, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See Preliminary Results,* 86 FR at 55579.

[3] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[4] *See Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland: Antidumping Duty Orders,* 82 FR 42790, 42791 (September 12, 2017).

during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Administrative Protective Order**

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: February 3, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2022–02761 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–552–833]**

### Raw Honey From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances in the Less-Than-Fair-Value Investigation; Correction

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

**ACTION:** Notice; correction

**SUMMARY:** The Department of Commerce (Commerce) published notice in the **Federal Register** of January 13, 2022, in which Commerce announced its preliminary determination of critical circumstances in the less-than-fair-value (LTFV) investigation of raw honey from the Socialist Republic of Vietnam (Vietnam). This notice inadvertently omitted the cash deposit requirement for entries of raw honey from Vietnam.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Hill or Paola Aleman Ordaz, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3518 or (202) 482–4031, respectively.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of January 13, 2022, the FR Doc 2022–00579, on page 2130, in the first column, correct the paragraph under the ''Suspension of Liquidation,'' caption by adding ''Additionally, for such entries, CBP shall require a cash deposit equal to the estimated preliminary dumping rates established in the *Preliminary Determination.* This suspension of liquidation will remain in effect until further notice.'' after the sentence ending in ''. . . which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**.''

**Background**

On January 13, 2022, Commerce published in the **Federal Register** its preliminary determination of critical circumstances in the LTFV investigation of raw honey from Vietnam.[1] We inadvertently omitted the cash deposit requirement for entries of raw honey from Vietnam.

**Notification to Interested Parties**

This notice is issued and published in accordance with sections 733(f) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.206(c)(2)(ii).

Dated: February 4, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2022–02853 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–DS–P**

[1] *See Raw Honey from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances in the Less-Than-Fair-Value Investigation,* 87 FR 2127 (January 13, 2022).

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–883]**

### Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016–2017; Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2016–2017; and Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review, in Part; 2017–2018; Correction

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

**ACTION:** Notice; correction.

**SUMMARY:** On July 9, 2019, August 5, 2019, and October 6, 2020, respectively, the Department of Commerce (Commerce) published in the **Federal Register** notices of the final results of the 2016–2017 administrative review, the amended final results of the 2016–2017 administrative review, and the final results of the 2017–2018 administrative review of certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea). This notice corrects the all-others cash deposit rate stated in those determinations.

**DATES:** Applicable February 10, 2022.

**FOR FURTHER INFORMATION CONTACT:** Genevieve Coen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3251.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of July 9, 2019, in the FR Doc 2019–14482 on page 32721, in the second column, correct the all-others cash deposit rate for ''all other producers or exporters'' in the first paragraph under the ''Cash Deposit Requirements'' section. The correct all-others cash deposit rate for ''all other producers or exporters'' is 6.05 percent.

In the **Federal Register** of August 5, 2019, in the FR Doc 2019–16652 on page 37990, in the first column, correct the all-others cash deposit rate for ''all other producers or exporters'' in the first paragraph under the ''Cash Deposit Requirements'' section. The correct all-

others cash deposit rate for ''all other producers or exporters'' is 6.05 percent.

In the **Federal Register** of October 6, 2020, in the FR Doc 2020–22053 on page 63081, in the first column, correct the all-others cash deposit rate for ''all other producers or exporters'' in the first paragraph under the ''Cash Deposit Requirements'' section. The correct all-others cash deposit rate for ''all other producers or exporters'' is 6.05 percent.

**Background**

On July 9, 2019, August 5, 2019, and October 6, 2020, Commerce published in the **Federal Register** notices of the final results of the 2016–2017 administrative review, the amended final results of the 2016–2017 administrative review, and the final results of the 2017–2018 administrative review, respectively. We incorrectly identified the cash deposit rate for all others (*i.e.,* ''for all other producers or exporters'') as 5.55 percent. The correct all-others cash deposit rate applicable during the 2016–2017 and 2017–2018 periods of review did not change from the rate that was established in the less-than-fair-value (LTFV) investigation and the antidumping duty order. In the LTFV investigation, Commerce established a 6.05 percent cash deposit rate for all others (*i.e.,* ''for all other producers or exporters'') as published in the antidumping duty order.[1] We hereby notify the public that Commerce should have identified the all-others cash deposit rate as 6.05 percent in the above-referenced determinations. We intend to notify U.S. Customs and Border Protection of these corrections.

**Notification to Interested Parties**

This notice is issued and published in accordance with sections 751(a) and 777(i) of the Act.

Dated: February 4, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2022–02852 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–823–815]**

## Oil Country Tubular Goods From Ukraine: Final Results of Antidumping Duty Administrative Review; 2019–2020

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

**SUMMARY:** The Department of Commerce (Commerce) determines that the sole producer/exporter sold subject merchandise in the United State at prices below normal value during the July 10, 2019, through June 30, 2020, period of review (POR).

**DATES:** Applicable February 10, 2022.

**FOR FURTHER INFORMATION CONTACT:** Toni Page, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1398.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 9, 2021, Commerce published the *Preliminary Results* of this administrative review.[1] We invited interested parties, including mandatory respondent Interpipe,[2] to comment on the *Preliminary Results.* For a description of the events since the *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, *see* the Issues and Decision Memorandum.[3] Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

**Scope of the Order** [4]

The products covered by the *Order* are certain oil country tubular goods (OCTG) from Ukraine. For a full description of the scope, *see* the Issues and Decision Memorandum.

**Analysis of Comments Received**

All issues raised in the parties' case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of these issues is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

**Changes Since the Preliminary Results**

Based on our analysis of the comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the calculation of the preliminary weighted-average dumping margin for Interpipe.

**Final Results of the Review**

As a result of this administrative review, we determine the following weighted-average dumping margin for the period July 10, 2019, through June 30, 2020:

| Exporter or producer | Weighted-average dumping margin (percent) |
|---|---|
| Interpipe Europe S.A./Interpipe Ukraine LLC/PJSC Interpipe Niznedneprovsky Tube Rolling Plant (aka Interpipe NTRP)/LLC Interpipe Niko Tube | 27.80 |

[1] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016).

[1] *See Oil Country Tubular Goods from Ukraine: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 43522 (August 9, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] Commerce has previously determined that Interpipe Europe S.A.; Interpipe Ukraine LLC (Interpipe Ukraine); PJSC Interpipe Niznedneprovsky Tube Rolling Plant (Interpipe NTRP); and LLC Interpipe Niko Tube (Niko Tube) are affiliated and treated as a single entity (*i.e.,* Interpipe). *See Preliminary Results* PDM at ''Affiliation and Collapsing.''

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Oil Country Tubular Goods from Ukraine, 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Termination of the Suspension Agreement on Certain Oil Country Tubular Goods from Ukraine, Rescission of Administrative Review, and Issuance of Antidumping Duty Order,* 84 FR 33918 (July 16, 2019) (*Order*).

**Disclosure**

We intend to disclose the calculations performed for these final results within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

**Assessment Rates**

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.[5] In accordance with 19 CFR 351.212(b)(1), Commerce calculated an importer-specific *ad valorem* antidumping assessment rate for Interpipe that is not zero or *de minimis* and will instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Interpipe for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[6]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Interpipe will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter was not a firm covered in this review or in the investigation but the producer was covered, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate of 7.47 percent, the all-others rate established in the original less-than-fair-value investigation.[7] These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification Regarding Administrative Protective Order**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing these results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

[5] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[6] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[7] *See Order,* 84 FR at 33919.

Dated: February 4, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**List of Topics Discussed in the Issues and Decision Memorandum**



[FR Doc. 2022–02856 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB748]**

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** Drs. Chris Harvey and Toby Garfield of NMFS will provide a briefing on the 2022 California Current Integrated Ecosystem Assessment (CCIEA) Ecosystem Status Report to interested Pacific Fishery Management Council (Pacific Council) members, advisory body members, and the public.

**DATES:** The online briefing will be held Wednesday, March 2, 2022, from 1 p.m. to 3 p.m., Pacific Standard Time, or until discussion is finished.

**ADDRESSES:** This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You

may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820–2422.

**SUPPLEMENTARY INFORMATION:** Drs. Harvey and Garfield of the NMFS Northwest and Southwest Fisheries Science Centers lead NOAA's CCIEA Team, which produces the Ecosystem Status Report. It is presented to the Pacific Council annually at its March meeting. This annual reporting process was established through the Pacific Council's Fishery Ecosystem Plan. These annual reports present a summary of environmental, biological, economic, and social indicators that give a snapshot of current ecosystem health. This information provides context for fishery management decisions taken by the Pacific Council throughout the year. The Pacific Council also regularly provides feedback to the CCIEA Team on potential improvements to the Report. This presentation is aimed at a broad audience of Council members, advisory body members, and the public. The CCIEA Team may follow up with more targeted discussions with advisory bodies during their March meetings, upon request. Drs. Harvey and Garfield will also brief the Council directly at its March meeting.

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

## Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: February 7, 2022.

**Tracey L. Thompson,**

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

[FR Doc. 2022–02842 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB657]**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy 2022 Ice Exercise Activities in the Arctic Ocean

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

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the U.S. Navy (Navy) to incidentally harass, by Level B harassment only, marine mammals during submarine training and testing activities including establishment of a tracking range on an ice floe in the Arctic Ocean, north of Prudhoe Bay, Alaska. The Navy's activities are considered military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act for Fiscal Year 2004 (2004 NDAA).

**DATES:** This Authorization is effective from February 4, 2022 through April 30, 2022.

**FOR FURTHER INFORMATION CONTACT:** Leah Davis, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.* In case of problems accessing these documents, please call the contact listed above.

**SUPPLEMENTARY INFORMATION:**

## Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed incidental harassment authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring, and reporting of the takings are set forth.

The 2004 NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as applied to a ''military readiness activity.'' The activity for which incidental take of marine mammals is being requested here qualifies as a military readiness activity. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

## Summary of Request

On August 26, 2021, NMFS received a request from the Navy for an IHA to take marine mammals incidental to submarine training and testing activities including establishment of a tracking range on an ice floe in the Arctic Ocean, north of Prudhoe Bay, Alaska. The application was deemed adequate and complete on November 4, 2021. The Navy's request is for take of ringed seals (*Pusa hispida*) by Level B harassment only. Neither the Navy nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued IHAs to the Navy for similar activities (83 FR 6522; February 14, 2018, 85 FR 6518; February 5, 2020). The Navy complied with all the requirements (*e.g.,* mitigation,

monitoring, and reporting) of the previous IHAs and information regarding their monitoring results may be found below, in the Estimated Take section.

**Description of the Specified Activity**

The Navy proposes to conduct submarine training and testing activities, which includes the establishment of a tracking range and temporary ice camp, and research in the Arctic Ocean for six weeks beginning in February 2022. Submarine active acoustic transmissions may result in occurrence of Level B harassment, including temporary hearing impairment (temporary threshold shift (TTS)) and behavioral harassment, of ringed seals. A detailed description of the planned 2022 Ice Exercise (ICEX22) activities is provided in the **Federal Register** notice for the proposed IHA (86 FR 70451; December 10, 2021). Since that time, no changes have been made to the planned ICEX22 activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

**Comments and Responses**

A notice of NMFS's proposal to issue an IHA to the Navy was published in the **Federal Register** on December 10, 2021 (86 FR 70451). That notice described, in detail, the Navy's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Center for Biological Diversity (CBD) and a member of the general public. Please see the CBD's letter for full details regarding their recommendations and rationale. The letter is available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.* A summary of all substantive comments as well as NMFS' responses is below.

*Comment 1:* CBD asserted that annual mortality and serious injury [for ringed seals] already exceeds Potential Biological Removal (PBR) and therefore additional take is not negligible and thus should not be authorized. CBD stated that the rationale that the stock's population estimate is an underestimate because it is only a partial stock abundance is insufficient, and NMFS must therefore determine what the appropriate stock abundance and PBR are.

*Response:* PBR is defined in section 3 of the MMPA as ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population'' and, although not controlling, can be one measure considered among other factors when evaluating the effects of morality and serious injury (M/SI) on a marine mammal species or stock during the section 101(a)(5)(A) process. As stated in Muto *et al.* (2021), PBR ''is defined as the product of the minimum population estimate, one-half the maximum theoretical net productivity rate, and a recovery factor: PBR = NMIN $\times$ 0.5RMAX $\times$ FR.''

No serious injury or mortality is expected or authorized in this IHA and neither is the take by harassment expected to accrue in a manner that will impact the reproduction or survival of any individual marine mammals. Therefore, it is neither required nor appropriate to directly and/or quantitatively consider PBR in the negligible impact analysis of the take, by harassment only, authorized in this IHA. Rather, PBR, and the number of known mortalities per year are qualitatively considered as a gross indicator of stock status in the baseline of this analysis. Below, we reemphasize the basis for the negligible impact determination and, as a secondary matter, we further explain that the PBR values for this stock are likely significantly underestimated.

Given that the calculation is based upon the minimum population estimate, if a minimum population estimate is negatively biased, the resulting PBR would be negatively biased as well. The PBR for the Alaska stock of ringed seals is based upon a minimum population estimate which is expected to be an underestimate for multiple reasons. First, the minimum and best population estimates for the stock reflect the Bering Sea population only, as reliable abundance estimates for the Chukchi Sea and Beaufort Sea, which are also included in the stock's range, are not available. Further, the available abundance estimate for the Bering Sea population was not adjusted for seals in the water at the time of the surveys, nor does it include ringed seals in the shorefast ice zone; therefore, the partial abundance that is available, for the Bering Sea only, is an underestimate even for the Bering Sea portion of the stock alone. Therefore, the minimum population estimate (and best population estimate) and PBR for the Alaska stock of ringed seals are negatively biased (*i.e.,* underestimates).

PBR and information on annual serious injury and mortality from anthropogenic sources was presented in the notice of proposed IHA and is presented again in this notice of final IHA as gross indicators of the status of the Alaska stock of ringed seals, even though for the reasons discussed above and below, respectively, these numbers do not accurately reflect certain aspects of the status of the stock.

As noted by the commenter, the abundance estimate and PBR considered by NMFS and included in the notice of proposed IHA (86 FR 70451, December 10, 2021) and this final IHA, is a partial abundance, as reported in the 2020 Alaska Stock Assessment Report (SAR; Muto *et al.* 2021). As stated above, the partial abundance estimate reflects the Bering Sea population only, as reliable abundance estimates for the Chukchi Sea and Beaufort Sea, which are also included in the stock's range, are not available. Further, the available abundance estimate for the Bering Sea population was not adjusted for seals in the water at the time of the surveys, nor does it include ringed seals in the shorefast ice zone; therefore, the partial abundance that is available, for the Bering Sea only, is an underestimate even for the Bering Sea portion of the stock alone. And so, if a more accurate PBR were available, it would be higher, as it would be based on a higher, more-accurate minimum abundance estimate. Muto *et al.* (2021) state that ''researchers expect to provide a population estimate, corrected for availability bias, for the entire U.S. portion of the ringed seal stock once the final Bering Sea results are combined with the results from spring surveys of the Chukchi Sea (conducted in 2016) and Beaufort Sea (planned for 2020).'' In the meantime, given the limited available information at this time, NMFS is not able to produce a stock abundance estimate and PBR that are more accurate than what NMFS included in the proposed IHA.

No serious injury or mortality is anticipated or authorized in this IHA. Even if serious injury and mortality from other sources (in this case, nearly all from Alaska Native subsistence harvest) exceeded what was accepted as a more accurate PBR, that would not inherently indicate that take by Level B harassment at the numbers and level authorized in this IHA would have more than a negligible impact on the stock, as implied by the commenter. (See further discussion below.) However, in this case, given that the abundance estimate and PBR are negatively biased for the reasons discussed above, it is unlikely that mortality and serious injury actually exceed the maximum number of animals, not including natural mortalities, that may be removed from

the Alaska ringed seal stock while allowing the stock to reach or maintain its optimum sustainable population.

Regarding the number of takes authorized in this IHA in comparison to the population status, while we do typically assess the number, intensity, and context of estimated takes by evaluating this information relative to population status, as stated in the Negligible Impact Analysis and Determination section, NMFS also considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. Further, consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels). PBR is one consideration included in this baseline as a gross indicator of stock status. Explicit quantitative consideration of PBR in the analysis was neither required nor appropriate, given that no serious injury or mortality was included in the proposed IHA, and none is authorized in this final IHA. NMFS' preliminary and final negligible impact determinations do not depend solely on the stock abundance provided in the 2020 Alaska SAR (and the accuracy of that abundance estimate). An accurate abundance estimate (and minimum population estimate) for the entire stock, which would include the unknown number of animals in the Beaufort and Chukchi Seas, in addition to the Bering Sea population which is reported in the 2020 Alaska SAR, as well as adjust for uncounted animals in the water and animals in the shorefast ice zone at the time of the Bering Sea survey, is not necessary to make the negligible impact determination. (Though if a complete stock abundance were available, the number of takes authorized in this IHA in comparison to that abundance would be even lower than described in NMFS' Negligible Impact Analysis and Determination herein, given that the stock abundance would be larger.)

As described in the Negligible Impact Analysis and Determination section of the notice of the proposed IHA (86 FR 70451; December 10, 2021) and this notice, the following factors primarily support our negligible impact determination:

- No Level A harassment (injury), serious injury, or mortality is anticipated or authorized;
- Impacts will be limited to Level B harassment, primarily in the form of behavioral disturbance that results in minor changes in behavior;
- TTS is expected to affect only a limited number of animals (approximately 0.5 percent of the partial stock abundance described in Table 1) and TTS is expected to be minor and short term;
- The number of authorized takes is low relative to the estimated abundances of the affected stock, even given the extent to which abundance is significantly underestimated;
- Submarine training and testing activities will occur over only 4 weeks of the total 6-week activity period;
- There will be no loss or modification of ringed seal habitat and minimal, temporary impacts on prey;
- Physical impacts to ringed seal subnivean lairs will be avoided; and
- Mitigation requirements for ice camp activities will prevent impacts to ringed seals during the pupping season.

*Comment 2:* CBD stated that the take estimates from modeling likely underestimate or incorrectly estimate take. NMFS relies on Navy's modeling and a density of 0.3957 ringed seals per km$^2$. It is unclear if this assumes an even distribution of seals throughout the Study Area, which would fail to account for concentrated activities near the Ice Camp Study Area. NMFS stated that ''[w]hile the total ICEX22 Study Area is large, the Navy expects that most activities would occur within the Ice Camp Study Area in relatively close proximity to the ice camp.'' The density of ringed seals for this area has not been determined, and thus the modeling does not accurately estimate take. CBD asserted that there are likely more ringed seals near the Ice Camp Study Area than across the entire Study Area because they are in their home ranges near their subnivean lairs.

*Response:* The Navy estimated take using the density of 0.3957 ringed seals per km$^2$ as noted by the commenter, and NMFS concurs that this is currently the best available information. Information regarding the density of ice seals (which include ringed seals) in the Arctic Ocean is sparse. While the commenter suggests that NMFS and the Navy should use density data that is specific to the Ice Camp Study Area and the area in close proximity to the ice camp, given that most of the activities will occur there, NMFS and the Navy are not aware of any such data, and the commenter did not provide or reference any data which it thinks would be more appropriate than that used by the Navy and NMFS. Further, the statement that animals occur in their home ranges near their subnivean lairs does not support an assertion that there are likely more ringed seals near the Ice Camp Study Area than in other areas across the entire Study Area, as an animal's home range is a separate concept from the density of animals in any given area.

*Comment 3:* CBD stated that the assumption that having activities ongoing at the ice camp will dissuade ringed seals from pupping near the area should not be considered to mitigate harassment, and instead should be counted as additional take. Ringed seals build their subnivean lairs in habitat like that where the ice camp will be constructed. The proposed activities are planned during the season that the ringed seals give birth and raise their pups. Further, CBD stated that the assumption that a ringed seal may be able to relocate its pup or find another breathing hole due to human disturbance is naïve and fails to consider the energetic cost as well as predation risk that these seals may face.

*Response:* Regarding the potential displacement of ringed seals to other pupping sites, NMFS would not consider it as mitigating harassment, rather, in the case of ICEX, we consider it unlikely to occur. As a general matter, on-ice activities could cause a seal that would have otherwise built a lair in the area of an activity to be displaced and therefore, construct a lair in a different area outside of an activity area, or a seal could choose to relocate to a different existing lair outside of an activity area. However, in the case of the ice camp associated with ICEX22, displacement of seal lair construction or relocation to existing lairs outside of the ice camp area is unlikely, given the low average density of lairs (the average ringed seal lair density in the vicinity of Prudhoe Bay, Alaska is 1.58 lairs per km$^2$ (Table 3 of the notice of the proposed IHA; 86 FR 70451, December 10, 2021)), the relative footprint of the Navy's planned ice camp (2 km$^2$), the lack of previous ringed seal observations on the ice during ICEX activities, and mitigation requirements that require the Navy to construct the ice camp and runway on first-year or multi-year ice without pressure ridges and require personnel to avoid areas of deep snow drift or pressure ridges. We have clarified this explanation in the Negligible Impact Analysis and Determination section of this final notice. While the commenter is correct that ringed seals build their subnivean lairs in habitat similar to that

where the ice camp will be constructed, given that mitigation measures require that the ice camp and runway be established on first-year or multi-year ice without pressure ridges, where ringed seals tend to build their lairs, it is extremely unlikely that a ringed seal would build a lair in the vicinity of the ice camp. This measure, in combination with the other mitigation measures required for operation of the ice camp are expected to avoid impacts to the construction and use of ringed seal subnivean lairs, particularly given the already low average density of lairs, as described above.

Regarding the commenter's assertion that the assumption that a ringed seal may be able to relocate its pup or find another breathing hole due to human disturbance fails to consider the associated energetic cost and predation risk, NMFS has clarified in this response that for the reasons stated above, ringed seal lairs are not expected to occur in the ice camp study area, and therefore, NMFS does not expect ringed seals to relocate pups due to human disturbance from ice camp activities. Use of a breathing hole farther from the sound source, rather than one closer to the sound source, would be within the normal range of behavior (Kelly *et al.* 1988), and would not necessarily have an increased energetic cost. While relocating to a different breathing hole could change predation risk, such a risk is scenario-specific and speculative, and it is not possible to determine such risk.

*Comment 4:* CBD states that NMFS failed to provide an adequate explanation for discounting the impacts of the unusual mortality event (UME) on the cumulative effects of the proposed activities. New research about the event (that focused on spotted and ribbon seals) found that the body condition of the seals had declined, likely due to climate-related impacts on prey (Boveng *et al.,* 2020). This long-lasting unusual mortality event cannot simply be ignored in the authorization of additional take of ice seals.

*Response:* NMFS disagrees with the commenter that we ''discounted'' the impacts of the ice seal UME (which includes ringed seals, bearded seals, and spotted seals), and we have not ignored it. Rather, NMFS stated that the take proposed for authorization (and now authorized here) does not provide a concern for ringed seals when considered in the context of these UMEs, especially given that the anticipated low-level and short-term take by Level B harassment is unlikely to affect the reproduction or survival of any individuals. That continues to be our conclusion. In addition, the ICEX22 Study Area is in the Arctic Ocean, well north and east of the primary area where seals have stranded along the western coast of Alaska (see map of strandings at: *https://www.fisheries.noaa.gov/alaska/marine-life-distress/2018-2022-ice-seal-unusual-mortality-event-alaska*). No Level A harassment, serious injury, or mortality is expected or authorized, and take by Level B harassment of ringed seals will be reduced to the level of least practicable adverse impact through the incorporation of mitigation measures. As such, the authorized takes by Level B harassment of ringed seals are not expected to exacerbate or compound the ongoing UME.

NOAA is investigating the UME, and has assembled an independent team of scientists to coordinate with the Working Group on Marine Mammal Unusual Mortality Events to review the data collected, sample stranded seals, and determine the next steps for the investigation. However, the study referenced by the commenter took place in the Bering Sea and Aleutian Islands, far from the Navy's proposed activity, and was conducted on spotted seals, ribbon seals, and harbor seals, none of which are authorized for taking through this IHA. (The current UME does not include harbor seals or ribbon seals, though as noted above, it does include spotted seals).

*Comment 5:* CBD asserted that NMFS should consider new and additional information on marine mammal exposure criteria (Southall *et al.* 2019; 2021). Additionally, CBD stated that NMFS relies on an ''unsubstantiated'' cut-off distance of 10 km that according to the Marine Mammal Commission ''contradicts the data underlying the Bayesian Behavioral Response Functions (BRFs), negates the intent of the functions themselves, and underestimates the numbers of takes'' (Thomas, 2020). CBD states that NMFS should consider that at received levels of less than or equal to 140 dB (decibel) re 1 µPa (microPascal) some pinnipeds had strong reactions (Thomas, 2020).

*Response:* As discussed further below, neither is the 10-km cut-off distance unsubstantiated nor does it contradict the BRFs. Received level and distance have been shown to independently affect how marine mammals respond to sound—the BRFs and the cut-off distances work together to consider how these two factors, respectively, can predict marine mammal responses. Separately, given the extensive development process, it is unreasonable to revise and update the criteria and risk functions every time a new paper is published, though both NMFS and the Navy review and consider the implications of any new papers as they arise. Further, we note that NMFS and the Navy are currently considering new information in development of the next version (Phase IV) of the Navy's Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis.

We disagree with the commenter's assertion that the 10 km cutoff distance is unsubstantiated, as we disagreed with the Marine Mammal Commission's initial comment, cited by CBD in its letter. The derivation of the behavioral response functions and associated cutoff distances is provided in the *Navy's Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III)* technical report (Navy 2017a). The consideration of proximity (distance cutoff) was part of criteria developed in consultation with NMFS and was applied within the Navy's BRF. Cutoffs representing the distances beyond which the potential of significant behavioral responses were considered to be unlikely were used in conducting analysis for ICEX22. The Navy's BRF applied within these distances is an appropriate method for providing a realistic (but still conservative where some uncertainties exist) estimate of impact and potential take for these activities.

Regarding consideration of pinniped reactions at received levels of less than or equal to 140 dB re 1 µPa, the current criteria (Phase III) use a slightly modified version of the Southall *et al.* (2007) severity scaling when considering pinniped reactions, including to exposures less than 140 dB SPL (sound pressure level), given that Southall *et al.* (2007) did not meet the criteria for inclusion (*i.e.,* received level paired with observation of response). Pinniped data included in the Phase III BRFs did include reactions in grey seals slightly below 140 dB SPL, but these were captive studies conducted in a pool where the sound sources were within a few meters of the animal (Götz and Janik 2011). Therefore, the context (*i.e.,* proximity to the source) was likely an important factor mediating the seals reactions. Significant behavioral reactions in pinnipeds have not been observed beyond a few kilometers. The *Navy's Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III),* summarizes grey seal reactions on pg. 61, and individual experimental trials from Götz and Janik (2011) are summarized in Appendix B, starting on pg. 157, including several significant behavioral reactions. Götz (2008) and Gotz and Janik (2010) were not included in development of the criteria because they did not include

observations specific enough to pair received levels with behavioral reactions.

*Comment 6:* CBD stated that NMFS discounts impacts from aircraft or incorrectly assumes complete mitigation. CBD asserted that some pinnipeds are equally susceptible to noise in air as in water (Kastak *et al.* 2007). Southall (2019) provides in-air PTS (154 dB SEL) and TTS (134 dB SEL) thresholds for pinnipeds. Ice seals are sensitive to out-of-water noise, including hauling out in response to aircraft noise (Bradford *et al.* 1999).

*Response:* While NMFS agrees with the commenter that in some situations in-air noise can result in take of marine mammals, NMFS assessed the impacts of aircraft for the Navy's ICEX22 activities and does not expect aircraft noise from this project to take marine mammals given the required mitigation included in the IHA. Born *et al.* (1999) analyzed ''escape responses'' (*i.e.,* hauled out ringed seals entering the water) from an aircraft and a helicopter flying at an altitude of 150 m (164 yd). The results of the study indicated that if the aircraft do not approach the seals closer than 500 m (547 yd) at that altitude, the risk of flushing the seals into the water can be greatly reduced. In a separate paper, Bradford and Weller (2005) noted that helicopter presence resulted in flushing of most of the hauled out seals during observations, though they did not note specific distances of the helicopter at which flushing occurred.

The final IHA requires that fixed wing aircraft must operate at the highest altitudes practicable taking into account safety of personnel, meteorological conditions, and need to support safe operations of a drifting ice camp. Aircraft must not reduce altitude if a seal is observed on the ice. In general, cruising elevation must be 305 m (1,000 ft) or higher. This altitude is significantly higher than the 150 m (164 yd) aircraft and helicopter altitudes analyzed in Born *et al.* (1999). Unmanned Aircraft Systems (UASs) must maintain a minimum altitude of at least 15.2 m (50 ft) above the ice. They must not be used to track or follow marine mammals. Further, helicopter flights must use prescribed transit corridors when traveling to or from Prudhoe Bay and the ice camp. Helicopters must not hover or circle above marine mammals or within 457 m (1,500 ft) of marine mammals, and aircraft must maintain a minimum separation distance of 1.6 km (1 mi) from groups of 5 or more seals and must not land on ice within 800 m (0.5 mi) of hauled-out seals. These measures are expected to prevent the take of marine mammals from aircraft and UASs, and the commenter has not offered data that suggests otherwise.

*Comment 7:* CBD asserted that the proposed mitigation fails to ensure the least practicable adverse impact. First, the proposed IHA does not include any mitigation for the sonar. There are several additional mitigation measures that would reduce the potential for harassment of marine mammals including:

- Placing a cap on the overall use of sonar to ensure the lowest level of marine mammal disturbance;
- Requiring that activities conclude before April when bowhead whales migrate into the area;
- Requiring passive acoustic and/or thermal monitoring and restricting sonar in the presence of marine mammals or aggregations of marine mammals; and
- Limiting the number of aircraft transits and prohibiting dipping sonar.

*Response:* The commenter appears to have overlooked required mitigation measures for sonar that were included in the proposed IHA and are included in the final IHA. The mitigation measures ''for activities involving acoustic transmissions'' described in the proposed and final IHAs apply to sonar. These measures include the following: (1) Personnel must begin passive acoustic monitoring (PAM) for vocalizing marine mammals 15 minutes prior to the start of activities involving active acoustic transmissions from submarines and exercise weapons. (2) Personnel must delay active acoustic transmissions and exercise weapon launches if a marine mammal is detected during pre-activity PAM and must shutdown active acoustic transmissions if a marine mammal is detected during acoustic transmissions. (3) Personnel must not restart acoustic transmissions or exercise weapon launches until 15 minutes have passed with no marine mammal detections.

Regarding the commenter's recommendation that NMFS place a ''cap'' on the overall use of sonar to ensure the lowest level of marine mammal disturbance, the Navy must use the amount of sonar required to successfully conduct the activity, and such a limit set by NMFS is, therefore, not practicable. Unlike incidental take authorizations in other Navy training and testing areas that include limits on sonar use in certain areas during certain times, such as in the Navy's Northwest Training and Testing Area, ICEX22 is limited in duration and scope, and there are no known Biologically Important Areas or other factors that warrant a time/area restriction in the ICEX22 Navy Activity Study Area.

Regarding the commenter's recommendation that activities conclude before April when bowhead whales migrate into the area, NMFS has, by default, required that the Navy's activities that have the potential to harass marine mammals conclude by the end of April, as that is when the IHA expires. Please see Comment 11 for additional information regarding NMFS' conclusion that bowhead whales are not likely to be in the Navy Activity Study Area before the end of April, and therefore will not be taken during ICEX22.

Regarding the commenter's recommendation that NMFS require PAM and/or thermal monitoring and restrict sonar use in the presence of marine mammals or aggregations of marine mammals, NMFS had already included such measures in the proposed IHA, and has included them in this final IHA, as described in the first paragraph of this comment response.

Regarding the commenter's recommendation that NMFS limit the number of aircraft transits and prohibit dipping sonar, the Navy is already minimizing the number of aircraft transits to only those that are necessary for successful completion of the ICEX22 activity, and therefore, an additional limit set by NMFS is not practicable. (See Sections 2.1.3 (Prudhoe Bay) and 2.2.2 (Aircraft) of the 2022 ICEX EA/OEA for additional information regarding planned aircraft use in ICEX22.) Dipping sonar is not a part of the Navy's planned ICEX22 activities (see the Navy's ICEX22 IHA application), nor has the Navy utilized dipping sonar in 2018 or 2020 ICEX activities. Therefore, a prohibition on dipping sonar is not warranted.

*Comment 8:* CBD stated that the mitigation for ice camps, while good, could be more robust to ensure that ringed seals are not disturbed. For example, there are not any mitigation measures designed for ringed seals that may be present in the ice camp area or for pupping ice seals.

*Response:* The mitigation measures included in the proposed IHA, and this final IHA, include measures to avoid impacts to ringed seal subnivean lairs, which is where ringed seals would be expected to occur in the area if they were out of the water during the February to April timeframe.

It is unclear what the commenter means by its suggested inclusion of ''mitigation measures designed for ringed seals that may be present in the ice camp area or for pupping ice seals'' and the commenter has not suggested

any additional measures that would satisfy this vague recommendation, beyond what NMFS has already included in the proposed and final IHA. As discussed in the response to Comment 3, given the expected density of ringed seal lairs in the Ice Camp Study Area, the relative footprint of the Navy's planned ice camp (2 $km^2$), the lack of previous ringed seal observations on the ice during ICEX activities, and mitigation requirements that require the Navy to construct the ice camp and runway on first-year or multi-year ice without pressure ridges and require personnel to avoid areas of deep snow drift or pressure ridges, ringed seal pups are not anticipated to occur in the vicinity of the ice camp at the commencement of and during ICEX22 activities.

*Comment 9:* CBD stated that the monitoring provisions are woefully insufficient by only requiring reporting of dead and injured seals, and stated that there should, at minimum, also be monitoring and reporting of harassment of any marine mammals.

*Response:* The Navy is required to conduct far more monitoring and reporting than just reporting observations of injured and dead marine mammals. As stated in the proposed IHA, and in this final IHA, in addition to reporting observations of injured or dead marine mammals, the Navy is required to submit an exercise monitoring report which will include the number of marine mammals sighted, by species, and any other available information about the sighting(s) such as date, time, and approximate location (latitude and longitude). The Navy must also report data regarding sonar use and the number of shutdowns during ICEX22 activities in the Atlantic Fleet Training and Testing (AFTT) Letter of Authorization 2023 annual classified report. The Navy is also required to analyze any declassified underwater recordings collected during ICEX22 for marine mammal vocalizations and report that information to NMFS, including the types and natures of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal) and the species or taxonomic group (if determinable). This information will also be submitted to NMFS with the 2023 annual AFTT declassified monitoring report. Further, as stated in the Monitoring and Reporting section of this notice, the Navy is also now exploring the potential of implementing an environmental DNA (eDNA) study on ice seals.

*Comment 10:* CBD stated that there cannot be a renewal of this authorization because the renewal process violates section 101(a)(5)(D) of the MMPA. Also, this authorization should not be eligible for a renewal because the activities are supposed to finish in April, and thus are far less than would need to be continued next year. The activities must be concluded on time to avoid additional take of bowhead whales and other protected species. Additionally, CBD stated that the Navy only conducts ICEX every 2 or 3 years; and therefore, even if the activity is similar next time, it is not eligible for a one-year renewal.

*Response:* In prior responses to comments about IHA renewals (*e.g.,* 84 FR 52464; October 02, 2019 and 85 FR 53342, August 28, 2020), NMFS has explained how the renewal process, as implemented, is consistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA, provides additional efficiencies beyond the use of abbreviated notices and, further, promotes NMFS' goals of improving conservation of marine mammals and increasing efficiency in the MMPA compliance process. Therefore, we intend to continue implementing the renewal process.

Regarding the commenters assertion that this particular activity does not qualify for a renewal IHA, NMFS considers renewals on a case-by-case basis, and would consider the eligibility of a request for a renewal if and when such a request is received from the Navy.

Regarding the commenter's statement that the activities must be concluded on time to avoid take of bowhead whales and other protected species, the Navy's authorization, which authorizes take of ringed seals only, expires April 30, 2022. Therefore, activities which may result in the take of marine mammals must be completed by that date. The final IHA explicitly prohibits the take of any other species of marine mammal, other than ringed seals as authorized. Please also refer to the response to Comment 11, which describes why bowhead whales are not expected to occur in the Study Area during the Navy's ICEX22 activities.

*Comment 11:* CBD stated that the determination that there will be no take of other marine mammals within NMFS' jurisdiction seems insufficiently supported. NMFS acknowledges that bearded seals are present in the area during the project timeframe; however, it discounts the potential impact on bearded seals because they are unlikely to be near the ice camp or where submarine activities would be conducted. This fails to consider that noise from sonar can travel great distances, and that even if a bearded seal does not dive to 800 m or would prefer other habitat with benthic organisms, this does not preclude harassment impacts from more distant submarine activities.

CBD also stated that endangered bowhead whales migrate through the area and may be present during the end of the ICEX activities.

*Response:* Regarding bearded seals, although acoustic data indicate that some bearded seals remain in the Beaufort Sea year round (MacIntyre *et al.* 2013, 2015; Jones *et al.* 2014), satellite tagging data (Boveng and Cameron 2013; ADF&G 2017) show that large numbers of bearded seals move south in fall/winter with the advancing ice edge to spend the winter in the Bering Sea, confirming previous visual observations (Burns and Frost 1979; Frost *et al.* 2008; Cameron and Boveng 2009). The southward movement of bearded seals in the fall means that very few individuals are expected to occur along the Beaufort Sea continental shelf in February through April, the timeframe ICEX22 activities. The northward spring migration through the Bering Strait, begins in mid-April (Burns and Frost 1979).

In the event some bearded seals were to remain in the Beaufort Sea during the season when ICEX22 activities will occur, the most probable area in which bearded seals might occur during winter months is along the continental shelf. Bearded seals feed extensively on benthic invertebrates (*e.g.,* clams, gastropods, crabs, shrimp, bottom-dwelling fish; Quakenbush *et al.* 2011; Cameron *et al.* 2010) and are typically found in water depths of 200 m (656 ft) or less (Burns 1970). The Bureau of Ocean Energy Management (BOEM) conducted an aerial survey from June through October that covered the shallow Beaufort and Chukchi Sea shelf waters, and observed bearded seals from Point Barrow to the border of Canada (Clarke *et al.* 2015). The farthest from shore that bearded seals were observed was the waters of the continental slope (though this study was conducted outside of the ICEX22 time frame). The Navy anticipates that the ice camp will be established 185–370 km (100–200 nmi) north of Prudhoe Bay in water depths of 800 m (2,625 ft) or more. The continental shelf near Prudhoe Bay is approximately 55 nmi (100 km) wide. Therefore, even if the ice camp were established at the closest estimated distance (100 nmi from Prudhoe Bay), it would still be approximately 45 nmi (83 km) distant from habitat potentially occupied by bearded seals. Empirical evidence has not shown responses to

sonar that would constitute take beyond a few km from an acoustic source, and therefore, NMFS and the Navy conservatively set a distance cutoff of 10 km. Regardless of the source level at that distance, take is not estimated to occur beyond 10 km from the source. Although bearded seals are found 20 to 100 nmi (37 to 185 km) offshore during spring (Simpkins *et al.* 2003, Bengtson *et al.* 2005), during the winter we expect bearded seals to select habitats where food is abundant and easily accessible to minimize the energy required to forage and maximize energy reserves in preparation for whelping, lactation, mating, and molting. Bearded seals are not known to dive to 800 m to forage and it is highly unlikely that they would occur near the ice camp or where the research activities will be conducted. This conclusion is supported by the fact that the Navy did not visually observe or acoustically detect bearded seals during required PAM during the 2020 ice exercises.

Regarding bowhead whales, NMFS provided a detailed description of their migratory route and the typical timing of their northward migration in the notice of the proposed IHA (86 FR 70451; December 10, 2021). As explained in that notice, bowhead whales are unlikely to occur in the Navy Activity Study Area between February and April, as they spend winter (December to March) in the northern Bering Sea and southern Chukchi Sea, and migrate north through the Chukchi Sea and Beaufort Sea during April and May (Muto *et al.* 2021). On their spring migration, the earliest that bowhead whales reach Point Hope in the Chukchi Sea, well south of Point Barrow, is late March to mid-April (Braham *et al.* 1980). Although the ice camp location is not known with certainty, the distance between Point Barrow and the closest edge of the Ice Camp Study Area is over 200 km. The distance between Point Barrow and the closest edge of the Navy Activity Study Area is over 50 km, and the distance between Point Barrow and Point Hope is an additional 525 km (straight line distance); accordingly, bowhead whales are unlikely to occur in the ICEX22 Study Area before ICEX22 activities conclude. NMFS is not aware of, nor has the commenter provided, information that suggests that bowhead whales would be present in the Navy Activity Study Area during the planned ICEX22 activities.

*Comment 12:* CBD stated that NMFS should better analyze the potential impacts on subsistence harvest. CBD asserted that because serious injury and mortality are already over PBR, authorization of additional take from sources other than subsistence harvest may reduce availability of ice seals. NMFS must either provide more data and support its assumption that the population estimate for the stock is wrong or provide a more robust analysis of the potential impacts on subsistence harvest.

*Response:* See the response to Comment 1 for discussion of PBR. Further, NMFS' unmitigable adverse impact determination is not based upon the abundance estimate for the Alaska stock of ringed seals.

Impacts to marine mammals from the specified activity will mostly include limited, temporary behavioral disturbances of ringed seals; however, some TTS is also anticipated. No Level A harassment (injury), serious injury, or mortality of marine mammals is expected or authorized, and the activities are not expected to have any impacts on the reproduction or survival of any animals. NMFS' determination is based on the anticipated effects to marine mammals (take by Level B harassment only), the short-term, temporary nature of the ICEX22 activities which will occur outside of the primary subsistence hunting seas, and the distance offshore from known subsistence hunting areas. (The Study Area boundary is seaward of subsistence hunting areas, approximately 50 km from shore at the closest point, though exercises will occur farther offshore.) Further, the Navy plans to provide advance public notice to local residents and other users of the Prudhoe Bay region of Navy activities and measures used to reduce impacts on resources. This includes notification to local Alaska Natives who hunt marine mammals for subsistence. If any Alaska Natives express concerns regarding project impacts to subsistence hunting of marine mammals, the Navy will further communicate with the concerned individuals or community. The Navy will provide project information and clarification of any mitigation measures that may reduce impacts to marine mammals. While it seems clear that ringed seals generally are an important subsistence species for Alaska Natives, no concerns specific to this activity have been expressed so far. Apart from clarifying that the unmitigable adverse impact determination is not based upon the abundance estimate for the Alaska stock of ringed seals, it is unclear what the commenter would consider a ''better'' analysis of the potential impacts on subsistence harvest.

*Comment 13:* CBD asserted that because of the impacts on threatened and endangered species and their critical habitat, the Finding of No Significant Impact is arbitrary, and the Navy should have prepared an Environmental Impact Statement.

*Response:* The Navy has drafted the EA to analyze the full scope of ICEX22 activities, given that conducting the ICEX22 activities is their proposed action. NMFS' authority is limited to the issuance, if appropriate, of an IHA for the take of marine mammals that it manages. However, NMFS concurs with the analysis presented in the 2022 ICEX EA. Regarding issuance of an IHA to the Navy, given the scope of the impacts of the Navy's activity on marine mammals that NMFS manages, NMFS finds that the 2022 ICEX EA fully supports NMFS' Finding of No Significant Impact, which was made following finalization of the EA. Given that the comment is directed at the Navy and NMFS' role in managing the resources analyzed in the EA is limited, NMFS provided this comment to the Navy to consider for the final EA.

In response, the Navy has explained that in accordance with requirements of the National Environmental Policy Act (NEPA) and Executive Order 12114, the Navy analyzed all potential impacts resulting from the proposed action and found that the short-term effects, the absence of injury or mortality, and the planned mitigation implementation resulted in no significant impact or significant harm to the resources. The Navy's consultations with NMFS and U.S. Fish and Wildlife Service also support these findings and therefore, an EIS is not required.

Separately, of note, as stated in the Endangered Species Act section of this notice, NMFS' Alaska Regional Office Protected Resources Division issued a Biological Opinion on January 31, 2022, which concluded that the Navy's activities and NMFS' issuance of an IHA are not likely to jeopardize the continued existence of the Arctic stock of ringed seals. As described in the notice of the proposed IHA, NMFS has proposed Designation of Critical Habitat for the Arctic Subspecies of the Ringed Seal (86 FR 1452; January 8, 2021). However, this proposed critical habitat has not been finalized.

*Comment 14:* CBD stated that the 2022 ICEX EA fails to analyze any alternatives beyond the no-action alternative. CBD stated that NMFS should consider an alternative that incorporates additional mitigation measures such as limits on sonar, time restrictions, passive acoustic and/or thermal monitoring, and limits on aircraft.

*Response:* As discussed in the response to Comment 13, NMFS

considers the analysis in the 2022 ICEX EA, including its discussion of alternatives, sufficient to support a Finding of No Significant Impact with respect to the issuance of an IHA. As discussed in NMFS' response to Comment 7, the proposed and final IHAs require that the Navy conduct PAM for marine mammals, and that the Navy delay or shut down active acoustic transmissions if a marine mammal is detected during pre-activity PAM or during acoustic transmissions, respectively. These measures are considered as part of the proposed action in the EA. However, an alternative that incorporated the additional mitigation measures identified by the commenter would not be viable. The limits on aircraft and sonar recommended by the commenter for inclusion in a new alternative in the 2022 ICEX EA cannot be implemented by the Navy for the reasons described in the response to Comment 7. It is unclear what the commenter means by its suggested time restrictions, however, the Navy has selected the February to April time period due to the environmental conditions required to successfully complete the exercises.

*Comment 15:* CBD stated that NMFS, which is charged with protecting marine mammals, cannot adopt the Navy's purpose and need for military activities such as evaluating the employment and tactics of submarine operability in Arctic conditions.

*Response:* Section 1.2 of the 2022 ICEX Draft EA and the Final EA state NMFS' purpose and need, which are separate from that of the Navy. As stated in Section 1.2, NMFS' purpose is to evaluate the Navy's Proposed Action pursuant to NMFS' authority under the MMPA, and to make a determination whether to issue an IHA, including any conditions or mitigation measures along with monitoring and reporting requirements needed to meet the statutory requirements of the MMPA. As also stated in Section 1.2, the need for NMFS' proposed action is to consider the impacts of the Navy's activities on marine mammals and meet NMFS' obligations under the MMPA.

*Comment 16:* CBD states that the EA fails to adequately examine important environmental effects, and that it suffers from some of the same flaws as the negligible impact determination. For example, it underestimates the potential impact of the activities on ringed seals, the impacts of sonar, and discounts all impacts on wildlife other than ice seals. The EA assumes that avoidance and displacement of ringed seals will mitigate impacts, but instead they displace ringed seals from preferred habitat and constitute a taking.

*Response:* Please see *Comment 1* for NMFS' response to the alleged ''flaws'' identified by the commenter in the negligible impact determination, and see *Comment 3* for NMFS' response to the commenter's concerns regarding potential avoidance and displacement of ringed seals. Those responses also address analysis of the impacts of the Navy's activity on ringed seals, including impacts of sonar and the potential for avoidance and displacement of ringed seals in the EA. Otherwise, NMFS has provided this comment to the Navy to consider as it relates to the impacts of sonar and impacts on wildlife other than ice seals for which NMFS does not have management authority.

In response, the Navy has explained that the 2022 ICEX EA analyzed all resources and all potential affects as a result of its Proposed Action. The Navy consulted with NMFS regarding impacts to bearded seals and ringed seals, and the U.S. Fish and Wildlife Service regarding polar bears. The effects of sonar were analyzed using the best available science and the Navy conducted extensive modeling to determine potential effects, which resulted in the Navy requesting an IHA from NMFS.

*Comment 17:* CBD stated that it finds the assumption that polar bears will not be harassed, displaced, or disturbed by the proposed activities particularly troubling. CBD referenced instances of disturbance of polar bears by snow machine noise, and raised concerns about impacts of noise on denning polar bears.

*Response:* Polar bears are managed by the U.S. Fish and Wildlife Service rather than NMFS. Therefore, NMFS has provided this comment to the Navy to consider for the final EA.

*Comment 18:* CBD states that the EA fails to adequately consider the impacts of climate change both on the proposed activities as well as the additional pressure that the activities exert on arctic wildlife that is already threatened by climate change. The commenter stated that the primary threat facing ringed seals is habitat alteration flowing from climate change due to its effects on sea ice and snow cover, which ringed seals depend on for pupping, nursing, molting, and resting (Andersen, Kovacs and Lydersen, N.D.; Boucher 2018; Boucher 2019; Crain *et al.* 2021; Crawford *et al.* 2019; Fauchald *et al.* 2017; Ferguson *et al.* 2017, 2020; Hezel *et al.* 2012; Hamilton *et al.* 2015, 2018, 2019; Hamilton, Kovacs and Lydersen 2019; Harwood *et al.* 2020; Karpovich, Horstmann and Polasek 2020; Lone *et al.* 2019; Lydersen *et al.* 2017; Martinez-Bakker *et al.* 2013; Reimer *et al.* 2019; Ritchie 2018; Von Duyke *et al.* 2020; Yurkowski, David J., *et al.* 2019). The commenter states that ocean warming and acidification resulting from increased $CO_2$ emissions also alter prey populations and other ecosystem dynamics important to the listed ringed seals (77 FR 76708, December 28, 2012; Andersen, Kovacs and Lydersen, N.D.; Beltran *et al.* 2016; Boucher 2018; Hamilton *et al.* 2016; Lowther *et al.* 2017; Matley, Fisk and Dick 2015; Wang *et al.* 2016a, 2016b; Young and Ferguson 2013, 2014).CBD further stated that the proposed activities deepen the imperilment of climate-threatened ice seals, polar bears, and other wildlife, and that the cursory cumulative impacts analysis lacks any substance or discussion of other actions in the area such as oil and gas, shipping, and fishing activities (77 FR 76712, December 28, 2012; Andersen, Kovacs and Lydersen, N.D.; Lomac-Macnair, Andrade and Esteves 2019; Muto 2021; Siddon, Zador and Hunt Jr. 2020; Von Duyke *et al.* 2020; Yurkowski *et al.* 2019).

*Response:* NMFS has considered CBD's comments regarding the impacts of climate change on ringed seals, and additional analysis has been added to the final 2022 ICEX EA/OEA. As stated in the final 2022 ICEX EA/OEA, the habitat of Arctic species has been altered by the warming climate, and scientific consensus projects continued and accelerated warming in the foreseeable future. This continued warming will decrease sea ice and snow cover that seals and polar bears rely on throughout their lifecycle. Ringed seals use sea ice for resting, whelping, and molting, while polar bears primarily use it for hunting, mating, and maternity denning. Climate change has caused a reduction in the distribution, abundance, and body condition of Arctic species. Additionally, ocean warming and acidification alter prey populations that marine mammal species rely on, and increase competition with subarctic species (Laidre *et al.* 2008). Although climate change is a continuing threat to Arctic species, activities conducted during ICEX will have an inconsequential additional impact since they are temporary, and planned mitigation measures are expected to reduce impacts to protected species during the activities.

**Changes From the Proposed IHA to Final IHA**

NMFS slightly modified the IHA start date. The proposed IHA reflected a start date of February 1, 2022, while the final IHA becomes effective February 4, 2022.

**Description of Marine Mammals in the Area of Specified Activities**

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' SARs (*https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species).*

Table 1 lists all species or stocks for which take is expected and authorized, and summarizes information related to the population or stock, including regulatory status under the MMPA and the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2021). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included in Table 1 as gross indicators of the status of the species and other threats. That said, in this case for the Arctic stock of ringed seals and as explained in footnotes 6 and 7 of Table 1, the lack of complete population information significantly impacts the usefulness of PBR in considering the status of the stock, as explained below.

Marine mammal abundance estimates represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Alaska SARs (Muto *et al.* 2021). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2020 Alaska SAR (Muto *et al.* 2021) and draft 2021 Alaska SAR (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*). However, for the same reason noted above and as described in footnotes 4 and 5 of Table 1, the lack of complete population information for the Arctic stock of ringed seals impacts the usefulness of these numbers in considering the impacts of the anticipated take on the stock.

TABLE 1—SPECIES THAT SPATIALLY CO-OCCUR WITH THE ACTIVITY TO THE DEGREE THAT TAKE IS REASONABLY LIKELY TO OCCUR

| Common name | Scientific name | Stock | ESA/MMPA status; Strategic (Y/N) [1] | Stock abundance (CV; $N_{min}$; most recent abundance survey) [2] | PBR | Annual M/SI [3] |
|---|---|---|---|---|---|---|
| Family Phocidae (earless seals): Ringed seal | *Pusa hispida* | Arctic | T/D;Y | 171,418 [4 5], (N/A, 158,507 [4 5]; 2013). | [6] 4,755 | [7] 6,459 |

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] This value, found in NMFS' SARs, represents annual levels of human-caused mortality (M) plus serious injury (SI) from all sources combined (*e.g.,* commercial fisheries, ship strike).

[4] These estimates reflect the Bering Sea population only, as reliable abundance estimates for the Chukchi Sea and Beaufort Sea are not available.

[5] This is expected to be an underestimate of ringed seals in the Bering Sea, as the estimate was not adjusted for seals in the water at the time of the surveys, nor does it include ringed seals in the shorefast ice zone.

[6] The PBR value for this stock is based on a partial stock abundance estimate, and is therefore an underestimate for the full stock.

[7] The majority of the M/SI for this stock (6,454 of 6,459 animals) is a result of the Alaska Native subsistence harvest. While M/SI appears to exceed PBR, given that the reported PBR is based on a partial stock abundance estimate, and is therefore an underestimate for the full stock, M/SI likely does not exceed PBR.

As indicated in Table 1, ringed seals (with one managed stock) temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have authorized such take. A detailed description of the Arctic stock of ringed seals, including brief introductions to the species and stock, available information regarding population trends and threats, information regarding local occurrence, proposed ESA-designated Critical Habitat, and information regarding a current UME were provided in the **Federal Register** notice for the proposed IHA (86 FR 70451; December 10, 2021). Since that time, we are not aware of any changes in the status of the Arctic stock of ringed seals, and therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

As described in footnotes 4, 5, 6, and 7 of Table 1, the lack of complete population information significantly impacts the usefulness of abundance estimates and PBR for this stock. The PBR for the Alaska stock of ringed seals is based upon a minimum population estimate that is expected to be an underestimate, as it is an estimate for just a portion of the stock's range, and that estimate was also not corrected for seals in the water or shorefast ice zone during the survey. Therefore, the minimum population estimate (and best population estimate) and PBR for the Alaska stock of ringed seals are negatively biased (*i.e.,* underestimates). These metrics are considered as gross indicators of the stock status; however, an accurate abundance estimate and PBR for the entire stock is not necessary to make the negligible impact determination. For the full discussion on this issue, see our response to *Comment 1.*

*Marine Mammal Hearing*

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

| Hearing group | Generalized hearing range * |
|---|---|
| Low-frequency (LF) cetaceans (baleen whales) | 7 Hz to 35 kHz. |
| Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales) | 150 Hz to 160 kHz. |
| High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* and *L. australis*). | 275 Hz to 160 kHz. |
| Phocid pinnipeds (PW) (underwater) (true seals) | 50 Hz to 86 kHz. |
| Otariid pinnipeds (OW) (underwater) (sea lions and fur seals) | 60 Hz to 39 kHz. |

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.* 2006; Kastelein *et al.* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Only ringed seals (a phocid pinniped species) have the reasonable potential to co-occur with the planned ICEX22 activities.

**Potential Effects of Specified Activities on Marine Mammals and Their Habitat**

The underwater noise from the Navy's submarine training and testing activities has the potential to result in behavioral harassment of marine mammals in the vicinity of the ICEX22 Study Area. The notice of the proposed IHA (86 FR 70451; December 10, 2021) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from the Navy's activities on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (86 FR 70451; December 10, 2021).

**Estimated Take**

This section provides the number of incidental takes estimated to occur, which will inform NMFS' analysis for the negligible impact determination.

Harassment is the only type of take expected to result from these activities. For this military readiness activity, the MMPA defines ''harassment'' as (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where the behavioral patterns are abandoned or significantly altered (Level B harassment).

Authorized takes for the Navy's ICEX22 activities are by Level B harassment only, in the form of disruption of behavioral patterns and/or TTS for individual marine mammals resulting from exposure to acoustic transmissions. Based on the nature of the activity, Level A harassment is neither anticipated nor authorized. As described previously, no mortality or serious injury is anticipated or authorized for this activity. Below we describe how the incidental take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which the best available science indicates marine mammals will be behaviorally disturbed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities. For this IHA, the Navy employed a sophisticated model known as the Navy Acoustic Effects Model (NAEMO) to assess the estimated impacts of underwater sound.

*Acoustic Thresholds*

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally disturbed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

*Level B Harassment by behavioral disturbance for non-explosive sources*—In coordination with NMFS, the Navy developed behavioral thresholds to support environmental analyses for the Navy's testing and training military readiness activities utilizing active sonar sources; these behavioral harassment thresholds are used here to evaluate the potential effects of the active sonar components of the

specified activities. The behavioral response of a marine mammal to an anthropogenic sound will depend on the frequency, duration, temporal pattern, and amplitude of the sound as well as the animal's prior experience with the sound and the context in which the sound is encountered (*i.e.,* what the animal is doing at the time of the exposure). The distance from the sound source and whether it is perceived as approaching or moving away can also affect the way an animal responds to a sound (Wartzok *et al.* 2003). For marine mammals, a review of responses to anthropogenic sound was first conducted by Richardson *et al.* (1995). Reviews by Nowacek *et al.* (2007) and Southall *et al.* (2007) address studies conducted since 1995 and focus on observations where the received sound level of the exposed marine mammal(s) was known or could be estimated.

Multi-year research efforts have conducted sonar exposure studies for odontocetes and mysticetes (Miller *et al.* 2012; Sivle *et al.* 2012). Several studies with captive animals have provided data under controlled circumstances for odontocetes and pinnipeds (Houser *et al.* 2013a; Houser *et al.* 2013b). Moretti *et al.* (2014) published a beaked whale dose-response curve based on PAM of beaked whales during Navy training activity at Atlantic Underwater Test and Evaluation Center during actual Anti-Submarine Warfare exercises. This new information necessitated the update of the behavioral response criteria for the Navy's environmental analyses.

Southall *et al.* (2007) synthesized data from many past behavioral studies and observations to determine the likelihood of behavioral reactions at specific sound levels. While in general, the louder the sound source the more intense the behavioral response, it was clear that the proximity of a sound source and the animal's experience, motivation, and conditioning were also critical factors influencing the response (Southall *et al.* 2007). After examining all of the available data, the authors felt that the derivation of thresholds for behavioral response based solely on exposure level was not supported because context of the animal at the time of sound exposure was an important factor in estimating response. Nonetheless, in some conditions, consistent avoidance reactions were noted at higher sound levels depending on the marine mammal species or group, allowing conclusions to be drawn. Phocid seals showed avoidance reactions at or below 190 dB re 1 µPa at 1 m; thus, seals may actually receive levels adequate to produce TTS before avoiding the source.

The Navy's Phase III pinniped behavioral threshold was updated based on controlled exposure experiments on the following captive animals: Hooded seal, gray seal, and California sea lion (Götz *et al.* 2010; Houser *et al.* 2013a; Kvadsheim *et al.* 2010). Overall exposure levels were 110–170 dB re 1 µPa for hooded seals, 140–180 dB re 1 µPa for gray seals, and 125–185 dB re 1 µPa for California sea lions; responses occurred at received levels ranging from 125 to 185 dB re 1 µPa. However, the means of the response data were between 159 and 170 dB re 1 µPa. Hooded seals were exposed to increasing levels of sonar until an avoidance response was observed, while the grey seals were exposed first to a single received level multiple times, then an increasing received level. Each individual California sea lion was exposed to the same received level ten times. These exposure sessions were combined into a single response value, with an overall response assumed if an animal responded in any single session. Because these data represent a dose-response type relationship between received level and a response, and because the means were all tightly clustered, the Bayesian biphasic Behavioral Response Function for pinnipeds most closely resembles a traditional sigmoidal dose-response function at the upper received levels and has a 50 percent probability of response at 166 dB re 1 µPa. Additionally, to account for proximity to the source discussed above and based on the best scientific information, a conservative distance of 10 km is used beyond which exposures would not constitute a take under the military readiness definition of Level B harassment. The Navy proposed, and NMFS concurs with, the use of this dose response function to predict behavioral harassment of pinnipeds for this activity.

*Level A harassment and Level B harassment by threshold shift for non-explosive sources*—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0; Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive).

These thresholds were developed by compiling the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

The Navy's PTS/TTS analysis begins with mathematical modeling to predict the sound transmission patterns from Navy sources, including sonar. These data are then coupled with marine species distribution and abundance data to determine the sound levels likely to be received by various marine species. These criteria and thresholds are applied to estimate specific effects that animals exposed to Navy-generated sound may experience. For weighting function derivation, the most critical data required are TTS onset exposure levels as a function of exposure frequency. These values can be estimated from published literature by examining TTS as a function of sound exposure level (SEL) for various frequencies.

To estimate TTS onset values, only TTS data from behavioral hearing tests were used. To determine TTS onset for each subject, the amount of TTS observed after exposures with different SPLs and durations were combined to create a single TTS growth curve as a function of SEL. The use of (cumulative) SEL is a simplifying assumption to accommodate sounds of various SPLs, durations, and duty cycles. This is referred to as an ''equal energy'' approach, since SEL is related to the energy of the sound and this approach assumes exposures with equal SEL result in equal effects, regardless of the duration or duty cycle of the sound. It is well known that the equal energy rule will over-estimate the effects of intermittent noise, since the quiet periods between noise exposures will allow some recovery of hearing compared to noise that is continuously present with the same total SEL (Ward 1997). For continuous exposures with the same SEL but different durations, the exposure with the longer duration will also tend to produce more TTS (Finneran *et al.* 2010; Kastak *et al.* 2007; Mooney *et al.* 2009a).

As in previous acoustic effects analysis (Finneran and Jenkins 2012; Southall *et al.* 2007), the shape of the PTS exposure function for each species group is assumed to be identical to the TTS exposure function for each group. A difference of 20 dB between TTS onset and PTS onset is used for all marine mammals including pinnipeds. This is based on estimates of exposure levels actually required for PTS (*i.e.,* 40

dB of TTS) from the marine mammal TTS growth curves, which show differences of 13 to 37 dB between TTS and PTS onset in marine mammals. Details regarding these criteria and thresholds can be found in NMFS' Technical Guidance (NMFS 2018).

Table 3 below provides the weighted criteria and thresholds used in this analysis for estimating quantitative acoustic exposures of marine mammals from the specified activities.

TABLE 3—ACOUSTIC THRESHOLDS IDENTIFYING THE ONSET OF BEHAVIORAL DISTURBANCE, TTS, AND PTS FOR NON-IMPULSIVE SOUND SOURCES [1]

| Functional hearing group | Species | Behavioral criteria | Physiological criteria | |
|---|---|---|---|---|
| | | | TTS threshold SEL (weighted) | PTS threshold SEL (weighted) |
| Phocid Pinnipeds (Underwater). | Ringed seal ..... | Pinniped Dose Response Function [2]. | 181 dB SEL cumulative .... | 201 dB SEL cumulative. |

[1] The threshold values provided are assumed for when the source is within the animal's best hearing sensitivity. The exact threshold varies based on the overlap of the source and the frequency weighting.
[2] See Figure 6–1 in the Navy's IHA application.
NOTE: SEL thresholds in dB re: 1 $\mu Pa^2s$

*Quantitative Modeling*

The Navy performed a quantitative analysis to estimate the number of marine mammals that could be harassed by the underwater acoustic transmissions during the specified activities. Inputs to the quantitative analysis included marine mammal density estimates, marine mammal depth occurrence distributions (U.S Department of the Navy, 2017), oceanographic and environmental data, marine mammal hearing data, and criteria and thresholds for levels of potential effects.

The density estimate used to estimate take is derived from habitat-based modeling by Kaschner *et al.* (2006) and Kaschner (2004). The area of the Arctic where the specified activities will occur (185–370 km (100–200 nmi) north of Prudhoe Bay, Alaska) has not been surveyed in a manner that supports quantifiable density estimation of marine mammals. In the absence of empirical survey data, information on known or inferred associations between marine habitat features and (the likelihood of) the presence of specific species have been used to predict densities using model-based approaches. These habitat suitability models include relative environmental suitability (RES) models. Habitat suitability models can be used to understand the possible extent and relative expected concentration of a marine species distribution. These models are derived from an assessment of the species occurrence in association with evaluated environmental explanatory variables that results in defining the RES suitability of a given environment. A fitted model that quantitatively describes the relationship of occurrence with the environmental variables can be used to estimate unknown occurrence in conjunction with known habitat suitability. Abundance can thus be estimated for each RES value based on the values of the environmental variables, providing a means to estimate density for areas that have not been surveyed. Use of the Kaschner's RES model resulted in a value of 0.3957 ringed seals per $km^2$ in the cold season (defined as December through May).

The quantitative analysis consists of computer modeled estimates and a post-model analysis to determine the number of potential animal exposures. The model calculates sound energy propagation from the planned sonars, the sound received by animat (virtual animal) dosimeters representing marine mammals distributed in the area around the modeled activity, and whether the sound received by a marine mammal exceeds the thresholds for effects.

The Navy developed a set of software tools and compiled data for estimating acoustic effects on marine mammals without consideration of behavioral avoidance or Navy's standard mitigations (Lookouts, safety zones, avoidance zones, etc.). These tools and data sets are integral components of NAEMO. In NAEMO, animats are distributed non-uniformly based on species-specific density, depth distribution, and group size information, and animats record energy received at their location in the water column. A fully three-dimensional environment is used for calculating sound propagation and animat exposure in NAEMO. Site-specific bathymetry, sound speed profiles, wind speed, and bottom properties are incorporated into the propagation modeling process. NAEMO calculates the likely propagation for various levels of energy (sound or pressure) resulting from each source used during the training or testing event.

NAEMO then records the energy received by each animat within the energy footprint of the event and calculates the number of animats having received levels of energy exposures that fall within defined impact thresholds. Predicted effects on the animats within a scenario are then tallied and the highest order effect (based on severity of criteria; *e.g.,* PTS over TTS) predicted for a given animat is assumed. Each scenario or each 24-hour period for scenarios lasting greater than 24 hours is independent of all others, and therefore, the same individual marine animat could be impacted during each independent scenario or 24-hour period. In a few instances for the modeling of the specified activities here, although the activities themselves all occur within the ICEX22 Study Area, sound may propagate beyond the boundary of the ICEX22 Study Area. Any exposures occurring outside the boundary of the study area are counted as if they occurred within the ICEX22 Study Area boundary. NAEMO provides the initial estimated impacts on marine species with a static horizontal distribution.

There are limitations to the data used in the acoustic effects model, and the results must be interpreted within this context. While the most accurate data and input assumptions have been used in the modeling, when there is a lack of definitive data to support an aspect of the modeling, modeling assumptions believed to overestimate the number of exposures have been chosen:

- Animats are modeled as being underwater, stationary, and facing the source and therefore always predicted to receive the maximum sound level (*i.e.,* no porpoising or pinnipeds' heads above water);
- Animats do not move horizontally (but do change their position vertically within the water column), which may

overestimate physiological effects such as hearing loss, especially for slow moving or stationary sound sources in the model;

- Animats are stationary horizontally and therefore do not avoid the sound source, unlike in the wild where animals will most often avoid exposures at higher sound levels, especially those exposures that may result in PTS;
- Multiple exposures within any 24-hour period are considered one continuous exposure for the purposes of calculating the temporary or permanent hearing loss, because there are not sufficient data to estimate a hearing recovery function for the time between exposures; and
- Mitigation measures that will be implemented are not considered in the model. In reality, sound-producing activities will be reduced, stopped, or delayed if marine mammals are detected by submarines via PAM.

Because of these inherent model limitations and simplifications, model-estimated results must be further analyzed, considering such factors as the range to specific effects, avoidance, and typically the likelihood of successfully implementing mitigation measures. This analysis uses a number of factors in addition to the acoustic model results to predict effects on marine mammals.

For non-impulsive sources, NAEMO calculates the sound pressure level (SPL) and sound exposure level (SEL) for each active emission during an event. This is done by taking the following factors into account over the propagation paths: Bathymetric relief and bottom types, sound speed, and attenuation contributors such as absorption, bottom loss, and surface loss. Platforms such as a ship using one or more sound sources are modeled in accordance with relevant vehicle dynamics and time durations by moving them across an area whose size is representative of the training event's operational area. Table 4 provides range to effects for active acoustic sources planned for ICEX22 to phocid pinniped-specific criteria. Phocids within these ranges will be predicted to receive the associated effect. Range to effects is important information in not only predicting acoustic impacts, but also in verifying the accuracy of model results against real-world situations and determining adequate mitigation ranges to avoid higher level effects, especially physiological effects, to marine mammals.

TABLE 4—RANGE TO BEHAVIORAL DISTURBANCE, TTS, AND PTS IN THE ICEX22 STUDY AREA

| Source/exercise | Range to effects (m) | | |
|---|---|---|---|
| | Behavioral disturbance | TTS | PTS |
| Submarine Exercise | [a] 10,000 | 3,025 | 130 |

[a] Empirical evidence has not shown responses to sonar that would constitute take beyond a few km from an acoustic source, which is why NMFS and the Navy conservatively set a distance cutoff of 10 km. Regardless of the source level at that distance, take is not estimated to occur beyond 10 km from the source.

As discussed above, within NAEMO, animats do not move horizontally or react in any way to avoid sound. Furthermore, mitigation measures that are implemented during training or testing activities that reduce the likelihood of physiological impacts are not considered in quantitative analysis. Therefore, the current model overestimates acoustic impacts, especially physiological impacts near the sound source. The behavioral criteria used as a part of this analysis acknowledges that a behavioral reaction is likely to occur at levels below those required to cause hearing loss (TTS or PTS). At close ranges and high sound levels approaching those that could cause PTS, avoidance of the area immediately around the sound source is the assumed behavioral response for most cases.

In previous environmental analyses, the Navy has implemented analytical factors to account for avoidance behavior and the implementation of mitigation measures. The application of avoidance and mitigation factors has only been applied to model-estimated PTS exposures given the short distance over which PTS is estimated. Given that no PTS exposures were estimated during the modeling process for these specified activities, the implementation of avoidance and mitigation factors were not included in this analysis.

Table 5 shows the exposures expected for ringed seals based on NAEMO modeled results.

TABLE 5—QUANTITATIVE MODELING RESULTS OF POTENTIAL EXPOSURES FOR ICEX ACTIVITIES

| Species | Level B harassment | | Level A harassment | Total |
|---|---|---|---|---|
| | Behavioral disturbance | TTS | | |
| Ringed seal | 3,976 | 910 | 0 | 4,886 |

During monitoring for the 2018 IHA covering similar military readiness activities in the ICEX22 Study Area, the Navy did not visually observe or acoustically detect any marine mammals (U.S. Navy, 2018). During monitoring for the 2020 IHA covering similar military readiness activities in the ICEX22 Study Area, the Navy also did not visually observe any marine mammals (U.S. Navy, 2020). Acoustic monitoring associated with the 2020 IHA did not detect any discernible marine mammal vocalizations (Henderson *et al.* 2021). The monitoring report states that ''there were a few very faint sounds that could have been [ringed seal] barks or yelps.'' However, these were likely not from ringed seals, given that ringed seal vocalizations are generally produced in series (Jones *et al.* 2014). Henderson *et al.* (2021) expect that these sounds were likely ice-associated or perhaps anthropogenic.

**Mitigation Measures**

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and

other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)). The 2004 NDAA amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''least practicable impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, as well as subsistence uses. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) and the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

*Mitigation for Marine Mammals and Their Habitat*

Appropriate personnel (including civilian personnel) involved in mitigation and training or testing activity reporting under the specified activities must complete Arctic Environmental and Safety Awareness Training. Modules include: Arctic Species Awareness and Mitigations, Environmental Considerations, Hazardous Materials Management, and General Safety.

Further, the following general mitigation measures are required to prevent incidental take of ringed seals on the ice floe associated with the ice camp (further explanation of certain mitigation measures is provided in parentheses following the measure):

- The ice camp and runway must be established on first-year and multi-year ice without pressure ridges. (This will minimize physical impacts to subnivean lairs and impacts to sea ice habitat suitable for lairs.);
- Ice camp deployment must begin no later than mid-February 2022, and be gradual, with activity increasing over the first 5 days. Camp deployment must be completed by March 15, 2022. (Given that mitigation measures require that the ice camp and runway be established on first-year or multi-year ice without pressure ridges where ringed seals tend to build their lairs, as well as the average ringed seal lair density in the area, and the relative footprint of the Navy's planned ice camp (2 $km^2$), it is extremely unlikely that a ringed seal would build a lair in the vicinity of the ice camp. Additionally, based on the best available science, Arctic ringed seal whelping is not expected to occur prior to mid-March, and therefore, construction of the ice camp will be completed prior to whelping in the area of ICEX22. Further, as noted above, ringed seal lairs are not expected to occur in the ice camp study area, and therefore, NMFS does not expect ringed seals to relocate pups due to human disturbance from ice camp activities, including construction.);
- Personnel on all on-ice vehicles must observe for marine and terrestrial animals;
- Snowmobiles must follow established routes, when available. On-ice vehicles must not be used to follow any animal, with the exception of actively deterring polar bears if the situation requires;
- Personnel on foot and operating on-ice vehicles must avoid areas of deep snowdrifts near pressure ridges. (These areas are preferred areas for subnivean lair development.);
- Personnel must maintain a 100 m (328 ft) avoidance distance from all observed marine mammals; and
- All material (*e.g.,* tents, unused food, excess fuel) and wastes (*e.g.,* solid waste, hazardous waste) must be removed from the ice floe upon completion of ICEX22 activities.

The following mitigation measures are required for activities involving acoustic transmissions (further explanation of certain mitigation measures is provided in parentheses following the measure):

- Personnel must begin passive acoustic monitoring (PAM) for vocalizing marine mammals 15 minutes prior to the start of activities involving active acoustic transmissions from submarines and exercise weapons.
- Personnel must delay active acoustic transmissions and exercise weapon launches if a marine mammal is detected during pre-activity PAM and must shutdown active acoustic transmissions if a marine mammal is detected during acoustic transmissions.
- Personnel must not restart acoustic transmissions or exercise weapon launches until 15 minutes have passed with no marine mammal detections.

Ramp up procedures for acoustic transmissions are not required as the Navy determined, and NMFS concurs, that they would result in impacts on military readiness and on the realism of training that would be impracticable.

The following mitigation measures are required for aircraft activities to prevent incidental take of marine mammals due to the presence of aircraft and associated noise.

- Fixed wing aircraft must operate at the highest altitudes practicable taking into account safety of personnel, meteorological conditions, and need to support safe operations of a drifting ice camp. Aircraft must not reduce altitude if a seal is observed on the ice. In general, cruising elevation must be 305 m (1,000 ft) or higher.
- Unmanned Aircraft Systems (UASs) must maintain a minimum altitude of at least 15.2 m (50 ft) above the ice. They must not be used to track or follow marine mammals.
- Helicopter flights must use prescribed transit corridors when traveling to or from Prudhoe Bay and the ice camp. Helicopters must not hover or circle above marine mammals or within 457 m (1,500 ft) of marine mammals.
- Aircraft must maintain a minimum separation distance of 1.6 km (1 mi) from groups of 5 or more seals.
- Aircraft must not land on ice within 800 m (0.5 mi) of hauled-out seals.

Based on our evaluation of the Navy's proposed mitigation measures, as well as other measures considered by NMFS, NMFS has determined that the required mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Monitoring and Reporting**

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) require requests for authorizations to include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the area of the specified activity. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving, or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

The Navy has coordinated with NMFS to develop an overarching program, the Integrated Comprehensive Monitoring Program (ICMP), intended to coordinate marine species monitoring efforts across all regions and to allocate the most appropriate level and type of effort for each range complex based on a set of standardized objectives, and in acknowledgement of regional expertise and resource availability. The ICMP was created in direct response to Navy requirements established in various MMPA regulations and ESA consultations. As a framework document, the ICMP applies by regulation to those activities on ranges and operating areas for which the Navy is seeking or has sought incidental take authorizations.

The ICMP is focused on Navy training and testing ranges where the majority of Navy activities occur regularly, as those areas have the greatest potential for being impacted by the Navy's activities. In comparison, ICEX is a short duration exercise that occurs approximately every other year. Due to the location and expeditionary nature of the ice camp, the number of personnel onsite is extremely limited and is constrained by the requirement to be able to evacuate all personnel in a single day with small planes. As such, the Navy asserts that a dedicated ICMP monitoring project is not feasible as it would require additional personnel and equipment, and NMFS concurs. However, the Navy is exploring the potential of implementing an environmental DNA (eDNA) study on ice seals.

Nonetheless, the Navy must conduct the following monitoring and reporting under the IHA. Ice camp personnel must generally monitor for marine mammals in the vicinity of the ice camp and record all observations of marine mammals, regardless of distance from the ice camp, as well as the additional data indicated below. Additionally, Navy personnel must conduct PAM during all active sonar use. Ice camp personnel must also maintain an awareness of the surrounding environment and document any observed marine mammals.

In addition, the Navy is required to provide NMFS with a draft exercise monitoring report within 90 days of the conclusion of the specified activity. A final report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report. If no comments are received from NMFS within 30 calendar days of receipt of the draft report, the report shall be considered final. The report, at minimum, must include:

- Marine mammal monitoring effort (dedicated hours);
- Ice camp activities occurring during each monitoring period (*e.g.,* construction, demobilization, safety watch, field parties);
- Number of marine mammals detected;
- Upon observation of a marine mammal, record the following information:
  - Environmental conditions when animal was observed, including relevant weather conditions such as cloud cover, snow, sun glare, and overall visibility, and estimated observable distance;
  - Lookout location and ice camp activity at time of sighting (or location and activity of personnel who made observation, if observed outside of designated monitoring periods);
  - Time and approximate location of sighting;
  - Identification of the animal(s) (*e.g.,* seal, or unidentified), also noting any identifying features;
  - Distance and location of each observed marine mammal relative to the ice camp location for each sighting;
  - Estimated number of animals (min/max/best estimate);
  - Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing).

Also, all sonar usage will be collected via the Navy's Sonar Positional Reporting System database. The Navy is required to provide data regarding sonar use and the number of shutdowns during ICEX22 activities in the Atlantic Fleet Training and Testing (AFTT) Letter of Authorization 2023 annual classified report. The Navy is also required to analyze any declassified underwater recordings collected during ICEX22 for marine mammal vocalizations and report that information to NMFS, including the types and nature of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal) and the species or taxonomic group (if determinable). This information will also be submitted to NMFS with the 2023 annual AFTT declassified monitoring report.

Finally, in the event that personnel discover an injured or dead marine mammal, personnel must report the incident to the Office of Protected Resources (OPR), NMFS and to the Alaska regional stranding network as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;

- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal(s) was discovered (*e.g.,* during submarine activities, observed on ice floe, or by transiting aircraft).

**Negligible Impact Analysis and Determination**

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Underwater acoustic transmissions associated with ICEX22, as outlined previously, have the potential to result in Level B harassment of ringed seals in the form of TTS and behavioral disturbance. No take by Level A harassment, serious injury, or mortality are anticipated to result from this activity. Further, at close ranges and high sound levels approaching those that could cause PTS, seals will likely avoid the area immediately around the sound source.

NMFS estimates 910 takes of ringed seals by TTS from the submarine activities. TTS is a temporary impairment of hearing and can last from minutes or hours to days (in cases of strong TTS). In many cases, however, hearing sensitivity recovers rapidly after exposure to the sound ends. This activity has the potential to result in only minor levels of TTS, and hearing sensitivity of affected animals would be expected to recover quickly. Though TTS may occur as indicated, the overall fitness of the impacted individuals is unlikely to be affected given the temporary nature of TTS and the minor levels of TTS expected from these activities. Negative impacts on the reproduction or survival of affected ringed seals as well as impacts on the stock are not anticipated.

Effects on individuals that are taken by Level B harassment by behavioral disturbance could include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight. More severe behavioral responses are not anticipated due to the localized, intermittent use of active acoustic sources and mitigation using PAM, which will limit exposure to active acoustic sources. Most likely, individuals will be temporarily displaced by moving away from the sound source. As described in the Acoustic Impacts section of the notice of proposed IHA (86 FR 70451; December 10, 2021), seals exposed to non-impulsive sources with a received sound pressure level within the range of calculated exposures, (142–193 dB re 1 µPa), have been shown to change their behavior by modifying diving activity and avoidance of the sound source (Götz *et al.* 2010; Kvadsheim *et al.* 2010). Although a minor change to a behavior may occur as a result of exposure to the sound sources associated with the specified activity, these changes will be within the normal range of behaviors for the animal (*e.g.,* the use of a breathing hole further from the source, rather than one closer to the source). Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and will not result in any adverse impact on reproduction or survival of affected individuals or to the stock as a whole.

The Navy's planned activities are localized and of relatively short duration. While the total ICEX22 Study Area is large, the Navy expects that most activities will occur within the Ice Camp Study Area in relatively close proximity to the ice camp. The larger Navy Activity Study Area depicts the range where submarines may maneuver during the exercise. The ice camp will be in existence for up to six weeks with acoustic transmission occurring intermittently over approximately 4 weeks.

The project is not expected to have significant adverse effects on marine mammal habitat. The project activities are limited in time and will not modify physical marine mammal habitat. While the activities may cause some fish to leave a specific area ensonified by acoustic transmissions, temporarily impacting marine mammals' foraging opportunities, these fish will likely return to the affected area. As such, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

For on-ice activity, Level A harassment, Level B harassment, serious injury, and mortality are not anticipated, given the nature of the activities, the lack of previous ringed seal observations, and the mitigation measures NMFS has included in the IHA. The ringed seal pupping season on the ice lasts for five to nine weeks during late winter and spring. As discussed in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section, March 1 is generally expected to be the onset of ice seal lairing season. The ice camp and runway will be established on first-year or multi-year ice without pressure ridges, as ringed seals tend to build their lairs near pressure ridges. Ice camp deployment will begin no later than mid-February, and be gradual, with activity increasing over the first 5 days. Ice camp deployment will be completed by March 15, before the pupping season. Displacement of seal lair construction or relocation to existing lairs outside of the ice camp area is unlikely, given the low average density of lairs (the average ringed seal lair density in the vicinity of Prudhoe Bay, Alaska is 1.58 lairs per $km^2$ (Table 3 of the notice of the proposed IHA; 86 FR 70451, December 10, 2021)), the relative footprint of the Navy's planned ice camp (2 $km^2$), the lack of previous ringed seal observations on the ice during ICEX activities, and mitigation requirements that require the Navy to construct the ice camp and runway on first-year or multi-year ice without pressure ridges and require personnel to avoid areas of deep snow drift or pressure ridges. Given that mitigation measures require that the ice camp and runway be established on first-year or multi-year ice without pressure ridges, where ringed seals tend to build their lairs, it is extremely unlikely that a ringed seal would build a lair in the vicinity of the ice camp.

This measure, in combination with the other mitigation measures required for operation of the ice camp are expected to avoid impacts to the construction and use of ringed seal subnivean lairs, particularly given the already low average density of lairs, as described above. Given that ringed seal lairs are not expected to occur in the ice camp study area, NMFS does not expect ringed seals to relocate pups due to human disturbance from ice camp activities.

Additional mitigation measures will also prevent damage to and disturbance of ringed seals and their lairs that could otherwise result from on-ice activities. Personnel on on-ice vehicles will observe for marine mammals, and will follow established routes when available, to avoid potential damage to or disturbance of lairs. Personnel on foot and operating on-ice vehicles will avoid deep snow drifts near pressure ridges, also to avoid potential damage to or disturbance of lairs. Further, personnel will maintain a 100 m (328 ft) distance from all observed marine mammals to avoid disturbing the animals due to the personnel's presence. Implementation of these measures will also prevent ringed seal lairs from being crushed or damaged during ICEX22 activities.

There is an ongoing UME for ice seals, including ringed seals. Elevated strandings have occurred in the Bering and Chukchi Seas since June 2018. As of November 17, 2021, 95 ringed seal strandings have occurred, which is well below the partial abundance estimate of 171,418 ringed seals in the Arctic stock. The take authorized here does not provide a concern for any of these populations when considered in the context of these UMEs, especially given that the anticipated Level B harassment is unlikely to affect the reproduction or survival of any individuals. In addition, the ICEX22 Study Area is in the Arctic Ocean, well north and east of the primary area where seals have stranded along the western coast of Alaska (see map of strandings at: *https://www.fisheries.noaa.gov/alaska/marine-life-distress/2018-2021-ice-seal-unusual-mortality-event-alaska*). No Level A harassment, serious injury, or mortality is expected or authorized here, and take by Level B harassment of ringed seals will be reduced to the level of least practicable impact through the incorporation of mitigation measures. As such, the authorized takes by Level B harassment of ringed seals are not expected to exacerbate or compound the ongoing UME.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No Level A harassment (injury), serious injury, or mortality is anticipated or authorized;
- Impacts will be limited to Level B harassment, primarily in the form of behavioral disturbance that results in minor changes in behavior;
- TTS is expected to affect only a limited number of animals (approximately 0.5 percent of the partial stock abundance described in Table 1) and TTS is expected to be minor and short term;
- The number of authorized takes is low relative to the estimated abundances of the affected stock, even given the extent to which abundance is significantly underestimated;
- Submarine training and testing activities will occur over only 4 weeks of the total 6-week activity period;
- There will be no loss or modification of ringed seal habitat and minimal, temporary impacts on prey;
- Physical impacts to ringed seal subnivean lairs will be avoided; and
- Mitigation requirements for ice camp activities will prevent impacts to ringed seals during the pupping season.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the specified activity will have a negligible impact on the Arctic stock of ringed seals.

**Unmitigable Adverse Impact Analysis and Determination**

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaska Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Impacts to marine mammals from the specified activity will mostly include limited, temporary behavioral disturbances of ringed seals; however, some TTS is also anticipated. No Level A harassment (injury), serious injury, or mortality of marine mammals is expected or authorized, and the activities are not expected to have any impacts on reproductive or survival rates of any marine mammal species.

The specified activity and associated harassment of ringed seals are not expected to impact marine mammals in numbers or locations sufficient to reduce their availability for subsistence harvest given the short-term, temporary nature of the activities, and the distance offshore from known subsistence hunting areas. The specified activity will occur for a brief period of time outside of the primary subsistence hunting season, and though seals are harvested for subsistence uses off the North Slope of Alaska, the ICEX22 Study Area is seaward of known subsistence hunting areas. (The Study Area boundary is approximately 50 km from shore at the closest point, though exercises will occur farther offshore.)

The Navy plans to provide advance public notice to local residents and other users of the Prudhoe Bay region of Navy activities and measures used to reduce impacts on resources. This includes notification to local Alaska Natives who hunt marine mammals for subsistence. If any Alaska Natives express concerns regarding project impacts to subsistence hunting of marine mammals, the Navy will further communicate with the concerned individuals or community. The Navy will provide project information and clarification of the mitigation measures that will reduce impacts to marine mammals.

Based on the description and location of the specified activity, and the required mitigation and monitoring measures, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from the Navy's specified activities.

**National Environmental Policy Act**

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), the Navy prepared an Environmental Assessment (EA) to consider the direct, indirect, and cumulative effects to the human environment resulting from the ICEX22 project. The Navy's EA was made available for public comment at *https://www.nepa.navy.mil/icex/* for 28 days beginning November 24, 2021. The public comment period was reopened

from January 5 to January 28 due to a delay in publication of a notice to the public in the *Arctic Sounder* newspaper. In the notice of proposed IHA (86 FR 70451; December 10, 2021), NMFS described its plan to adopt the Navy's EA, provided our independent evaluation of the document found that it includes adequate information analyzing the effects on the human environment of issuing the IHA. In compliance with NEPA and the CEQ regulations, as well as NOAA Administrative Order 216–6, NMFS has reviewed the Navy's EA and determined it to be sufficient. NMFS adopted that EA and signed a Finding of No Significant Impact (FONSI) on February 4, 2022.

**Endangered Species Act**

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with NMFS' Alaska Regional Office (AKRO).

The NMFS Office of Protected Resources (OPR) is authorizing take of ringed seals, which are listed under the ESA. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion on January 31, 2022, which concluded that the Navy's activities and NMFS' issuance of an IHA are not likely to jeopardize the continued existence of the Arctic stock of ringed seals. There is no ESA designated critical habitat for ringed seals.

**Authorization**

NMFS has issued an IHA to the Navy for conducting submarine training and testing activities in the ICEX22 Study Area of the Arctic Ocean beginning in February 2022 that includes the previously explained mitigation, monitoring, and reporting requirements.

Dated: February 4, 2022.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2022–02800 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB792]**

### Marine Mammals and Endangered Species

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

**ACTION:** Notice; issuance of permits, permit amendments, and permit modifications.

**SUMMARY:** Notice is hereby given that permits, permit amendments, and permit modifications have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

**ADDRESSES:** The permits and related documents are available for review upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Shasta McClenahan, Ph.D. (Permit Nos. 20646–01 and 25885); Courtney Smith, Ph.D. (Permit No. 21143–01); Erin Markin, Ph.D. (Permit No. 23200–01); Carrie Hubard (Permit No. 25900); and Malcolm Mohead (Permit Nos. 19641–03 and 25864); at (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** Notices were published in the **Federal Register** on the dates listed below that requests for a permit, permit amendment, or permit modification had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to *www.federalregister.gov* and search on the permit number provided in Table 1 below.

TABLE 1—ISSUED PERMITS, PERMIT AMENDMENTS, AND PERMIT MODIFICATIONS

| Permit No. | RTID | Applicant | Previous **Federal Register** notice | Issuance date |
|---|---|---|---|---|
| 20646–01 | 0648–XF213 | Morgridge Institute for Research, 330 North Orchard Street, Madison, WI 53715 (Responsible Party: James Thomson, Ph.D.). | 82 FR 29053; June 27, 2017. | January 4, 2022. |
| 23200–01 | 0648–SB500 | University of North Carolina, Wilmington, 601 South College Road, Wilmington, NC 28403 (Responsible Party: Frederick Scharf, Ph.D.). | 86 FR 56692; October 12, 2021. | January 24, 2022. |
| 25885 | 0648–XB610 | Peter Thielen, D. Eng., Johns Hopkins University, Applied Physics Laboratory, 11100 Johns Hopkins Road, Laurel, MD 20723. | 86 FR 67036; November 24, 2021. | January 18, 2022. |
| 21143–01 | 0648–XF500 | Jeremy Kiszka, Ph.D., Florida International University, 3000 NE 151st Street, Marine Science Building, Room 250D, North Miami, FL 33181. | 82 FR 31950; July 11, 2017. | January 27, 2022. |
| 25900 | 0648–XB547 | Echo Pictures Ltd., St Nicholas House, 31–34 High Street, Bristol, BS1 2AW, United Kingdom (Responsible Party: Joe Stevens). | 86 FR 69622; December 8, 2021. | January 24, 2022. |
| 25864 | 0648–SB500 | Gregg Poulakis, Ph.D., Florida Fish and Wildlife Conservation Commission, 585 Prineville Street, Port Charlotte, FL 33954. | 86 FR 56692; October 12, 2021. | January 24, 2022. |
| 19641–03 | 0648–SB500 | Tom Savoy, Connecticut Department of Energy and Environmental Protection, P.O. Box 719, Old Lyme, CT 06371. | 86 FR 56692; October 12, 2021. | January 24, 2022. |

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance of these permit was based on a finding that such permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA.

*Authority:* The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable.

Dated: February 7, 2022.

**Julia M. Harrison,**

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

[FR Doc. 2022–02832 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB800]**

### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of web conference.

**SUMMARY:** The North Pacific Fishery Management Council (Council) Pacific Northwest Crab Industry Advisory Committee (PNCIAC) will meet March 2, 2022.

**DATES:** The meeting will be held on Wednesday, March 2, 2022, from 9 a.m. to 10:30 a.m., Alaska Time.

**ADDRESSES:** The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/2813.*

*Council address:* North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

**FOR FURTHER INFORMATION CONTACT:** Sarah Marrinan, Council staff; phone; (907) 271–2809; email: *sarah.marrinan@noaa.gov.* For technical support please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Agenda

*Wednesday, March 2, 2022*

The Committee will discuss: (a) March 2022 Board of Fisheries proposals; (b) shifting crab stocks and boundary issues; (c) opilio rebuilding; (d) Bristol Bay Red King Crab discussion papers; (e) bairdi industry preferred size; (f) season start date; (g) elections due in December 2022; and (h) other business. The agenda is subject to change, and the latest version will be posted *https://meetings.npfmc.org/Meeting/Details/2813* prior to the meeting, along with meeting materials.

#### Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2813.*

#### Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2813.*

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

Dated: February 7, 2022.

**Tracey L. Thompson,**

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

[FR Doc. 2022–02843 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB746]**

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species (CPS) Subcommittee of the Scientific and Statistical Committee (SSC) will hold an online meeting. This meeting is open to the public.

**DATES:** The online meeting will be held Wednesday, March 2, 2022, 9 a.m. to 1 p.m., Pacific Standard Time (PST) or until business for the day has been completed.

**ADDRESSES:** This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409; email: *kerry.griffin@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The Subcommittee will review the draft update stock assessment for Pacific sardine in preparation for full SSC and Council review at the April 2022 Pacific Council meeting. At its April 2022 meeting, the Pacific Council is scheduled to use the update stock assessment to set harvest specifications and management measures for the 2022–2023 Pacific sardine fishery.

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

#### Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: February 7, 2022.

**Tracey L. Thompson,**

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

[FR Doc. 2022–02841 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB801]**

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species Management Team and Coastal Pelagic Species Advisory Subpanel will hold a joint public meeting.

**DATES:** The online meeting will be held Tuesday, March 1, 2022, from 10 a.m. to 4 p.m., Pacific Standard Time or until business for the day as been completed.

**ADDRESSES:** This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

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

**FOR FURTHER INFORMATION CONTACT:** Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409.

**SUPPLEMENTARY INFORMATION:** The primary purpose of this meeting is to discuss and potentially develop work products for the Pacific Council's March 2022 meeting. Topics will include marine planning, ecosystem matters, and future meeting planning. Other matters on the Pacific Council's March agenda may be discussed as well. The meeting agenda will be available on the Pacific Council's website in advance of the meeting.

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

### Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: February 7, 2022.

**Tracey L. Thompson,**

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

[FR Doc. 2022–02844 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB789]**

### Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The EFP would allow commercial fishing vessels to fish outside fishery regulations in support of research conducted by the applicant. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received on or before February 25, 2022.

**ADDRESSES:** You may submit written comments by any of the following methods:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''CFRF Ventless Trap EFP.''

**FOR FURTHER INFORMATION CONTACT:** Laura Deighan, Fishery Management Specialist, *Laura.Deighan@noaa.gov,* (978) 281–9184.

**SUPPLEMENTARY INFORMATION:** The Commercial Fisheries Research Foundation submitted a complete application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict to continue to provide distribution, abundance, and biological data on juvenile lobsters and Jonah crabs from times and areas with low coverage from traditional surveys. This EFP would exempt the participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS

| Citation | Regulation | Need for exemption |
|---|---|---|
| 50 CFR 697.21(c) | Gear specification requirements. | To allow for closed escape vents and smaller trap mesh and entrance heads. |
| § 697.19 | Trap limit requirements. | To allow for three additional traps per fishing vessel for a total of up to 66 additional traps. |
| § 697.19(j) | Trap tag requirements. | To allow for the use of untagged traps (though each modified trap will have the participating fisherman's identification attached). |
| § 697.20(a), (d), (g), and (h)(1) and (2). | Possession restrictions. | To allow for onboard biological sampling of undersized, v-notched, and egg-bearing lobsters and undersized and egg-bearing Jonah crabs and retention of up to 300 legal and sublegal Jonah crabs per month for a molting study. |

This project is a continuation of ongoing effort to collect data on juvenile lobster and Jonah crab abundance and distribution in areas and times of year with low or no coverage by traditional surveys. To date, this project has collected data from over 175,000 lobsters and 105,000 Jonah crabs. The current EFP will expire April 5, 2022;

this EFP would cover a study period of April 1, 2022, through June 30, 2023.

The project includes 4 inshore vessels (Lobster Management Area 2) and 16 offshore vessels (Lobster Management Areas 1, 3, and 4). Each vessel would fish with 3 modified, ventless traps designed to capture juvenile lobsters, totaling 60 modified traps. The project team hopes to add 2 additional offshore vessels (Lobster Management Areas 1, 3, 4, and/or 5) in 2022, which would increase the total to 66 traps. The modified traps would adhere to the standard coast-wide survey gear for lobster and Jonah crab set by the Atlantic States Marine Fisheries Commission and would be fished within standard Atlantic Large Whale-compliant trawls. The traps would remain in the water up to 12 months and be hauled every 7 days by the inshore vessels and every 10 days by the offshore vessels.

This study would take place during the regular fishing activity of the participating vessels, but catch from modified traps would remain separate from that of standard gear. Operators would collect data on size, sex, presence of eggs, and shell hardness for lobsters and Jonah crabs and v-notch and shell disease for lobsters. In addition to onboard sampling, three inshore and three offshore vessels would retain up to 50 Jonah crabs per month each, for a total of up to 300 crabs per month, for a molting study. Operators would return all other specimens from modified gear to the ocean once sampling is complete.

The study is designed to inform management by addressing questions of changing reproduction and recruitment dynamics of lobster and develop a foundation of knowledge for the data-deficient Jonah crab fishery. The Commercial Fisheries Research Foundation would share data with the Atlantic Coastal Cooperative Statistics Program, the Northeast Fisheries Science Center, the Atlantic States Marine Fisheries Commission, and the Rhode Island Department of Environmental Management every 6 months.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: February 7, 2022.

**Ngagne Jafnar Gueye,**

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

[FR Doc. 2022–02839 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB733]**

### Determination of Overfishing or an Overfished Condition

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

**ACTION:** Notice.

**SUMMARY:** This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has found that Gulf of Mexico gag is now subject to overfishing and overfished; Bering Sea snow crab is now overfished; Atlantic mackerel is still subject to overfishing and overfished; and Georges Bank winter flounder, Southern New England/Mid-Atlantic winter flounder, and Atlantic Coast bluefish are still overfished. NMFS, on behalf of the Secretary, notifies the appropriate regional fishery management council (Council) whenever it determines that a stock or stock complex is subject to overfishing, overfished, or approaching an overfished condition.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Frens, (301)–427–8523.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 304(e)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2), NMFS, on behalf of the Secretary, must notify Councils, and publish a notice in the **Federal Register**, whenever it determines that a stock or stock complex is subject to overfishing, overfished, or approaching an overfished condition.

NMFS has determined that Gulf of Mexico gag is now subject to overfishing and overfished. The Gulf of Mexico gag determination is based on the most recent assessment, completed in 2021 and using data through 2019, which indicates that this stock is subject to overfishing because the fishing mortality rate is above the threshold, and overfished because the stock biomass is below the threshold. NMFS has notified the Gulf of Mexico Fishery Management Council of the requirement to end overfishing on and to rebuild this stock.

NMFS has determined that Bering Sea snow crab is now overfished. This determination is based on the most recent assessment, completed in 2021and using data through 2021, which indicates that this stock is overfished because the mature male biomass is below the threshold. NMFS has notified the North Pacific Fishery Management Council of the requirement to rebuild this stock.

NMFS has determined that Atlantic mackerel is still subject to overfishing and overfished. This determination is based on the most recent assessment, completed in 2020 and using data through 2019, which indicates that this stock is subject to overfishing because the fishing mortality rate is above the threshold, and overfished because the stock biomass is below the threshold. NMFS continues to work with the New England Fishery Management Council to end overfishing and to rebuild this stock.

NMFS has determined that Georges Bank winter flounder, Southern New England/Mid-Atlantic winter flounder, and Atlantic Coast bluefish are still overfished. The two winter flounder determinations are based on the most recent assessments, completed in 2020 and using data through 2019, which indicate that these stocks are overfished because the biomasses are below their respective thresholds. NMFS continues to work with the New England Fishery Management Council to rebuild these stocks. The Atlantic Coast bluefish determination is based on the most recent assessment, completed in 2021 and using data through 2019, which indicates that this stock is overfished because the biomass is below the threshold. NMFS continues to work with the Mid-Atlantic Fishery Management Council to rebuild this stock.

Dated: February 7, 2022.

**Ngagne Jafnar Gueye,**

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

[FR Doc. 2022–02857 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

### Recruitment of First Responder Network Authority Board Member

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) issues this Notice to initiate the annual process to seek expressions of interest from individuals who would like to serve on the Board of the First Responder Network Authority (FirstNet Authority Board or Board). The term of one of the 12 non-permanent members to the FirstNet Authority Board will be available for appointment or reappointment in 2022.

**DATES:** To be considered for the calendar year 2022 appointment, expressions of interest must be electronically transmitted on or before March 14, 2022.

**ADDRESSES:** Applicants should submit expressions of interest as described below to: Michael Dame, Acting Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration, by email to *FirstNetBoardApplicant@ntia.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michael Dame, Acting Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration; telephone: (202) 482–1181; email: *mdame@ntia.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

**SUPPLEMENTARY INFORMATION:**

## I. Background and Authority

The Middle Class Tax Relief and Job Creation Act of 2012 (Act) created the First Responder Network Authority (FirstNet Authority) as an independent authority within NTIA. The Act charged the FirstNet Authority with ensuring the building, deployment, and operation of a nationwide, interoperable public safety broadband network, based on a single, national network architecture.[1] The FirstNet Authority holds the single nationwide public safety license granted for wireless public safety broadband deployment. The FirstNet Authority Board is responsible for providing overall policy direction and oversight of FirstNet to ensure that the nationwide network continuously meets the needs of public safety.

## II. Structure

The FirstNet Authority Board is composed of 15 voting members. The Act names the Secretary of Homeland Security, the Attorney General of the United States, and the Director of the Office of Management and Budget as permanent members of the FirstNet Authority Board. The Secretary of Commerce (Secretary) appoints the 12 non-permanent members of the FirstNet Authority Board.[2]

The Act requires each Board member to have experience or expertise in at least one of the following substantive areas: Public safety, network, technical, and/or financial.[3] Additionally, the composition of the FirstNet Authority Board must satisfy the other requirements specified in the Act, including that: (i) At least three members have served as public safety professionals; (ii) at least three members represent the collective interests of states, localities, tribes, and territories; and (iii) its members reflect geographic and regional, as well as rural and urban, representation.[4] An individual Board member may satisfy more than one of these requirements. The current non-permanent FirstNet Authority Board members are (noting expiration of term):

- Karima Holmes, Senior Director, ShotSpotter, Inc.; 911 professional (Term expires: August 2022)
- Board Chair Stephen Benjamin, Former Mayor, Columbia, SC (Term expires: September 2024)
- Richard Carrizzo, Fire Chief, Southern Platte Fire Protection District, MO (Term expires: September 2024)
- Brian Crawford, SVP/Chief Administrative Officer for Willis-Knighton Health System and retired Fire Chief and Municipal Government Executive (Term expires: September 2024)
- Alexandra Fernandez Navarro, Former Associate Member, Puerto Rico Public Service Regulatory Board (Term expires: September 2024)
- Kristin Graziano, Sheriff, Charleston County, SC (Term expires: September 2024)
- Billy Hewes, Mayor, Gulfport, MS (Term expires: September 2024)
- Peter Koutoujian, Sheriff, Middlesex County, MA (Term expires: September 2024)
- Warren Mickens, Retired technology executive (Term expires: September 2024)
- Sylvia Moir, Retired Police Chief (Term expires: September 2024)
- Jocelyn Moore, Independent Director, DraftKings (Term expires: September 2024)
- Paul Patrick, Division Director, Family Health and Preparedness, Utah Department of Health (Term expires: September 2024)

Any Board member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.[5] Board members will be appointed for a term of three years.[6] Board members may not serve more than two consecutive full three-year terms.[7] More information about the FirstNet Authority Board is available at *www.firstnet.gov/about/Board.*

## III. Compensation and Status as Government Employees

FirstNet Authority Board members are appointed as government employees. FirstNet Authority Board members are compensated at the daily rate of basic pay for level IV of the Executive Schedule (approximately $176,300 per year) for each day worked on the FirstNet Authority Board.[8] Board members work intermittent schedules and may not work more than 130 days per year during their term. Each Board member must be a United States citizen, cannot be a registered lobbyist, and cannot be a registered agent of, employed by, or receive payments from, a foreign government.[9]

## IV. Financial Disclosure and Conflicts of Interest

FirstNet Authority Board members must comply with certain federal conflict of interest statutes and ethics regulations, including some financial disclosure requirements. A FirstNet Authority Board member will generally be prohibited from participating on any particular FirstNet Authority matter that will have a direct and predictable effect on his or her personal financial interests or on the interests of the appointee's spouse, minor children, or non-federal employer.

## V. Selection Process

At the direction of the Secretary, NTIA will conduct outreach to the public safety community, state and local organizations, and industry to solicit nominations for candidates to the Board who satisfy the statutory requirements for membership. In addition, the Secretary, through NTIA, will accept expressions of interest from any

[1] 47 U.S.C. 1422(b).

[2] 47 U.S.C. 1424(b).

[3] 47 U.S.C. 1424(b)(2)(B).

[4] 47 U.S.C. 1424(b)(2)(A).

[5] 47 U.S.C. 1424(c)(2)(B).

[6] However, [a]ny member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term. *See* 47 U.S.C. 1424(c)(2)(C).

[7] 47 U.S.C. 1424(c)(2)(A)(ii).

[8] 47 U.S.C. 1424(g).

[9] *See* Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions, Office of Management and Budget, 79 FR 47482 (Aug. 13, 2014).

individual, or from any organization proposing a candidate who satisfies the statutory requirements for membership on the FirstNet Authority Board. To be considered for a calendar year 2022 appointment, expressions of interest must be electronically transmitted on or before March 14, 2022.

All parties submitting an expression of interest should submit the candidate's (i) full name, title, organization, address, telephone number, email address; (ii) current resume; (iii) brief bio; (iv) statement of qualifications that references how the candidate satisfies the Act's expertise, representational, and geographic requirements for FirstNet Authority Board membership, as described in this Notice; and (v) a statement describing why the candidate wants to serve on the FirstNet Authority Board, affirming their ability and availability to take a regular and active role in the Board's work.

The Secretary will select FirstNet Authority Board candidates based on the eligibility requirements in the Act and recommendations submitted by NTIA. NTIA will recommend candidates based on an assessment of qualifications as well as demonstrated ability to work in a collaborative way to achieve the goals and objectives of the FirstNet Authority as set forth in the Act. NTIA may consult with FirstNet Authority Board members or executives in making its recommendation. Board candidates will be vetted through the Department of Commerce and are subject to an appropriate background check for security clearance.

Dated: February 7, 2022.

**Kathy Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 2022–02879 Filed 2–9–22; 8:45 am]

**BILLING CODE 3510–WL–P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Meeting of the U.S. Naval Academy Board of Visitors

**AGENCY:** Department of the Navy, Department of Defense (DoD).

**ACTION:** Notice of partially closed meeting.

**SUMMARY:** The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Naval Academy Board of Visitors, hereafter ''Board,'' will take place.

**DATES:** Open to the public, February 28, 2022, from 9 a.m. to 11 a.m. Closed to the public, February 28, 2022, from 11 a.m. to noon (12 p.m.).

**ADDRESSES:** This meeting will be held at the United States Naval Academy in Annapolis, Maryland (MD). Pending prevailing health directives, the meeting will be handicap accessible. Escort is required.

**FOR FURTHER INFORMATION CONTACT:** Major Raphael Thalakottur, USMC, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, 410–293–1503, *thalakot@usna.edu,* or visit *https://www.usna.edu/PAO/Superintendent/bov.php.*

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 United States Code (U.S.C.), appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), the General Services Administration's Federal Advisory Committee Management Final Rule (41 Code of Federal Regulations (CFR) part 102–3).

*Purpose of Meeting:* The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board deems necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

*Agenda:* Proposed meeting agenda for February 28, 2022.

0830–0900 Members Assemble
0900 Call to Order (Open to Public)
0900–1055 Business Session (Open to Public)
1055–1100 Break (Open to Public)
1100–1200 Executive Session (Closed to Public)

Current details on the board of visitors may be found at *https://www.usna.edu/PAO/Superintendent/bov.php.*

The executive session of the meeting from 11:00 a.m. to 12:00 p.m. on February 28, 2022, will consist of discussions of new and pending administrative or minor disciplinary infractions and non-judicial punishments involving midshipmen attending the Naval Academy to include but not limited to, individual honor or conduct violations within the Brigade, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public, as the discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Secretary of the Navy, in consultation with the Department of the Navy General Counsel, has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11 a.m. to noon (12 p.m.) will be concerned with matters protected under sections 552b(c) (5), (6), and (7) of title 5, U.S.C.

*Authority:* 5 U.S.C. 552b.

*Meeting Accessibility:* Pursuant to FACA and 41 CFR 102–3.140, this meeting is open to the public. Any public attendance at the meeting will be governed by prevailing health directives at the United States Naval Academy. Please contact the Executive Secretary five business days prior the meeting to coordinate access to the meeting.

*Written Statements:* Per section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration at any time, but should be received by the Designated Federal Officer at least 10 business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written statements should be submitted via mail to 121 Blake Rd., Annapolis, MD 21402. Please note that since the Board operates under the provisions of the FACA, as amended, all submitted comments and public presentations may be treated as public documents and may be made available for public inspection, including, but not limited to, being posted on the board website. In the event that prevailing medical/public health directives require a virtual meeting, the meeting will be virtually broadcasted live from the United States Naval Academy. The broadcast will be close captioned for the duration of the public portion of the meeting. If, and only if, prevailing/public health directives require a virtual meeting, the link to view the meeting will be posted at *https://www.usna.edu/PAO/Superintendent/bov.php* forty-eight hours prior to the meeting. A virtual event will preclude accommodation of the public to attend the meeting in person.

Dated: February 7, 2022.

**J.M. Pike,**

*Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 2022–02854 Filed 2–9–22; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2022–SCC–0016]**

### Agency Information Collection Activities; Comment Request; Annual Performance Report for the Gaining Early Awareness for Undergraduate Programs

**AGENCY:** Office of Postsecondary Education (OPE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

**DATES:** Interested persons are invited to submit comments on or before April 11, 2022.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0016. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Nicole Josemans, 202–205–0064.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Annual Performance Report for the Gaining Early Awareness for Undergraduate Programs.

*OMB Control Number:* 1840–0777.

*Type of Review:* An extension without change of a currently approved collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments; Private Sector.

*Total Estimated Number of Annual Responses:* 155.

*Total Estimated Number of Annual Burden Hours:* 1,550.

*Abstract:* Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), created in the Higher Education Act Amendments of 1998 (Title IV, Section 404A–404H), is a discretionary grant program which encourages applicants to provide support and maintain a commitment to eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma and preparing for and succeeding in postsecondary education. GEAR UP provides grants to states and partnerships to provide services at high-poverty middle and high schools. GEAR UP grantees serve an entire cohort of students beginning no later than the seventh grade and follow them through graduation and, optionally, the first year of college.

The Annual Performance Report for Partnership and State Projects for Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) is a required report that grant recipients must submit annually. The purpose of this information collection is for accountability. The data is used to report on progress in meeting the performance objectives of GEAR UP, program implementation, and student outcomes. The data collected includes budget data on Federal funds and match contributions, demographic data, and data regarding services provided to students.

Dated: February 7, 2022.

**Kate Mullan,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2022–02890 Filed 2–9–22; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC21–40–000]**

### Commission Information Collection Activities (FERC–549B, FERC–549D, FERC–556, and FERC–561); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections: FERC–549B (Gas Pipeline Rates: Annual Capacity Reports and Index of Customers); FERC–549D (Quarterly Transportation and Storage Report For Intrastate Natural Gas and Hinshaw Pipelines); FERC–556 (Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility); FERC–561 (Annual Report of Interlocking Directorates). The above four collections are a part of this combined notice only and are not being combined into one OMB Control Number, which will be submitted to the Office of Management and Budget (OMB) for review. The Commission issued a 60-day notice on November 30, 2021 requesting public comments; no comments were received.

**DATES:** Comments on the collection of information are due March 14, 2022.

**ADDRESSES:** Send written comments on FERC–549B (OMB #1902–0169), FERC–549D (OMB #1902–0253), FERC–556 (OMB #1902–0075), and FERC–561 (OMB #1902–0099) to OMB through *www.reginfo.gov/public/do/PRAMain.*

Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number the specified OMB Control Number corresponding to the collection in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. IC21–40–000) by one of the following methods:

Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service Only: Addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

*Instructions:* OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review'' field, select Federal Energy Regulatory Commission; click ''submit,'' and select ''comment'' to the right of the subject collection.

*FERC submissions* must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov/ferc-online/overview.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

**SUPPLEMENTARY INFORMATION:**

**1. FERC–549B**

*Title:* FERC–549B, Gas Pipeline Rates: Capacity Reports and Index of Customers.

*OMB Control No.:* 1902–0169.

*Type of Request:* Three-year extension of the FERC–549B information collection requirements with no changes to the current reporting requirements. The Commission issued a 60-day notice on November 30, 2021 (86 FR 67943) requesting public comments; no comments were received.

*Abstract:* As described below, FERC–549B is comprised of information collection activities at 18 CFR 284.13(b), 284.13(c), 284.13(d)(1), and 284.13(d)(2). The purpose of these information collection activities is to provide reliable information about capacity availability and price that shippers need to make informed decisions in a competitive market. In addition, the information enables shippers and the Commission to monitor marketplace behavior to detect, and remedy, anti-competitive behavior.

The regulations at 18 CFR 284.13(b) and 284.13(d)(1) require each interstate pipeline to post information about firm and interruptible service on its internet website, and in downloadable file formats. The information required at 18 CFR 284.13(b) includes identification of the shippers receiving service and details about contracts for firm service, capacity release transactions,[1] and agreements for interruptible service. The pipeline must maintain access to that information for a period not less than 90 days from the date of posting. The regulation at 18 CFR 284.13(d)(1) requires equal and timely access to information relevant to the availability of all transportation services whenever capacity is scheduled. In addition, each interstate pipeline must provide information about the volumes of no-notice transportation [2] provided. The regulation and this information collection activity enable shippers to release transportation and storage capacity to other shippers wanting to obtain capacity. The information results in reliable capacity information availability and price data that shippers need to make informed decisions in a competitive market and enables shippers and the Commission to monitor the market for potential abuses.

The regulation at 18 CFR 284.13(c) requires each interstate pipeline to file with the Commission an index of all its firm transportation and storage customers under contract on the first business day of each calendar quarter. The index of customers also must be posted on the pipeline's own internet website, in downloadable file formats, and must be made available until the next quarterly index is posted. The requirements for the electronic index can be obtained from the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426.

The regulation at 18 CFR 284.13(d)(2) requires interstate pipelines to make an annual filing by March 1 of each year showing the estimated peak day capacity of the pipeline's system, and the estimated storage capacity and maximum daily delivery capability of storage facilities under reasonably representative operating assumptions and the respective assignments of that capacity to the various firm services provided by the pipeline.

*Types of Respondents:* Respondents for this data collection are interstate pipelines and storage facilities subject to FERC regulation under the Natural Gas Act.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden [3] and cost [4] for FERC–549B as shown in the following table:

[1] As provided at 18 CFR 284.8, an interstate pipeline that offers transportation service on a firm basis must include in its tariff a mechanism for firm shippers to release firm capacity to the pipeline for resale.

[2] No-notice transportation allows for the reservation of pipeline capacity on demand without incurring any penalties.

[3] For FERC–549B, FERC–549D, FERC–556, and FERC–561, ''burden'' is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[4] For FERC–549B, the Commission staff believes that industry is similarly situated to the Commission in terms of wages and benefits. Therefore, cost estimates are based on FERC's 2021 average annual wage (and benefits) for a full-time employee of $180,703 (or $87.00/hour).

FERC–549B—GAS PIPELINE RATES: CAPACITY REPORTS AND INDEX OF CUSTOMERS

| | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1) * (2) = (3) | Average burden and cost ($) per response (4) | Total annual burden and total annual cost ($) (3) * (4) = (5) | Cost per respondent ($) (5) ÷ (1) |
|---|---|---|---|---|---|---|
| Capacity Reports under 284.13(b) & 284.13(d)(1) | 168 | 6 | 1,008 | 145 hrs.; $12,615 | 146,160 hrs.; $12,715,920. | $75,690 |
| Peak Day Annual Capacity Report under 284.13(d)(2) | 168 | 1 | 168 | 10 hrs.; $870 | 1,680 hrs.; $146,160 | 870 |
| Index of Customers under 284.13(c)[5] | 168 | 4 | 672 | 3 hrs.; $261 | 2,016 hrs.; $175,392 | 1,044 |
| Total | | | 1,848 | | 149,856 hrs.; $13,037,47240. | 77,604 |

**2. FERC–549D**

*Title:* FERC–549D, Quarterly Transportation and Storage Report for Intrastate Natural Gas and Hinshaw Pipelines.

*OMB Control No.:* 1902–0253.

*Type of Request:* Three-year extension of the FERC–549D information collection requirements with no changes to the current reporting requirements. The Commission issued a 60-day notice on November 30, 2021 (86 FR 67943) requesting public comments; no comments were received.

*Abstract:* The reporting requirements under FERC–549D are required to carry out the Commission's policies in accordance with the general authority in Section 1(c) of the Natural Gas Act (NGA) [6] and Section 311 of the Natural Gas Policy Act of 1978 (NGPA).[7] This collection promotes transparency by making available intrastate and Hinshaw pipeline transactional information. The Commission collects the data on a standardized form with all requirements outlined in 18 CFR 284.126.

The FERC–549D collects the following information:

- Full legal name and identification number of the shipper receiving service, including whether the pipeline and the shipper are affiliated;
- Type of service performed;
- The rate charged under each contract;
- The primary receipt and delivery points for each contract;
- The quantity of natural gas the shipper is entitled to transport, store, or deliver for each transaction;
- The duration of the contract, specifying the beginning and (for firm contracts only) ending month and year of current agreement;
- Total volumes transported, stored, injected or withdrawn for the shipper; and
- Annual revenues received for each shipper, excluding revenues from storage services.

Filers submit the Form-549D on a quarterly basis.

*Type of Respondents:* Intrastate natural gas pipelines under NGPA Section 311 authority and Hinshaw pipelines.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden and cost [8] for the information collection as follows:

FERC–549D—QUARTERLY TRANSPORTATION AND STORAGE REPORT FOR INTRASTATE NATURAL GAS AND HINSHAW PIPELINES

| | Average annual number of respondents (1) | Average annual number of responses per respondent (2) | Average annual total number of responses (1) * (2) = (3) | Average burden hours and cost ($) per response (4) | Total annual burden hours and total annual cost ($) (rounded) (3) * (4) = (5) | Cost per respondent ($) (5) ÷ (1) |
|---|---|---|---|---|---|---|
| PDF filings | 120 | 4 | 480 | 12.5 hrs.; $1,161.50. | 6,000 hrs.; $557,520 | $4,646 |
| Total | | | 480 | | 6,000 hrs.; $557,520 | |

**3. FERC–556**

*Title:* FERC–556, Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility.

*OMB Control No.:* 1902–0075.

*Type of Request:* Three-year extension of the FERC–556 information collection requirements with no changes to the current reporting requirements. The Commission issued a 60-day notice on November 30, 2021 (86 FR 67943) requesting public comments; no comments were received.

*Abstract:* Form No. 556 is required to implement sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 [9] (PURPA). FERC is authorized, under those sections, to encourage cogeneration and small power production and to prescribe such rules as necessary to carry out the statutory directives.

A primary statutory objective is efficient use of energy resources and facilities by electric utilities. One means of achieving this goal is to encourage production of electric power by cogeneration facilities which makes use of reject heat associated with commercial or industrial processes, and by small power production facilities which use other wastes and renewable resources. PURPA encourages the development of small power production

[5] The burden per response is based on burden expended on similar forms and other similar FERC reporting requirements (*e.g.* capacity reports).

[6] 15 U.S.C. 717(c).

[7] 15 U.S.C. 3371.

[8] For FERC–549D, the hourly wage figure is $92.92/hour (rounded). This cost represents the average hourly cost (for wages plus benefits) of four career fields: 23–0000 Legal ($142.25/hour), 13–2011 Accountants ($57.41/hour), 13–1111 Management Analyst ($68.39/hour), and 11–3021 Computer and Information Sys. ($103.61/hour). These June 2021 figures were compiled using Bureau of Labor Statistics data that were specific to each occupational category: *http://bls.gov/oes/current/naics2_22.htm.*

[9] 16 U.S.C. 796 and 824i.

facilities and cogeneration facilities that meet certain technical and corporate criteria through establishment of various regulatory benefits. Facilities that meet these criteria are called Qualifying Facilities (QFs).

FERC's regulations in 18 CFR part 292, as relevant here, specify: (a) The certification procedures which must be followed by owners or operators of small power production and cogeneration facilities; (b) the criteria which must be met; (c) the information which must be submitted to FERC in order to obtain qualifying status; and (d) the PURPA benefits which are available to QFs to encourage small power production and cogeneration.

18 CFR part 292 also exempts QFs from certain corporate, accounting, reporting, and rate regulation requirements of the Federal Power Act,[10] certain state laws, and the Public Utility Holding Company Act of 2005.[11]

*Type of Respondents:* Facilities that are self-certifying their status as a co-generator or a Small Power Producer that is submits an application for FERC certification of their status as a co-generator.

*Estimate of Annual Burden:* The Commission estimates the burden and cost for this information collection as follows:

FERC–556—Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility

| Facility type | Filing type | Number of respondents (1) | Number of responses per respondent (2) | Total number of responses (1) * (2) = (3) | Average burden hours and cost per response [12] (4) | Total annual burden hours and total annual cost (rounded) (3) * (4) = (5) | Cost per respondent ($) (rounded) (5) ÷ (1) |
|---|---|---|---|---|---|---|---|
| Cogeneration Facility >1 MW [13]. | Self-certification | 68 | 2.14 | 145.52 | 3.54 hrs; $307.98. | 515.14 hrs; $44,817.18 | $659.07 |
| Cogeneration Facility >1 MW. | Application for FERC certification. | 28.89 | 2.14 | 61.81 | 50 hrs; $4,350 | 3,090.52 hrs; $268,875.24 | 930.26 |
| Small Power Production Facility >1 MW. | Self-certification | 2,698 | 2.14 | 5,773.72 | 3.54 hrs; $307.98. | 20,438.97 hrs; $1,778,190.39. | 659.07 |
| Small Power Production Facility >1 MW. | Application for FERC certification. | 0 | 2.14 | 0 | 50 hrs; $4,350 | 0 hrs; $0 | 0 |
| Cogeneration and Small Power Production Facility ≤1 MW (Self-Certification) [14]. | Self-certification | 697 | 2.14 | 1,491.58 | 3.54 hrs; $307.98. | 2,237.37 hrs; $194,651.19 | 279.27 |
| Total | | 3,469 | | 7,423.66 | | 26,282 hrs; $2,286,534 | |

**4. FERC–561**

*Title:* FERC–561, Interlocking Directorates.

*OMB Control No.:* 1902–0099.

*Type of Request:* Three-year extension of the FERC–561 information collection requirements with no changes to the current reporting requirements. The Commission issued a 60-day notice on November 30, 2021 (86 FR 67943) requesting public comments; no comments were received.

*Abstract:* The FERC Form 561 responds to the Federal Power Act (FPA) requirements for annual reporting of similar types of positions which public utility officers and directors hold with financial institutions, insurance companies, utility equipment and fuel providers, and with any of an electric utility's 20 largest purchasers of electric energy (*i.e.,* the 20 entities with high expenditures of electricity). The FPA specifically defines most of the information elements in the Form 561 including the information that must be filed, the required filers, the directive to make the information available to the public, and the filing deadline.

The Commission uses the information required by 18 CFR 131.31 and collected by the Form 561 to implement the FPA requirement that those who are authorized to hold interlocked directorates annually disclose all the interlocked positions held within the prior year. The Form 561 data identifies persons holding interlocking positions between public utilities and other entities, allows the Commission to review these interlocking positions, and allows identification of possible conflicts of interest.

*Type of Respondents:* Each officer or director of a public utility also holding the position of officer, director, partner, appointee, or representative of any other entity listed in section 305(c)(2) of the FPA (including but not limited to organizations primarily engaged in the business of providing financial services or credit, insurance companies, security underwriters, electrical equipment suppliers, fuel provider, and any entity which is controlled by one or more of these entities).

*Estimate of Annual Burden:* The Commission estimates the total annual burden and cost [15] for this information collection as follows:

[10] 16 U.S.C. 791a, *et seq.*

[11] 42 U.S.C. 16451 through 165463.

[12] The Commission staff believes that industry is similarly situated in terms of wages and benefits. Therefore, cost estimates are based on FERC's 2021 average annual wage (and benefits) for a full-time employee of $180,703 (or $87.00/hour).

[13] MW = megawatt.

[14] The regulation at 18 CFR 292.203(d) exempts small power production facilities and cogeneration facilities from self-certification if they have a net power production capacity of 1 MW or less. However, we are disclosing burdens for these filings because some facilities seek status as qualifying facilities regardless of their capacity.

[15] Commission staff estimates that the industry's skill set and cost (for wages and benefits) for FERC–561 are approximately the same as the Commission's average cost. The FERC 2021 average salary plus benefits for one FERC full-time equivalent (FTE) is $180,703/year (or $87.00/hour).

FERC FORM 561—ANNUAL REPORT OF INTERLOCKING DIRECTORATES

| Number of respondents | Annual number of responses per respondent | Total number of responses | Average burden and cost per response | Total annual burden hours and total annual cost | Cost per respondent ($) |
|---|---|---|---|---|---|
| (1) | (2) | (1) * (2) = (3) | (4) | (3) * (4) = (5) | (5) ÷ (1) |
| 2,700 | 1 | 2,700 | 0.25 hrs.; $21.75 | 675 hrs.; $58,725 | $21.75 |

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: February 4, 2022.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2022–02834 Filed 2–9–22; 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:* RP22–534–000.

*Applicants:* Viking Gas Transmission Company.

*Description:* § 4(d) Rate Filing: Negotiated Rate PAL—World Fuel Services, Inc. to be effective 2/3/2022.

*Filed Date:* 2/2/22.

*Accession Number:* 20220202–5140.

*Comment Date:* 5 p.m. ET 2/14/22.

*Docket Numbers:* RP22–535–000.

*Applicants:* Guardian Pipeline, L.L.C.

*Description:* § 4(d) Rate Filing: Negotiated Rate PAL Agreements—Koch and Mercuria to be effective 2/2/2022.

*Filed Date:* 2/2/22.

*Accession Number:* 20220202–5172.

*Comment Date:* 5 p.m. ET 2/14/22.

*Docket Numbers:* RP22–536–000.

*Applicants:* Transcontinental Gas Pipe Line Company, LLC.

*Description:* § 4(d) Rate Filing: Rate Schedule S–2 Tracker Filing eff 2–1–2022 to be effective 2/1/2022.

*Filed Date:* 2/3/22.

*Accession Number:* 20220203–5111.

*Comment Date:* 5 p.m. ET 2/15/22.

*Docket Numbers:* RP22–537–000.

*Applicants:* Viking Gas Transmission Company.

*Description:* § 4(d) Rate Filing: Negotiated Rate PAL—World Fuel Services, Inc. Agreements VR1089 and VR1090 to be effective 2/4/2022.

*Filed Date:* 2/3/22.

*Accession Number:* 20220203–5113.

*Comment Date:* 5 p.m. ET 2/15/22.

*Docket Numbers:* RP22–538–000.

*Applicants:* Puget Sound Energy.

*Description:* § 4(d) Rate Filing: Amendment No. 14 and 15 to be effective 1/14/2015.

*Filed Date:* 2/3/22.

*Accession Number:* 20220203–5137.

*Comment Date:* 5 p.m. ET 2/15/22.

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 (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 4, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2022–02849 Filed 2–9–22; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP22–42–000]**

### Northern Natural Gas Company; Notice of Application and Establishing Intervention Deadline

Take notice that on January 21, 2022, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, NE 68124, filed an application under sections 7(c) and 7(b) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization to: (1) Abandon in-place the A-line and appurtenances in Boone, Webster, Wright, and Hancock counties, Iowa; and (2) install the D-line extension and above-ground facilities, all with appurtenances, in Wright County, Iowa. Northern estimates the cost for the project to be $31,245,046.

Specifically, Northern proposes to abandon approximately 82.70 miles of 20-inch-diameter pipeline on Northern's IAM60601 A-line system and appurtenances. Northern also requests authorization to construct and operate an approximately 6.04-mile extension of its 30-inch-diameter Ogden to Ventura IAM60604 D-line and appurtenances to replace the capacity associated with the abandoned A-line, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy

Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Michael T. Loeffler, Senior Director of Certificates and External Affairs for Northern, 1111 South 103rd Street, Omaha, NE 68124, by telephone at (402) 398–7103, or by email at *mike.loeffler@nngco.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: Complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

**Public Participation**

There are two ways to become involved in the Commission's review of this project: You can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on February 25, 2022.

*Comments*

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 25, 2022.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number CP22–42–000 in your submission.

(1) You may file your comments electronically by using the *eComment* feature, which is located on the Commission's website at *www.ferc.gov* under the link to *Documents and Filings.* Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address below.[2] Your written comments must reference the Project docket number (CP22–42–000).

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

*Interventions*

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[3] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure[4] and the regulations under the NGA[5] by the intervention deadline for the project, which is February 25, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. [For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene.] For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP22–42–000 in your submission.

(1) You may file your motion to intervene by using the Commission's *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below.[6] Your motion to intervene must reference the Project docket number CP22–42–000.

Kimberly D. Bose Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

[1] 18 CFR (Code of Federal Regulations) § 157.9.

[2] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[3] 18 CFR 385.102(d).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: 1111 South 103rd Street, Omaha, NE 68124 or at *mike.loeffler@nngco.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

All timely, unopposed [7] motions to intervene are automatically granted by operation of Rule 214(c)(1).[8] Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[9] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

**Tracking the Proceeding**

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

*Intervention Deadline:* 5:00 p.m. Eastern Time on February 25, 2022.

Dated: February 4, 2022.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2022–02837 Filed 2–9–22; 8:45 am]

**BILLING CODE 6717–01–P**

[7] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[8] 18 CFR 385.214(c)(1).

[9] 18 CFR 385.214(b)(3) and (d).

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG22–50–000.

*Applicants:* Sapphire Sky Wind Energy LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Sapphire Sky Wind Energy LLC.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5039.

*Comment Date:* 5 p.m. ET 2/25/22.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER21–2215–000.

*Applicants:* Peoples Natural Gas.

*Description:* Refund Report: Peoples Natural Gas Refund Report to be effective N/A.

*Filed Date:* 9/20/21.

*Accession Number:* 20210920–5043.

*Comment Date:* 5 p.m. ET 2/25/22.

*Docket Numbers:* ER22–331–001.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Tariff Amendment: Deficiency Response—Review of Base Plan Allocation Methodology to be effective 1/3/2022.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5043.

*Comment Date:* 5 p.m. ET 2/25/22.

*Docket Numbers:* ER22–358–001.

*Applicants:* Public Service Electric and Gas Company, PJM Interconnection, L.L.C.

*Description:* Tariff Amendment: Public Service Electric and Gas Company submits tariff filing per 35.17(b): PJM Transmission Owners' Resp. to FERC Staff's Deficiency Letter in ER22–358 to be effective 1/10/2022.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5121.

*Comment Date:* 5 p.m. ET 2/25/22.

*Docket Numbers:* ER22–660–001.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Amendment: Errata to ISA/ICSA SA Nos. 6235/6236, Queue No. AE2–342 in Docket No. ER22–660 to be effective 11/15/2021.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5146.

*Comment Date:* 5 p.m. ET 2/25/22.

*Docket Numbers:* ER22–992–000.

*Applicants:* Southern California Edison Company.

*Description:* Tariff Amendment: LGIA Menifee Power Bank TOT934 SA No 278 to be effective 2/28/2022.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5063.

*Comment Date:* 5 p.m. ET 2/25/22.

*Docket Numbers:* ER22–993–000.

*Applicants:* Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.13(a)(2)(iii: MAIT submits SA No. 6038 Perks ECSA to be effective 2/5/2022.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5070.

*Comment Date:* 5 p.m. ET 2/25/22.

*Docket Numbers:* ER22–994–000.

*Applicants:* Idaho Power Company.

*Description:* § 205(d) Rate Filing: OATT Depreciation Rate Update Filing to be effective 1/1/2022.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5109.

*Comment Date:* 5 p.m. ET 2/25/22.

*Docket Numbers:* ER22–995–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2022–02–04_Long Range Transmission Plan (LRTP) Cost Allocation to be effective 5/19/2022.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5118.

*Comment Date:* 5 p.m. ET 3/7/22.

*Docket Numbers:* ER22–996–000.

*Applicants:* Duke Energy Progress, LLC.

*Description:* Tariff Amendment: DEP-City of Camden RS 378 Termination to be effective 4/6/2022.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5147.

*Comment Date:* 5 p.m. ET 2/25/22.

*Docket Numbers:* ER22–997–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2022–02–04_Attachment FF–4_ Consumers Energy Removal to be effective 4/6/2022.

*Filed Date:* 2/4/22.

*Accession Number:* 20220204–5154.

*Comment Date:* 5 p.m. ET 2/25/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 4, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2022–02848 Filed 2–9–22; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2021–0254; FRL–9347–03–OCSPP]**

### Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos; Draft Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act (TSCA); Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; extension of comment period.

**SUMMARY:** In the **Federal Register** of December 29, 2021, EPA announced the availability of and solicited public comment on the draft scope of a risk evaluation under the Toxic Substances Control Act (TSCA) for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos. This document extends the comment period for 15 days from February 14, 2022, to March 1, 2022.

**DATES:** The comment period for the notice published on December 29, 2021, at 86 FR 74088 is extended. Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0254, must be received on or before March 1, 2022.

**ADDRESSES:** Submit your comments, identified by ID number EPA–HQ–OPPT–2021–0254, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets/about-epa-dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Peter Gimlin, Existing Chemical Risk Management Division (Mail Code 7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0515; email address: *gimlin.peter@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:** This document extends the public comment period established in the **Federal Register** document of December 29, 2021 (86 FR 74088) (FRL–9347–01–OCSPP) for 15 days, from February 14, 2022, to March 1, 2022. In that document, in accordance with implementing regulations for the Toxic Substances Control Act (TSCA), EPA announced the availability of and solicited public comment on the draft scope of the risk evaluation for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos. More information on EPA's draft risk assessment and solicitation of comment can be found in the **Federal Register** of December 29, 2021.

EPA received requests to extend the comment period and believes it is appropriate to do so in order to give stakeholders additional time to review the draft scope document and prepare comments.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES**. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

**Michal Freedhoff,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2022–02851 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9378–01–OA]**

### Farm, Ranch, and Rural Communities Advisory Committee (FRRCC); Notice of Charter Renewal

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), the Farm, Ranch, and Rural Communities Advisory Committee (FRRCC) is in the public interest and is necessary in connection with the performance of EPA's duties. Accordingly, the FRRCC will be renewed for an additional two-year period. The purpose of the FRRCC is to provide advice and recommendations to the EPA Administrator on environmental issues and policies that are of importance to agriculture and rural communities. Inquiries may be directed to Venus Welch-White, Designated Federal Officer or Emily Selia, Alternate Designated Federal Officer for the FRRCC, U.S. EPA, (Mail Code 1101A), 1200 Pennsylvania Avenue NW, Washington, DC 20460, or *FRRCC@epa.gov.*

Dated: January 27, 2022.

**Rodney Snyder,**

*Agriculture Advisor to the EPA Administrator.*

[FR Doc. 2022–02791 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2022–0170; FRL–9471–01–OCSPP]**

### United States Department of Justice and Parties to Certain Litigation; Transfer of Data

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces that pesticide-related information submitted to the Environmental Protection Agency (EPA) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to the U.S. Department of

Justice (DOJ) and parties to certain litigation. This transfer of data is in accordance with the CBI regulations governing the disclosure of potential CBI in litigation.

**DATES:** Access to this information by DOJ and the parties to certain litigation is ongoing and expected to continue during the litigation as discussed in this Notice.

**FOR FURTHER INFORMATION CONTACT:** Ana Pinto, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566–2268; email address: *pinto.ana@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is being provided pursuant to 40 CFR 2.209(d) to inform affected businesses that EPA, via DOJ, will provide certain information to the parties and the Court in the matter of *California Rural Legal Assistance Foundation, et al.* v. *U.S. Environmental Protection Agency, et al.* (Case No. 21–71287) (9th Cir.) (''Paraquat Litigation''). The information is contained in documents that have been submitted to EPA pursuant to FIFRA and FFDCA by pesticide registrants or other data-submitters, including information that has been claimed to be, or determined to potentially contain, CBI. In the Paraquat Litigation, Petitioners seek judicial review of EPA's July 13, 2021, order titled *Paraquat Dichloride, Interim Registration Review Decision: Case Number 0262* under FIFRA.

The documents are being produced as part of the Administrative Record of the decision at issue and include documents that registrants or other data-submitters may have submitted to EPA regarding the pesticide paraquat and that may be subject to various release restrictions under federal law. The information includes documents submitted with pesticide registration applications and registration review actions and may include CBI as well as scientific studies subject to the disclosure restrictions of FIFRA section 10(g), 7 U.S.C. 136h(g).

All documents that may be subject to release restrictions under federal law will be designated as ''Protected Information'' in the certified list of record materials that EPA will file in this case. Further, EPA intends to seek a Protective Order that would preclude public disclosure of any such documents by the parties in this action who have received the information from EPA and that would limit the use of such documents to litigation purposes only. EPA would only produce such documents in accordance with the Protective Order. The anticipated Protective Order would require that such documents would be filed under seal and would not be available for public review, unless the information contained in the document has been determined to not be subject to FIFRA section 10(g) and all CBI has been redacted.

*Authority:* 7 U.S.C. 136 *et seq.;* 21 U.S.C. 301 *et seq.*

Dated: February 2, 2022.

**Mary Reaves,**

*Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2022–02846 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–R09–OAR–2022–0135; FRL–9524–01–R9]**

## Adequacy Status of Motor Vehicle Emissions Budgets in 1997 Annual $PM_{2.5}$ Serious Area and Section 189(d) Attainment Plan Revision for San Joaquin Valley; California

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of adequacy.

**SUMMARY:** The Environmental Protection Agency (EPA or ''Agency'') is notifying the public that the Agency has found motor vehicle emissions budgets (''budgets'') adequate in a California state implementation plan (SIP) submittal for the San Joaquin Valley. Specifically, our finding relates to budgets in the area's ''Attainment Plan Revision for the 1997 Annual $PM_{2.5}$ Standard'' (''15 μg/m³ SIP Revision''), submitted by the California Air Resources Board (CARB) on November 8, 2021. We find that these budgets are adequate for transportation conformity purposes for the 1997 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). Upon the effective date of this notice of adequacy, the San Joaquin Valley metropolitan planning organizations (MPOs) and the U.S. Department of Transportation must use these adequate budgets in future transportation conformity determinations. Furthermore, once the San Joaquin Valley MPOs have used the adequate budgets to demonstrate conformity of their transportation plans to the 15 μg/m³ SIP Revision, the conformity freeze put in place as of December 27, 2021, will be lifted.

**DATES:** This finding is effective February 25, 2022.

**FOR FURTHER INFORMATION CONTACT:** Ashley Graham, Air Planning Office (ARD–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 972–3877 or *graham.ashleyr@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us,'' or ''our'' refer to the EPA.

This notice is simply an announcement of a finding that we have already made. By letter dated February 1, 2022, EPA Region IX notified CARB that the budgets in the 15 μg/m³ SIP Revision for the reasonable further progress (RFP) year of 2020 and the attainment year of 2023 are adequate.[1] The finding is available at the EPA's conformity website.[2] We announced the availability of the 15 μg/m³ SIP Revision and related motor vehicle emissions budgets on the EPA's transportation conformity website on November 15, 2021, and requested comments by December 15, 2021. We received no comments in response to the adequacy review posting. The adequate motor vehicle emissions budgets are provided in the following table:

ADEQUATE MOTOR VEHICLE EMISSION BUDGETS FOR THE SAN JOAQUIN VALLEY FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS

[Annual average, tpd]

| County | 2020 (RFP year) | | 2023 (attainment year) | |
|---|---|---|---|---|
| | $PM_{2.5}$ | $NO_X$ | $PM_{2.5}$ | $NO_X$ |
| Fresno | 0.9 | 25.3 | 0.8 | 15.1 |

[1] Letter dated February 1, 2022, from Matthew Lakin, Acting Director, Air and Radiation Division, EPA Region IX, to Richard Corey, Executive Officer, CARB.

[2] *https://www.epa.gov/state-and-local-transportation/conformity-adequacy-review-region-9.*

ADEQUATE MOTOR VEHICLE EMISSION BUDGETS FOR THE SAN JOAQUIN VALLEY FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS—Continued

[Annual average, tpd]

| County | 2020 (RFP year) | | 2023 (attainment year) | |
|---|---|---|---|---|
| | $PM_{2.5}$ | $NO_X$ | $PM_{2.5}$ | $NO_X$ |
| Kern (San Joaquin Valley portion) | 0.8 | 23.3 | 0.7 | 13.3 |
| Kings | 0.2 | 4.8 | 0.2 | 2.8 |
| Madera | 0.2 | 4.2 | 0.2 | 2.5 |
| Merced | 0.3 | 8.9 | 0.3 | 5.3 |
| San Joaquin | 0.6 | 11.9 | 0.6 | 7.6 |
| Stanislaus | 0.4 | 9.6 | 0.4 | 6.1 |
| Tulare | 0.4 | 8.5 | 0.4 | 5.2 |

Transportation conformity is required by Clean Air Act section 176(c). The EPA's conformity rule requires that transportation plans, transportation improvement programs, and transportation projects conform to a state's SIP and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.

The criteria we use to determine whether a SIP's motor vehicle emissions budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4), promulgated on August 15, 1997.[3] We further described our process for determining the adequacy of submitted SIP budgets in our final rule dated July 1, 2004, and we used the information in these resources in making our adequacy determination.[4] Please note that an adequacy review is separate from the EPA's completeness review and should not be used to prejudge the EPA's ultimate action on the SIP submittal. Even if we find a budget adequate, the SIP submittal could later be disapproved.

Pursuant to 40 CFR 93.104(e), within two years of the effective date of this notice, San Joaquin Valley MPOs and the U.S. Department of Transportation will need to demonstrate conformity to the new budgets if the demonstration has not already been made.[5] Once the San Joaquin Valley MPOs have used the adequate budgets to demonstrate conformity of their transportation plans to the 15 μg/m$^3$ SIP Revision, the conformity freeze put in place as of December 27, 2021, under 40 CFR 93.120(a)(2)[6] will be lifted. For demonstrating conformity to the budgets in this plan, the on-road motor vehicle emissions from implementation of the transportation plan or program should be projected consistently with the budgets in this plan, *i.e.,* by taking the emissions results derived from CARB's EMFAC model (short for EMission FACtor) and then rounding the emissions up to the nearest tenth of a ton per day. The trading mechanism for the budgets in the 15 μg/m$^3$ SIP Revision for the 1997 annual $PM_{2.5}$ NAAQS is not yet approved. The EPA will consider approval of the trading mechanism as part of the action on the submittal.

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

Dated: February 3, 2022.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

[FR Doc. 2022–02771 Filed 2–9–22; 8:45 am]

**BILLING CODE 6560–50–P**

[3] 62 FR 43780, 43781–43783.

[4] 69 FR 40004, 40038–40047.

[5] 73 FR 4420 (January 24, 2008).

[6] On November 26, 2021 (86 FR 67329), the EPA disapproved the RFP and attainment demonstrations and associated budgets in the ''2018 Plan for the 1997, 2006, and 2012 $PM_{2.5}$ Standards'' for the 1997 annual $PM_{2.5}$ NAAQS. Upon the effective date of that final action (*i.e.,* December 27, 2021), the San Joaquin Valley area became subject to a conformity freeze under 40 CFR 93.120 of the transportation conformity rule.

## FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

### Notice of 2022 FASAB Meetings

**AGENCY:** Federal Accounting Standards Advisory Board.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) will hold its meetings on the following dates throughout 2022, unless otherwise noted.

February 23–24, 2022
April 26–27, 2022
June 22–23, 2022
August 23–24, 2022
October 25–26, 2022
December 13–14, 2022

The purpose of the meetings is to discuss issues related to the following topics:

Accounting and Reporting of Government Land
Climate-Related Financial Reporting
Intangible Assets
Leases
Omnibus
Public-Private Partnerships
Reexamination of Existing Standards
Budgetary Information
Concepts Omnibus
Management's Discussion and Analysis
Software Technology
Any other topics as needed

Unless otherwise noted, FASAB meetings begin at 9:00 a.m. and conclude before 5 p.m. and are held at the U.S. Government Accountability Office (GAO) Building at 441 G St. NW in Room 7C13. The February meeting will be held virtually.

**ADDRESSES:** Agendas, briefing materials, and teleconference information for virtual meetings will be available at *https://www.fasab.gov/briefing-materials/* approximately one week before each meeting. If FASAB decides to hold its April, June, August, October, and/or December meetings virtually, this decision will be posted no later than one week before each meeting on the briefing materials website as well.

Any interested person may attend the meetings as an observer. Board discussion and reviews are open to the public. GAO Building security requires advance notice of your attendance. If you wish to attend a FASAB meeting, please register on our website at *https://www.fasab.gov/pre-registration/* no later than 5 p.m. the Friday before the meeting to be observed.

**FOR FURTHER INFORMATION CONTACT:** Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

*Authority:* 31 U.S.C. 3511(d), Federal Advisory Committee Act, as amended (5 U.S.C. app.).

Dated: February 1, 2022.

**Monica R. Valentine,**

*Executive Director.*

[FR Doc. 2022–02838 Filed 2–9–22; 8:45 am]

**BILLING CODE P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–1000; FR ID 71005]**

### 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 April 11, 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:* 3060–1000.

*Title:* Section 87.147, Authorization of Equipment.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 25 respondents; 25 responses.

*Estimated Time per Response:* 1 hour.

*Frequency of Response:* One time and occasion reporting requirements and third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 303 and 307(e) of the Communications Act of 1934, as amended.

*Total Annual Burden:* 25 hours.

*Total Annual Cost:* No cost.

*Needs and Uses:* Section 87.147 is needed to require applicants for aviation equipment certification to submit a Federal Aviation Administration (FAA) determination of the equipment's compatibility with the National Airspace System (NAS). This will ensure that radio equipment operating in certain frequencies is compatible with the NAS, which shares system components with the military. The notification must describe the equipment, along with a report of measurements, give the manufacturer's identification, antenna characteristics, rated output power, emission type and characteristics, the frequency or frequencies of operation, and essential receiver characteristics if protection is required.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2022–02898 Filed 2–9–22; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0392; FR ID 70914]**

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments and recommendations for the proposed information collection should be submitted on or before March 14, 2022.

**ADDRESSES:** Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6)

when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control Number.:* 3060–0392.

*Title:* 47 CFR 1 Subpart J—Pole Attachment Complaint Procedures.

*Form Number:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Businesses or other for-profit.

*Number of Respondents and Responses:* 1,760 respondents; 1,760 responses.

*Estimated Time per Response:* 0.50 hours (30 minutes)—75 hours.

*Frequency of Response:* On occasion reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 224.

*Total Annual Burden:* 2,759 hours.

*Total Annual Cost:* $15,000.

*Privacy Act Impact Assessment:* No privacy impact(s).

*Nature and Extent of Confidentiality:* No questions of a confidential nature are asked. However, respondents may request that materials or information submitted to the Commission in a complaint proceeding be withheld from public inspection under 47 CFR 0.459.

*Needs and Uses:* Currently, OMB Collection No. 3060– 0392, tracks the burdens associated with requests for access to a utility's poles as well as the filing of complaints and petitions for stay against the actions of said utility. The Commission will use the information collected to assess whether the petition or complaint can proceed as a docketed case.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer.*

[FR Doc. 2022–02893 Filed 2–9–22; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–1185; FR ID 70680]**

### 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 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 April 11, 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:* 3060–1185.

*Title:* Annual Report for Mobility Fund Phase I Support, FCC Form 690 and Record Retention Requirements.

*Form Number:* FCC Form 690.

*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 governments.

*Number of Respondents and Responses:* 34 respondents and 880 responses.

Time per Response: 1–18 hours.

*Frequency of Response:* Annual and on occasion reporting requirement; recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection 47 U.S.C. 154, 254 and 303(r) of the Communications Act of 1934, as amended.

*Estimated Total Annual Burden:* 15,874 hours.

*Total Annual Costs:* No Cost.

*Needs and Uses:* A request for extension of this information collection (no change in requirements) will be submitted to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three year clearance from OMB. The Commission uses the information contained in this collection to ensure that each winning bidder is meeting its obligations for receiving Mobility Fund Phase I (MF–I) and Tribal Mobility Fund Phase I (TMF–I) support. In its November 2011 *USF/ICC Transformation Order* (FCC 11–161), the Commission comprehensively reformed and modernized the high-cost program within the universal service fund and, among other things, established the Mobility Fund. The Commission adopted rules in the *USF/ICC Transformation Order* for MF–I, which provided up to $300 million in one-time universal service support payments to immediately accelerate deployment of mobile broadband services in unserved areas, including annual reporting and record retention requirements for MF–I support recipients. The Commission also established a separate and complementary one-time TMF–I to

award up to $50 million in additional universal service funding to Tribal Areas, including Alaska, to accelerate mobile broadband availability in these remote and underserved areas. In its May 2012 *Third Order on Reconsideration* (FCC 12–52), the Commission revised certain rules adopted in the *USF/ICC Transformation Order,* including the deadline by which MF–I and TMF–I support recipients must file their annual reports pursuant to 47 CFR 54.1009(a). The information being collected under this information collection will be used by the Commission to ensure that MF–I and TMF–I support recipients are meeting the public interest obligations associated with receiving such support.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer.*

[FR Doc. 2022–02896 Filed 2–9–22; 8:45 am]

**BILLING CODE 6712–01–P**

## OFFICE OF GOVERNMENT ETHICS

### Agency Information Collection Activities; Information Collection Renewal; Comment Request for OGE Form 319 Request for a Medical Exception to the Covid–19 Vaccination Requirement

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Notice and request for comments.

**SUMMARY:** After this first round notice and public comment period, the Office of Government Ethics (OGE) plans to request that the Office of Management and Budget (OMB) renew its approval under the Paperwork Reduction Act for an existing information collection, entitled the OGE Form 319 Request for a Medical Exception to the Covid–19 Vaccination Requirement. The form was originally granted emergency clearance on November 19, 2021.

**DATES:** Written comments by the public and agencies on this proposed extension are invited and must be received by April 11, 2022.

**ADDRESSES:** Comments may be submitted to OGE by any of the following methods:

*Email: usoge@oge.gov* (Include reference to ''OGE Form 319 Request for a Medical Exception to the Covid–19 Vaccination Requirement comment'' in the subject line of the message.)

*Mail, Hand Delivery/Courier:* Office of Government Ethics, 1201 New York Avenue NW, Suite 500, Attention: Jennifer Matis, Associate Counsel, Washington, DC 20005–3917.

*Instructions:* Comments may be posted on OGE's website, *www.oge.gov.* Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Matis at the U.S. Office of Government Ethics; telephone: 202–482–9216; TTY: 800–877–8339; Email: *jmatis@oge.gov*. A copy of the form may be obtained, without charge, by contacting Jennifer Matis.

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for a Medical Exception to the Covid–19 Vaccination Requirement.

*Agency Form Number:* OGE Form 319.

*Abstract:* The OGE Form 319 collects information necessary to document the consideration, decision, and implementation of OGE employee requests for reasonable accommodation from the COVID vaccination requirement set forth in Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees (Sept. 9, 2021).

*OMB Control Number:* 3209–0011.

*Type of Information Collection:* Extension of a currently approved collection.

*Type of Review Request:* Regular.

*Affected public:* Medical providers who are asked to provide documentation in support of an employee's request for a medical exception to the requirement for COVID–19 vaccination.

*Estimated Annual Number of Respondents:* 1 (based on an estimate of five respondents over a ten year period, rounded up).

*Estimated Time per Response:* 10 minutes.

*Estimated Total Annual Cost Burden (in dollars):* 17.

*Request for Comments:* OGE is publishing this first round notice of its intent to request paperwork clearance renewal for the OGE Form 319. Public comment is invited specifically on the need for and practical utility of this information collection, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). Comments received in response to this notice will be summarized for and included with the OGE request for extension of OMB paperwork approval. The comments will also become a matter of public record.

*A Notice Regarding Injunctions:* The vaccination requirement issued pursuant to E.O. 14043 is currently the subject of a nationwide injunction. While that injunction remains in place, OGE will not process requests for a medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043. OGE will also not request the submission of any medical information related to a request for an exception from the vaccination requirement pursuant to E.O. 14043 while the injunction remains in place. But OGE may nevertheless receive information regarding a medical exception. That is because, if OGE were to receive a request for an exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 during the pendency of the injunction, OGE will accept the request, hold it in abeyance, and notify the employee who submitted the request that implementation and enforcement of the COVID–19 vaccination requirement pursuant to E.O. 14043 is currently enjoined and that an exception therefore is not necessary so long as the injunction is in place. In other words, during the pendency of the injunction, any information collection related to requests for medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 is not undertaken to implement or enforce the COVID–19 vaccination requirement.

Approved: February 7, 2022.

**Emory Rounds,**

*Director, U.S. Office of Government Ethics.*

[FR Doc. 2022–02826 Filed 2–9–22; 8:45 am]

**BILLING CODE 6345–03–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Docket No. CDC–2022–0024]**

### Proposed 2022 CDC Clinical Practice Guideline for Prescribing Opioids

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS), announces the opening of a docket to obtain comment on the proposed clinical practice guideline, *CDC Clinical Practice Guideline for*

*Prescribing Opioids—United States, 2022* (the clinical practice guideline). The clinical practice guideline updates and expands the *CDC Guideline for Prescribing Opioids for Chronic Pain—United States, 2016,* and provides evidence-based recommendations for clinicians who provide pain care, including those prescribing opioids, for outpatients age 18 years and older with acute pain (duration less than 1 month), subacute pain (duration of 1–3 months), or chronic pain (duration of 3 months or more), not including sickle cell disease-related pain management, cancer pain treatment, palliative care, and end-of-life care. The clinical practice guideline includes recommendations for primary care clinicians (including physicians, nurse practitioners, and physician assistants) as well as for outpatient clinicians in other specialties (including those managing dental and postsurgical pain in outpatient settings and emergency clinicians providing pain management for patients being discharged from emergency departments). This voluntary clinical practice guideline provides recommendations and does not require mandatory compliance; and the clinical practice guideline is intended to be flexible so as to support, not supplant, clinical judgment and individualized, patient-centered decision-making.

**DATES:** Written comments must be received on or before April 11, 2022.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2022–0024, by either of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, GA 30341, Attn: Docket No. CDC–2022–0024.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. Do not submit comments by email. CDC does not accept comments by email. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Arlene I. Greenspan, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS S106–9, Atlanta, GA 30341; Telephone: 770–488–4696. Email: *opioids@cdc.gov.*

**SUPPLEMENTARY INFORMATION:**

## Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. Do not submit comments by email. CDC does not accept comments by email. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign.

## Background

In the *CDC Guideline for Prescribing Opioids for Chronic Pain—United States, 2016,* CDC communicated the intent to evaluate and reassess evidence and recommendations as new evidence became available and to determine when new evidence would prompt an update. To achieve these aims, CDC funded the Evidence-based Practice Centers at the Agency for Healthcare Research and Quality (AHRQ) to conduct systematic reviews of the scientific evidence in the following five areas: (1) Noninvasive nonpharmacological treatments for chronic pain; (2) nonopioid pharmacologic treatments for chronic pain; (3) opioid treatments for chronic pain; (4) treatments for acute pain; and (5) acute treatments for episodic migraine. Based upon the new evidence described in these reviews, an update to the *CDC Guideline for Prescribing Opioids for Chronic Pain—United States, 2016* was warranted.

CDC developed the clinical practice guideline using the Grading of Recommendations, Assessment, Development, and Evaluation (GRADE) framework, which specifies the systematic review of scientific evidence and offers a transparent approach to grading quality of evidence and strength of recommendations. Recommendations were made based on systematic reviews of the available scientific evidence while considering benefits and harms; patients', caregivers', and clinicians' values and preferences for pain treatment; and resource allocation (*e.g.,* costs to patients or health systems, including clinician time). CDC drafted recommendation statements in the clinical practice guideline focused on assisting clinicians in determining whether to initiate opioids for pain; opioid selection and dosage; opioid duration and follow-up; and assessing risk and addressing potential harms of opioid use.

This clinical practice guideline is voluntary; it provides recommendations and does not require mandatory compliance. It is intended to be flexible to support, not supplant, clinical judgment and individualized, patient-centered decision-making. This clinical practice guideline *is not* intended to be applied as inflexible standards of care across patient populations by healthcare professionals, health systems, third-party payers, organizations, or governmental jurisdictions. The clinical practice guideline is intended to achieve the following: Improved communication between clinicians and patients about the risks and benefits of pain treatment, including opioid therapy for pain; improved safety and effectiveness for pain treatment, resulting in improved function and quality of life for patients experiencing pain; and a reduction in the risks associated with long-term opioid therapy, including opioid use disorder, overdose, and death.

To help assure the clinical practice guideline's integrity, credibility, and consideration of patients', caregivers', and providers' values and preferences, CDC obtained input from patients, caregivers, experts, clinicians, the public, and a federally chartered advisory committee, the Board of Scientific Counselors of the National Center for Injury Prevention and Control (BSC/NCIPC). CDC is also currently obtaining feedback from a panel of external peer reviewers who are experts in topic areas related to opioid prescribing. The panel of external peer reviewers' feedback will be addressed and incorporated into the final clinical practice guideline at the same time that public comments received in response to this Notice are considered.

For more information about the clinical practice guideline or the process of updating it, please visit *https://www.cdc.gov/opioids/guideline-update/index.html.*

## Supporting and Related Material in the Docket

The docket contains the following supporting and related materials to help

inform public comment: (1) The draft clinical practice guideline; (2) the GRADE tables; (3) the Opioid Workgroup (OWG) Report, prepared at the request of the BSC/NCIPC and which the BSC/NCIPC unanimously voted to have CDC adopt, and CDC's response to observations outlined in the OWG Report; and (4) an Overview of Community Engagement and Public Comment Opportunities, which describes key themes that emerged about stakeholders' values and preferences regarding pain management, as well as CDC's response to input obtained from these efforts. The GRADE tables include clinical evidence review ratings of the evidence for the key clinical questions. The OWG Report describes the workgroup's findings and observations about the initial draft clinical practice guideline as presented to the BSC/NCIPC at a public meeting on July 16, 2021. The OWG, comprising three BSC/NCIPC members in accordance with federal advisory committee policy, as well as patients with pain, caregivers, and family members of patients with pain, and clinicians and subject matter experts with a variety of relevant pain management expertise, was designed to provide independent, broad, external, transparent input to the BSC/NCIPC on the diverse and complex issues addressed in the clinical practice guideline. OWG meetings were coordinated by an NCIPC subject matter expert who served as the Designated Federal Official. CDC's response to the OWG Report reflects and describes how CDC incorporated OWG observations and comments in the revised draft of the clinical practice guideline. The *Overview of Community Engagement and Public Comment Opportunities* document provides a summary of efforts implemented throughout the clinical practice guideline update process to better understand the lived experiences and perspectives of community members that we serve and to ensure additional input from patients, caregivers, clinicians, and the public. CDC's response to the themes and findings that emerged throughout the community engagement and public comment opportunities describes how CDC carefully considered and incorporated diverse perspectives and input from multiple sources and stakeholders into the clinical practice guideline.

Dated: February 7, 2022.

**Angela K. Oliver,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2022–02802 Filed 2–9–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2021–N–1030]**

### Brenda K. Marmas: Final Debarment Order

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Brenda K. Marmas for a period of 5 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Ms. Marmas engaged in a pattern of importing or offering for import misbranded drugs (*i.e.,* in an amount, frequency, or dosage that is inconsistent with her personal or household use) that are not designated in an authorized electronic data interchange system as products regulated by FDA. Ms. Marmas was given notice of the proposed debarment and was given an opportunity to request a hearing to show why she should not be debarred. As of December 12, 2021 (30 days after receipt of the notice), Ms. Marmas had not responded. Ms. Marmas' failure to respond and request a hearing constitutes a waiver of her right to a hearing concerning this matter.

**DATES:** This order is applicable February 10, 2022.

**ADDRESSES:** Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240 402–8743, or at *debarments@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Section 306(b)(1)(D) of the FD&C Act (21 U.S.C. 335a(b)(1)(D)) permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(D) of the FD&C Act, that the individual has engaged in a pattern of importing or offering for import misbranded drugs (*i.e.,* in an amount, frequency, or dosage that is inconsistent with personal or household use by the importer), and the shipments are not designated in an entry in an authorized electronic data exchange system as products regulated by FDA.

After an investigation, FDA discovered that Ms. Marmas has engaged in numerous instances of importing or offering for import misbranded drugs; all the parcels containing the misbranded drugs serving as the basis for this action, described in further detail below, were intercepted by FDA at either the John F. Kennedy International Airport (JFK), San Francisco International Airport (SFO), or Chicago International Airport Mail Facilities (MF) and were addressed to Ms. Marmas at an address connected to her.

On or about March 3, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at JFK MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 1,000 tablets of levofloxacin IP and was a misbranded drug for a number of reasons: (1) The article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label; (2) the article had been determined to lack adequate directions for use; (3) the drug was not included in a list required by section 510(j) of the FD&C Act (21 U.S.C. 360(j)); and (4) the drug was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 510 of the FD&C Act. FDA also determined that another product contained in this parcel was 900 tablets of moxifloxacin hydrochloride and was a misbranded drug for a number of reasons: (1) The article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label; (2) the article had been determined to lack adequate directions for use; (3) the drug was not included in a list required by section 510(j) of the FD&C Act; and (4) the drug was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 510 of the FD&C Act. Both products were refused entry on March 26, 2020.

On or about March 3, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at JFK MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 300 tablets of azithromycin IP and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. FDA also determined that one of the products contained in this parcel was 600 tablets of azithromycin IP and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. Both products were refused entry on March 25, 2020.

On or about July 8, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at SFO MF that was addressed to her. FDA determined that the product contained in this parcel was 2,304 capsules of azithromycin 250 milligrams (mg) and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label and the drug was not included in a list required by section 510(j) of the FD&C Act. The product was refused entry on August 5, 2020.

On or about July 17, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at SFO MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 300 tablets of amoxicillin 875 mg and was a misbranded drug for multiple reasons: (1) The article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label; (2) the article had been determined to lack adequate directions for use; and (3) the drug was not included in a list required by section 510(j) of the FD&C Act. FDA also determined that one of the products contained in this parcel was 1,400 capsules of clindamycin 300 mg and was a misbranded drug because the article had been determined to lack adequate directions for use and the drug was not included in a list required by section 510(j) of the FD&C Act. Both products were refused entry on September 23, 2020.

On or about July 17, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at SFO MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 84 tablets of azithromycin 250 mg and was a misbranded drug for multiple reasons: (1) The article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label; (2) the article had been determined to lack adequate directions for use; and (3) the drug was not included in a list required by section 510(j) of the FD&C Act. FDA also determined that one of the products contained in this parcel was 1,800 capsules of clindamycin 150 mg and was a misbranded drug because the article had been determined to lack adequate directions for use and because the drug was not included in a list required by section 510(j) of the FD&C Act. FDA also determined that one of the products contained in this parcel was 500 tablets of roxithromycin 150 mg and was a misbranded drug because the article had been determined to lack adequate directions for use and because the drug was not included in a list required by section 510(j) of the FD&C Act. All three products were refused entry on September 23, 2020.

On or about July 21, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at SFO MF that was addressed to her. FDA determined that the product contained in this parcel was 2,520 capsules of fluconazole 200 mg and was a misbranded drug because the drug was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 510 of the FD&C Act and because the drug was not included in a list required by section 510(j) of the FD&C Act. The product was refused entry on August 17, 2020.

On or about July 30, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at SFO MF that was addressed to her. FDA determined that the product contained in this parcel was 2,000 capsules of doxycycline hyclate 100 mg and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only.'' The product was refused entry on October 5, 2020.

On or about July 30, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at SFO MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 500 capsules of amoxicillin trihydrate 500 mg and was a misbranded drug for multiple reasons: (1) The article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label; (2) the article had been determined to lack adequate directions for use; and (3) the drug was not included in a list required by section 510(j) of the FD&C Act. FDA determined that one of the other products contained in this parcel was 2,000 capsules of clindamycin 300 mg and was a misbranded drug because the article had been determined to lack adequate directions for use and because the drug was not included in a list required by section 510(j) of the FD&C Act. FDA determined that one of the other products contained in this parcel was 300 tablets of amoxicillin/clavulanic acid 875 mg/125 mg and was a misbranded drug for multiple reasons: (1) The article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label; (2) the article had been determined to lack adequate directions for use; and (3) the drug was not included in a list required by section 510(j) of the FD&C Act. All three products were refused entry on October 9, 2020.

On or about July 31, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at SFO MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 576 capsules of azithromycin 250 mg and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label and the article had been determined to lack adequate directions for use. FDA determined that the other product contained in this parcel was 1,600 tablets of clarithromycin 500 mg and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. Both products were refused entry on September 4, 2020.

On or about August 13, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at SFO MF that was addressed to her. FDA determined that the product contained in this parcel was 2,860 capsules of doxycycline hyclate 100 mg and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only.'' The product was refused entry on October 6, 2020.

On or about September 30, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at Chicago International Airport MF that was addressed to her. FDA determined that the product contained in this parcel was 1,000 tablets of amoxycillin and potassium clavulanate IP and was a misbranded drug because the drug was manufactured, prepared, propagated,

compounded, or processed in an establishment not duly registered under section 510 of the FD&C Act and because the drug was not included in a list required by section 510(j) of the FD&C Act. The product was refused entry on October 26, 2020.

On or about October 2, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at JFK MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 230 tablets of LQUIN levofloxacin and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label and the article had been determined to lack adequate directions for use. FDA determined that the other product contained in this parcel was 129 tablets of AZICIP azithromycin and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label and the article had been determined to lack adequate directions for use. Both products were refused entry on October 28, 2020.

On or about October 16, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at Chicago International Airport MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 1,500 capsules of amoxicillin and was a misbranded drug for multiple reasons: (1) The required label or labeling was determined to not be in English in violation of § 201.15(c)(1) (21 CFR 201.15(c)(1)); (2) the article had been determined to lack adequate directions for use; (3) the drug was not included in a list required by section 510(j) of the FD&C Act; (4) the drug was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 510 of the FD&C Act; and (5) the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. FDA determined that the other product contained in this parcel was 1,600 tablets of FLOXCIPRO 250 ciprofloxacin and was a misbranded drug for multiple reasons: (1) The required label or labeling was determined to not be in English in violation of § 201.15(c)(1); (2) the article had been determined to lack adequate directions for use; (3) the drug was not included in a list required by section 510(j) of the FD&C Act; (4) the drug was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 510 of the FD&C Act; and (5) the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. Both products were refused entry on December 3, 2020.

On or about November 16, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at JFK MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 300 tablets of AZICIP azithromycin and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. FDA determined that the other product contained in this parcel was 1,000 tablets of CIPRODAC ciprofloxacin and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. Both products were refused entry on December 10, 2020.

On or about December 15, 2020, Ms. Marmas offered for import a parcel intercepted and processed by FDA at JFK MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 1,000 capsules of cephalexin IP 500 mg (CEPHADEX 500) and was a misbranded drug as the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. FDA determined that one of the products contained in this parcel was 30 capsules of vancomycin hydrochloride IP 250 mg (VANLID 250) and was a misbranded drug as the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. FDA determined that one of the other products contained in this parcel was 250 tablets of trimethoprim and sulphamethoxazole IP (BACTRIM DS) and was a misbranded drug as the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. All three products were refused entry on January 19, 2021.

On or about April 23, 2021, Ms. Marmas offered for import a parcel intercepted and processed by FDA at JFK MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 1,000 capsules of RESTECLIN 500 (tetracycline) and was a misbranded drug as the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. FDA determined that one of the products contained in this parcel was 400 tablets of RIFAGUR 400 (rifaximin) and was a misbranded drug as the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. Both products were refused entry on May 18, 2021.

On or about May 26, 2021, Ms. Marmas offered for import a parcel intercepted and processed by FDA at JFK MF that was addressed to her. This parcel contained multiple products. FDA determined that one of the products contained in this parcel was 500 tablets of amoxycillin and potassium clavulanate IP and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. The product was refused entry on June 25, 2021. FDA determined that the other product contained in this parcel was 300 tablets of azithromycin IP 500 mg and was a misbranded drug because the article was determined to be a prescription drug but did not include the symbol ''Rx only'' on its label. This product was refused entry on June 24, 2021.

On or about July 15, 2021, Ms. Marmas offered for import a parcel intercepted and processed by FDA at Chicago International Airport MF that was addressed to her. FDA determined that the product contained in this parcel was 500 tablets of amoxycillin and potassium clavulanate IP; CIPMOX CV–625 and was a misbranded drug because the article had been determined to lack adequate directions for use and because the drug was not included in a list required by section 510(j) of the FD&C Act. The product was refused entry on August 13, 2021.

As a result of this pattern of importing or offering for import misbranded drugs (*i.e.,* in an amount, frequency, or dosage that is inconsistent with her personal or household use) that are not designated in an authorized electronic data interchange system as products regulated by FDA, in accordance with section 306(b)(3)(D) of the FD&C Act, FDA sent Ms. Marmas, by certified mail on November 3, 2021, a notice proposing to debar her for a 5-year period from importing or offering for import any drug into the United States.

In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Ms. Marmas' pattern of conduct and concluded that her conduct warranted the imposition of a 5-year period of debarment.

The proposal informed Ms. Marmas of the proposed debarment and offered her

an opportunity to request a hearing, providing 30 days from the date of receipt of the letter in which to file the request, and advised her that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Ms. Marmas received the proposal and notice of opportunity for a hearing on November 12, 2021. Ms. Marmas failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived her opportunity for a hearing and waived any contentions concerning her debarment. (21 CFR part 12).

**II. Findings and Order**

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(3)(D) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Ms. Brenda K. Marmas has engaged in a pattern of importing or offering for import misbranded drugs (*i.e.,* in an amount, frequency, or dosage that is inconsistent with her personal or household use) that are not designated in an authorized electronic data interchange system as products regulated by FDA. FDA finds that this pattern of conduct should be accorded a debarment period of 5 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Ms. Marmas is debarred for a period of 5 years from importing or offering for import any drug into the United States, applicable (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of any drug or controlled substance by, with the assistance of, or at the direction of Ms. Marmas is a prohibited act.

Any application by Ms. Marmas for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2021–N–1030 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions will be placed in the docket and will be viewable at *http://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 3, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–02801 Filed 2–9–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2021–N–0556]**

### Development of Non-Opioid Analgesics for Acute Pain; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Development of Non-Opioid Analgesics for Acute Pain.'' In connection with the SUPPORT for Patients and Communities Act (SUPPORT Act), the purpose of this guidance is to spur the development of alternatives to opioids for the management of acute pain by providing information about product development-related issues, ''opioid-sparing'' claims, and expedited programs as they pertain to this purpose.

**DATES:** Submit either electronic or written comments on the draft guidance by April 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2021–N–0556 for ''Development of Non-Opioid Analgesics for Acute Pain.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Theresa Wells, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5373, Silver Spring, MD 20993–0002, 703–380–3900.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Development of Non-Opioid Analgesics for Acute Pain.'' This draft guidance is written in connection with section 3001 of the SUPPORT Act to provide information that will be useful in the development of non-opioid analgesics for the management of acute pain and, thereby, spur the development of such products.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Development of Non-Opioid Analgesics for Acute Pain.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; the collections of information in 21 CFR part 312 for conducting clinical trials and collecting data for such trials have been approved under OMB control number 0910–0014; the collections of information pertaining to Electronic Records and Electronic Signatures have been approved under OMB control number 0910–0303; the collections of information pertaining to the Requirements on Content and Format of Labeling for Human Prescriptions for ''opioid-sparing'' claims have been approved under OMB control number 0910–0572; and the collections of information found in the Guidance for Industry on Expedited Programs for Serious Condition—Drugs and Biologics for expedited pathways to support the development program for non-opioid analgesics have been approved under OMB control number 0910–0765.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: February 7, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–02858 Filed 2–9–22; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2017–N–4853]**

### Receipt of Notice That a Patent Infringement Complaint Was Filed Against a Biosimilar or Interchangeable Biosimilar Applicant

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is publishing notice that an applicant for a biologics license application (BLA) for a biosimilar or interchangeable biosimilar product submitted under the Public Health Service Act (PHS Act) (a ''subsection (k) applicant'') notified FDA that an action for patent infringement was filed in connection with the applicant's BLA. Under the PHS Act, within 30 days after the subsection (k) applicant is served with a complaint in an action for patent infringement described under the PHS Act, the subsection (k) applicant shall provide the Secretary of HHS with notice and copy of such complaint. FDA is required to publish notice of the complaint in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Sandra Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1132, Silver Spring, MD 20993–0002, 301–796–1042, *Sandra.Benton@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Biologics Price Competition and Innovation Act of 2009 (BPCI Act) was enacted as part of the Patient Protection and Affordable Care Act (Pub. L. 111–148) on March 23, 2010. The BPCI Act amended the PHS Act and created an abbreviated licensure pathway for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological reference product. Section 351(k) of the PHS Act (42 U.S.C. 262(k)) sets forth the requirements for an application for a proposed biosimilar product and an application or a supplement for a proposed interchangeable product.

Section 351(l) of the PHS Act (42 U.S.C. 262(l)) describes certain procedures for exchanging patent information and resolving patent disputes between a subsection (k) applicant and the holder of the BLA reference product. If a subsection (k) applicant is served with a complaint in an action for a patent infringement described in section 351(l)(6) of the PHS Act, the subsection (k) applicant is required to provide the Secretary with notice and a copy of the complaint within 30 days of service. FDA is required to publish notice of a complaint received under section 351(l)(6)(C) of the PHS Act in the **Federal Register**.

FDA received notice of the following complaint under section 351(l)(6)(C) of the PHS Act: *AbbVie Inc. and AbbVie Biotechnology Ltd.* v. *Alvotech HF,* 1:21–cv–02258 (N.D. Ill., filed April 27, 2021).

FDA has only a ministerial role in publishing notice of a complaint received under section 351(l)(6)(C) of the PHS Act and does not perform a substantive review of the complaint.

Dated: February 4, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–02799 Filed 2–9–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; AD Resources.

*Date:* March 21, 2022.

*Time:* 11:00 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Greg Bissonette, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–402–1622, *bissonettegb@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02778 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Library of Medicine Special Emphasis Panel; COI–K99–Curation.

*Date:* March 25, 2022.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Video Assisted Meeting.

*Contact Person:* Jan Li, M.D., Ph.D., Scientific Review Officer, Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 500, Bethesda, MD 20892–7968, 301–496–3114, *lij21@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02789 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Library of Medicine Special Emphasis Panel; G08 Applications.

*Date:* March 18, 2022.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Video Assisted Meeting.

*Contact Person:* Jan Li, M.D., Ph.D., Scientific Review Officer, Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 500, Bethesda, MD 20892–7968, 301–496–3114, *lij21@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02787 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Kidney Precision Medicine Program (KPMP) Review.

*Date:* March 16–17, 2022.

*Time:* 10:00 a.m. to 6:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–4721, *ryan.morris@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02777 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Regents of the National Library of Medicine.

The meeting will be open to the public as indicated below. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Regents of the National Library of Medicine.

*Date:* May 10, 2022.

*Open:* May 10, 2022, 10:00 a.m. to 3:30 p.m.

*Agenda:* Program Discussion.

*Place:* Virtual Meeting.

*Closed:* May 10, 2022, 3:30 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Contact Person:* Christine Ireland, Committee Management Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 500, Bethesda, MD 20892, 301–594–4929, *irelanc@mail.nih.gov*.

Any member of the public may submit written comments no later than 15 days in advance of the meeting. Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.nlm.nih.gov/od/bor/bor.html* where an agenda and any additional information for the meeting will be posted when available. This meeting will be broadcast to the public, and available for viewing at *http://videocast.nih.gov* on May 10, 2022.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: February 4, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02780 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; 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:* Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroplasticity and Neurotransmitters Study Section.

*Date:* March 10–11, 2022.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Computational, Modeling and Biodata Management.

*Date:* March 15, 2022.

*Time:* 10:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 6188, MSC 7804, Bethesda, MD 20892, (301) 435–1267, *belangerm@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02822 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Neurological Disorders and Stroke; Notice of Closed 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 Neurological Disorders and Stroke Special Emphasis Panel; NINDS Enhancing Experimental Rigor.

*Date:* March 15–16, 2022.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* DeAnna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Bethesda, MD 20892, 301–496–9223, *deanna.adkins@nih.gov*.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; HEAL Initiative: Planning Studies for Initial Analgesic Development [Small Molecules and Biologics] (R61 Clinical Trial Not Allowed).

*Date:* March 16, 2022.

*Time:* 12:30 p.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 (Virtual Meeting).

*Contact Person:* Bo-Shiun Chen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Bethesda, MD 20892, 301–496–9223, *bo-shiun.chen@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Tyeshia M. Roberson-Curtis,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02823 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical 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 Institute of General Medical Sciences Special Emphasis Panel; NIGMS Review of Centers of Biomedical Research Excellence (COBRE) Phase 2 Applications.

*Date:* March 17–18, 2022.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.22, Bethesda, MD 20892–6200, 301–594–3663, *sidorova@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02788 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; 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 Environmental Health Sciences: Special Emphasis Panel; R21 Mechanism for Time-Sensitive Research Opportunities in Environmental Health Sciences.

*Date:* February 24, 2022.

*Time:* 1:00 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27713 (Virtual Meeting).

*Contact Person:* Qingdi Quentin Li, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, (240) 858–3914, *liquenti@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; Review of NIH Conferences Grant and Scientific Meetings Applications.

*Date:* March 3, 2022.

*Time:* 12:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

*Contact Person:* Qingdi Quentin Li, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat'l Institute Environmental Health Sciences, Research Triangle Park, NC 27709, (240) 858–3914, *liquenti@nih.gov.*

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; Innovative Approaches for Improving Environmental Health Literacy.

*Date:* March 11, 2022

*Time:* 10:30 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27713 (Virtual Meeting).

*Contact Person:* Alfonso R. Latoni, Ph.D., Scientific Review Officer and Chief, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 984–287–3279, *alfonso.latoni@nih.gov.*

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; Elucidating Tissue/Cell specific Pathophysiological Mechanisms: Chemical-Induced Effects and Biological Response.

*Date:* March 15, 2022.

*Time:* 10:30 a.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

*Contact Person:* Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, 984–287–3340, *worth@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02779 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Director, National Institutes of Health; Notice of Closed Meeting

Notice is hereby given of a meeting of the HEAL (Helping to End Addiction Long-Term) Multi-Disciplinary Working Group

The meeting will be open to the public as indicated below via NIH Videocast. Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of 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 program documents and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the program documents, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* HEAL Multi-Disciplinary Working Group (MDWG) Meeting.

*Date:* March 1–2, 2022.

*Open:* March 1, 2022, 11:00 a.m. to 12:30 p.m.

*Closed:* March 1, 2022, 12:30 p.m. to 4:30 p.m.

*Closed:* March 2, 2022, 11:00 a.m. to 4:30 p.m.

*Agenda:* To review and evaluate provide an update on Helping to End Addiction Long-Term (HEAL) Initiatives projects and obtain expertise from MDWG relevant to the NIH HEAL Initiative and to specific HEAL projects.

*Videocast:* The open portion of the meeting will be live webcast at: *https://videocast.nih.gov.*

*Place:* National Institutes of Health, Building 1, Wilson Hall, 1 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Rebecca G Baker, Ph.D., Office of the Director, National Institutes of Health, 1 Center Drive, Room 103A, Bethesda, MD 20892, (301) 402–1994, *Rebecca.baker@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Office of the Director for the NIH HEAL Initiative website: *https://heal.nih.gov/news* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 4, 2022.

**Tyeshia M. Roberson-Curtis,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–02824 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery National Institute of Allergy and Infectious Diseases (NIAID)

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institute of Allergy and Infectious Diseases (NIAID) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ms. Brandie Taylor, Supervisory Program Analyst, Office of Strategic Planning, Initiative Development and Analysis, 5601 Fishers Lane, Rockville, Maryland 20892 or call non-toll-free number (240) 669–0296 or Email your request, including your address to: *taylorbr@niaid.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

**SUPPLEMENTARY INFORMATION:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Proposed Collection Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NIAID), 0925–0668, Expiration Date 4/30/2022, EXTENSION, National Institute of Allergy and Infectious Diseases (NIAID).

*Need and Use of Information Collection:* There are no changes being requested for this submission. The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide information about the NIAID's customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the NIAID and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2511.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of collection | Number of respondents | Annual frequency per response | Hours per response | Total hours |
|---|---|---|---|---|
| Customer satisfaction surveys | 4000 | 1 | 30/60 | 2000 |
| In-Depth Interviews (IDIs) or Small Discussion Groups | 50 | 1 | 90/60 | 75 |
| Individual Brief Interviews | 50 | 1 | 15/60 | 13 |
| Focus Groups | 30 | 1 | 2 | 60 |
| Pilot testing surveys | 25 | 1 | 30/60 | 13 |
| Conferences and Training Pre- and Post-surveys | 500 | 1 | 30/60 | 250 |
| Website or Software Usability Tests | 50 | 1 | 2 | 100 |
| Total | | 4705 | | 2511 |

Dated: January 25, 2022.

**Brandie K. Taylor Bumgardner,**

*Project Clearance Liaison, National Institute of Allergy and Infectious Diseases, National Institutes of Health.*

[FR Doc. 2022–02847 Filed 2–9–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2022–0101]**

### Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0016

**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: 1625–0016, Welding and Hot Work Permits; Posting of Warning Signs; 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 April 11, 2022.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2022–0101] 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–2022–0101], and must be received by April 11, 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:* Welding and Hot Work Permits; Posting of Warning Signs.

*OMB Control Number:* 1625–0016.

*Summary:* This information collection helps to ensure that waterfront facilities and vessels are in compliance with safety standards. A permit must be issued prior to welding or hot work at certain waterfront facilities; and, the posting of warning signs is required on certain facilities. The statutory authority is 46 U.S.C. 70034 (formerly 33 U.S.C. 1231) and Chapter 701 of Title 46.

*Need:* The information is needed to ensure safe operations on certain waterfront facilities and vessels.

*Forms:* CG–4201, Welding and Hot Work.

*Respondents:* Owners and operators of certain waterfront facilities and vessels.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated burden has increased from 435 hours to 497 hours a year, due to an increase in the estimated annual number of responses.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 4, 2022.

**Kathleen Claffie,**

*Chief, Office of Privacy Management, U.S. Coast Guard.*

[FR Doc. 2022–02746 Filed 2–9–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2129]**

### Proposed Flood Hazard Determinations for Larimer County, Colorado and Incorporated Areas

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice; withdrawal.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is withdrawing its proposed notice concerning proposed flood hazard determinations, which may include the addition or modification of any Base Flood Elevation, base flood depth, Special Flood Hazard Area boundary or zone designation, or regulatory floodway (herein after referred to as proposed flood hazard determinations) on the Flood Insurance Rate Maps and, where applicable, in the supporting Flood Insurance Study reports for Larimer County, Colorado and Incorporated Areas.

**DATES:** This withdrawal is effective February 10, 2022.

**ADDRESSES:** You may submit comments, identified by Docket No. FEMA–B–2129, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;*

**SUPPLEMENTARY INFORMATION:** On May 7, 2021, FEMA published a proposed notice at 86 FR 24641, proposing flood hazard determinations for Larimer County, Colorado and Incorporated Areas. FEMA is withdrawing the proposed notice.

*Authority:* 42 U.S.C. 4104; 44 CFR 67.4.

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2022–02865 Filed 2–9–22; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2022–0002]**

### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

**DATES:** Each LOMR was finalized as in the table below.

**ADDRESSES:** Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65. The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Date of modification | Community No. |
|---|---|---|---|---|---|
| Colorado: | | | | | |
| Larimer (FEMA Docket No.: B–2175). | City of Fort Collins (21–08–0194P). | The Honorable Jeni Arndt, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80522. | Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521. | Jan. 12, 2022 | 080102 |
| Larimer (FEMA Docket No.: B–2175). | Town of Berthoud (21–08–0072P). | Mr. Chris Kirk, Administrator, Town of Berthoud, P.O. Box 1229, Berthoud, CO 80513. | Public Works Department, 807 Mountain Avenue, Berthoud, CO 80513. | Jan. 14, 2022 | 080296 |
| Larimer (FEMA Docket No.: B–2175). | Unincorporated areas of Larimer County (21–08–0072P). | The Honorable John Kefalas, Chairman, Larimer County Board of Commissioners, 200 West Oak Street, Suite 2200, Fort Collins, CO 80521. | Larimer County Engineering Department, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521. | Jan. 14, 2022 | 080101 |
| Larimer (FEMA Docket No.: B–2175). | Unincorporated areas of Larimer County (21–08–0194P). | The Honorable John Kefalas, Chairman, Larimer County Board of Commissioners, 200 West Oak Street, Suite 2200, Fort Collins, CO 80521. | Larimer County Engineering Department, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521. | Jan. 14, 2022 | 080101 |
| Florida: | | | | | |
| Charlotte (FEMA Docket No.: B–2171). | Unincorporated areas of Charlotte County (21–04–5021P). | The Honorable Bill Truex, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948. | Charlotte County Community Development Department, 18400 Murdock Circle, Port Charlotte, FL 33948. | Jan. 10, 2022 | 120061 |
| Lee (FEMA Docket No.: B–2178). | City of Sanibel (21–04–4276P). | The Honorable Holly D. Smith, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957. | Community Services Department, 800 Dunlop Road, Sanibel, FL 33957. | Jan. 12, 2022 | 120402 |
| Polk (FEMA Docket No.: B–2175). | City of Lakeland (20–04–4215P). | The Honorable Bill Mutz, Mayor, City of Lakeland, 228 South Massachusetts Avenue, Lakeland, FL 33801. | Public Works Department, Lakes and Stormwater Division, 407 Fairway Avenue, Lakeland, FL 33801. | Jan. 13, 2022 | 120267 |
| Polk (FEMA Docket No.: B–2171). | Unincorporated areas of Polk County (20–04–4035P). | Mr. Bill Beasley, Polk County Manager, 330 West Church Street, Bartow, FL 33831. | Polk County Floodplain Management Department, 330 West Church Street, Bartow, FL 33831. | Jan. 6, 2022 | 120261 |
| Polk (FEMA Docket No.: B–2175). | Unincorporated areas of Polk County (20–04–4215P). | The Honorable Rick Wilson, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Drawer BC01, Bartow, FL 33831. | Polk County Land Development Division 330 West Church Street, Bartow, FL 33830. | Jan. 13, 2022 | 120261 |
| Kentucky: Jefferson (FEMA Docket No.: B–2171). | Louisville-Jefferson County Metro Government (21–04–2298P). | The Honorable Greg Fischer, Mayor, Louisville-Jefferson County Metro Government, 527 West Jefferson Street, Louisville, KY 40202. | Louisville-Jefferson County Metropolitan Sewer District, 700 West Liberty Street, Louisville, KY 40203. | Jan. 3, 2022 | 210120 |
| Louisiana: Ascension (FEMA Docket No.: B–2159). | Unincorporated areas of Ascension Parish (20–06–3506P). | The Honorable Clint Cointment, President, Ascension Parish, 615 East Worthey Street, Gonzales, LA 70737. | Ascension Parish Governmental Complex, 615 East Worthey Street, Gonzales, LA 70737. | Oct. 15, 2021 | 220013 |
| Massachusetts: Barnstable (FEMA Docket No.: B–2171). | Town of Falmouth (21–01–1047P). | The Honorable Douglas C. Brown, Chairman, Town of Falmouth Board of Selectmen, 59 Town Hall Square, Falmouth, MA 02540. | Inspectional Services Department, 59 Town Hall Square, Falmouth, MA 02540. | Jan. 10, 2022 | 255211 |
| South Carolina: | | | | | |
| Charleston (FEMA Docket No.: B–2171). | Town of Mount Pleasant (21–04–3056P). | The Honorable Will Haynie, Mayor, Town of Mount Pleasant, 100 Ann Edwards Lane, Mount Pleasant, SC 29464. | Town Hall, 100 Ann Edwards Lane, Mount Pleasant, SC 29464. | Jan. 6, 2022 | 455417 |
| Charleston (FEMA Docket No.: B–2171). | Unincorporated areas of Charleston County (21–04–3056P). | The Honorable Teddie E. Pryor, Sr., Chairman, Charleston County Council, 4045 Bridge View Drive, North Charleston, SC 29405. | Charleston County Building Department, 4045 Bridge View Drive, North Charleston, SC 29405. | Jan. 6, 2022 | 455413 |
| Texas: | | | | | |
| Midland (FEMA Docket No.: B–2171). | City of Midland (21–06–2222P). | The Honorable Patrick Payton, Mayor, City of Midland, 300 North Loraine Street, Midland, TX 79701. | City Hall, 300 North Loraine Street, Midland, TX 79701. | Jan. 7, 2022 | 480477 |
| Montgomery (FEMA Docket No.: B–2175). | City of Conroe (21–06–0853P). | The Honorable Jody Czajkoski, Mayor, City of Conroe, 700 Metcalf Street, Conroe, TX 77301. | City Hall, 700 Metcalf Street, Conroe, TX 77301. | Jan. 7, 2022 | 480484 |
| Montgomery (FEMA Docket No.: B–2175). | Unincorporated areas of Montgomery County (21–06–0853P). | The Honorable Mark J. Keough, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301. | Montgomery County Commissioners Court Building, 501 North Thompson Street, Suite 103, Conroe, TX 77301. | Jan. 7, 2022 | 480483 |
| Utah: Salt Lake (FEMA Docket No.: B–2175). | City of West Valley City (21–08–0105P). | Mr. Wayne T. Pyle, Manager, City of West Valley City, 3600 South Constitution Boulevard, West Valley City, UT 84119. | Engineering Division, 3600 South Constitution Boulevard, West Valley City, UT 84119. | Jan. 10, 2022 | 490245 |
| Virginia: | | | | | |
| Prince William (FEMA Docket No.: B–2178). | City of Manassas (21–03–0728P). | Mr. W. Patrick Pate, City of Manassas Manager, 9027 Center Street, Manassas, VA 20110. | Department of Public Works, 8500 Public Works Drive, Manassas, VA 20110. | Jan. 14, 2022 | 510122 |
| Washington (FEMA Docket No.: B–2175). | Unincorporated areas of Washington County (21–03–0800P). | Mr. Jason Berry, Washington County Administrator, 1 Government Center Place, Suite A, Abingdon, VA 24210. | Washington County Government Center, 1 Government Center Place, Suite A, Abingdon, VA 24210. | Jan. 6, 2022 | 510168 |

[FR Doc. 2022–02864 Filed 2–9–22; 8:45 am]
**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. FEMA–2022–0009]**

## Privacy Act of 1974; System of Records

**AGENCY:** Federal Emergency Management Agency, U.S. Department of Homeland Security.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the U.S. Department of Homeland Security (DHS) proposes to modify an existing system of records titled, ''DHS/Federal Emergency Management Agency (FEMA)-008 Disaster Recovery Assistance Files.'' This system of records describes DHS/FEMA's collection and maintenance of records on applicants for its Disaster Assistance programs that provide financial and other tangible assistance to survivors of presidentially declared disasters or emergencies. DHS/FEMA is modifying this system of records notice (SORN) to include: (1) Updating the system location; (2) clarifying the purpose of the SORN; (3) updating the categories of records; (4) updating the routine uses; (5) changing the retention and disposal schedule of records; and (6) updating record source categories. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in DHS's inventory of record systems.

**DATES:** Submit comments on or before March 14, 2022. This modified system will be effective upon publication. New and modified routine uses will become effective March 14, 2022.

**ADDRESSES:** You may submit comments, identified by docket number FEMA–2022–0009 by one of the following methods:

- *Federal e-Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Lynn Parker Dupree, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528–0655.

*Instructions:* All submissions received must include the agency name and docket number FEMA–2022–0009. All comments received will be posted without change to *https://www.regulations.gov*, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to *https://www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact: Tammi Hines, (202) 212–5100, *FEMA-Privacy@fema.dhs.gov*, Senior Director for Information Management, Federal Emergency Management Agency, U.S. Department of Homeland Security, Washington, DC 20528. For privacy questions, please contact: Lynn Parker Dupree, (202) 343–1717, *Privacy@hq.dhs.gov*, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528–0655.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In accordance with the Privacy Act, this modified system of records notice is being published because the Federal Emergency Management Agency (FEMA) collects, maintains, uses, retrieves, and disseminates personally identifiable information of individuals who apply for FEMA disaster assistance when a Presidential disaster declaration or emergency has occurred or may be imminent. FEMA's applicant records included in this system may contain income information, insurance information, housing inspection reports, and correspondence notations about various types of assistance, including information about appeals, recovery of disaster assistance funds, and other related information.

The purpose of this system of records is to: Facilitate registration for FEMA's disaster assistance programs; correspond with applicants; verify Individuals and Households Program (IHP) Assistance applicant information; determine the eligibility of applicants; and focus, direct, and refer applicants to all sources of disaster assistance. Additional purposes include: Preventing a duplication of federal government efforts and benefits, identifying the misuse of disaster assistance, identifying disaster assistance provided in error, identifying and preventing possible fraudulent activity in anticipation of or after a presidentially declared major disaster or emergency, and assessing FEMA's disaster assistance programs for equality, equity, and customer satisfaction. The information contained in this system may also be used to identify and implement measures to reduce future disaster damage. To accomplish these purposes, FEMA may maintain investigative summary reports in this system of records to support the recoupment, appeals, and oral hearing processes.

FEMA is updating the SORN to reflect the following changes. First, the system location has been updated to broadly reflect the location of the records at the FEMA Headquarters in Washington, DC, FEMA Regional Offices, Joint Field Offices, National Processing Service Centers, and Disaster Recovery Centers. In addition, electronic records stored in the system are maintained at the FEMA Data Center at Bluemont, Virginia, and at the DHS Data Center 2 in Clarksville, Virginia. Second, the categories of records have been updated and consolidated in favor of a more comprehensive list of data elements collected from Individual Assistance applicants. The categories of records also include investigative summary reports compiled through internal FEMA investigations or other DHS/FEMA programs, as well as records of assistance provided under the FEMA National Flood Insurance Program (NFIP). These reports were added to further support FEMA actions during the recoupment, appeals, and oral hearing processes in order to recover disaster assistance funds, as mandated by the Stafford Act, 42 U.S.C. 5155, and 44 CFR secs. 206.116 and 206.191. The National Flood Insurance Program records were added to prevent a duplication of benefits between National Flood Insurance Program and the Group Flood Insurance Policy provided under Other Needs Assistance (ONA). Third, the purpose of the system is being updated to support FEMA efforts to prevent fraud, waste, and abuse by verifying applicant account and identity information and identifying assistance provided in error, funds spent inappropriately by the applicant, or misuse of disaster assistance. Fourth, FEMA is adding and modifying several routine uses. Routine Use E is being modified and Routine Use F is being added to conform to Office of Management and Budget Memorandum M–17–12 regarding breach notification and investigation. Routine Use I is revised to provide added clarity on how states and other entities involved in emergency response efforts request FEMA information. Routine Use K is added to permit verification of billing records as proof of disaster-related expenses incurred. Routine Use M is modified to incorporate information sharing with the Department of Treasury's Bureau of Fiscal Services to verify applicant identity and account information as a fraud prevention measure and for the Treasury's Do Not Pay Working System, established

pursuant to Section 5 of the Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, which determines federal eligibility for disbursement of payments by checking death records, federal debt records, and lists of sanctioned individuals. Routine Use P is revised to include disclosure of information to the Oral Hearing Official. Routine Use T is added to allow investigation summary reports, which may contain third party personally identifiable information, to be shared with the individual survivor involved in the recoupment, appeals, and oral hearing processes. Routine Use U is added to reflect the FEMA Administrator's statutory authority under 6 U.S.C. 728 to disclose survivor data to a federal, state, local, territorial, or tribal law enforcement agency in order to identify illegal conduct or address public safety or security issues, including compliance with sex offender notification laws, in the event of circumstances requiring an evacuation, sheltering, or mass relocation. Routine Use V is added to reflect disclosure of information for the safety of individuals in FEMA temporary housing or sheltering during a declared public health emergency. Routine Use W is added to reflect information sharing with state, local, territorial, and tribal government and private entities to verify applicant identity and account information as a fraud prevention measure. Fifth, a National Archives and Records Administration (NARA) authority retention schedule is added for investigative summary reports. Finally, the record source categories are updated to include the sources for the investigation summary reports. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

Consistent with DHS's information sharing mission, information stored in the DHS/FEMA–008 Disaster Recovery Assistance Files System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/FEMA may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This modified system will be included in DHS's inventory of record systems.

## II. Privacy Act

The fair information practice principles found in the Privacy Act underpin the statutory framework governing the means by which federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, individuals are defined as U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides covered persons with a statutory right to make requests for access and amendment to covered records, as defined by the Judicial Redress Act, along with judicial review for denials of such requests. In addition, the Judicial Redress Act prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/FEMA–008 Disaster Recovery Assistance Files System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

**SYSTEM NAME AND NUMBER:**

Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA)-008 Disaster Recovery Assistance Files System of Records.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Records are maintained at the FEMA Headquarters in Washington, DC; FEMA Regional Offices; Joint Field Offices; National Processing Service Centers; Disaster Recovery Centers; and the DHS/FEMA data centers located in Bluemont, Virginia, and Clarksville, Virginia.

**SYSTEM MANAGER(S):**

Division Director, Individual Assistance Division, (202) 646–3642, *femahqiafrontoffice@fema.dhs.gov*, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), Public Law 93–288, as amended (42 U.S.C. secs. 5121–5207); 6 U.S.C. secs. 728, 776, 777, and 795; the Debt Collection Improvement Act of 1996, 31 U.S.C. secs. 3325(d) and 7701(c)(1); the Government Performance and Results Act, Public Law 103–62, as amended; Executive Order 13411; and Executive Order 12862.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to register applicants seeking disaster assistance from FEMA both after a Presidential disaster declaration or emergency and when a declaration may be imminent, but not yet declared; to verify Individuals and Households Program applicant information; determine eligibility of applicants; to correspond with, focus, direct, and refer applicants to available sources of disaster assistance; and to inspect damaged property. Additional purposes include: To identify and implement measures to reduce future disaster damage; to prevent or correct a duplication of federal government efforts and benefits; to identify possible fraudulent activity after a presidentially declared disaster or emergency; to identify assistance provided in error, funds spent inappropriately by the applicant, or misuse of disaster assistance; and to assess the customer satisfaction of FEMA disaster assistance applicants.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals and their household members who apply for or express interest in applying for FEMA disaster assistance following a presidentially declared major disaster or emergency (Note: FEMA will accept applications from any individual; however, an individual must self-certify as a U.S. citizen, non-citizen national, or qualified non-citizen to meet the eligibility requirements for Individuals and Households Program Assistance). Individuals also include those who apply for or express interest in non-FEMA assistance programs in order to facilitate a duplication of benefits check or determination of unmet needs.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(a) Registration and Assistance Records

- Disaster number;
- FEMA Registration ID/Occupant ID;
- Applicant/co-applicant information:
  - Full name;
  - Social Security number or A-number;
  - Citizenship status;
  - Signature;
  - Date of birth;

- Phone numbers;
- Email addresses;
- Mailing addresses;
- Position title and number of years;
- Employer name;
- Language(s) spoken;
- Number of dependents claimed;
- User ID;
- Password; and
- Personal Identification Number (PIN).

• Witness name and signature;
• Damaged dwelling:
- Addresses of the damaged dwelling and the applicant's current location (if other than the damaged dwelling);
- County;
- Geospatial location of dwelling;
- Phone numbers; and
- Information related to residence (accessibility, type, own/rent, damage sustained).

• Disaster-related expenses;
• Emergency needs (*e.g.,* food, clothing, shelter);
• Disability-related needs and accommodations (*e.g.,* sign language interpreter, Assistive Listening Device, braille, wheelchair access, mobility, mental, hearing, vision, other needs and accommodations);
• Occupant and household information (for all occupants at the time of disaster):
- Name (first name, middle initial, last name);
- Age;
- Relationship to applicant;
- Dependent? (Yes/No);
- Sex;
- Pre- and post-disaster income information of occupants 18 years of age or older; and
- Tribal Membership Status (if applicable).

• Business damage:
- Self-employment is primary income? (Yes/No); and
- Business or rental property affected? (Yes/No).

• Authorization for electronic funds transfer of benefits:
- Institution name;
- Account type; and
- Account number and routing number.

• Comments and correspondence from the applicant;
• Supporting documents that show proof of occupancy or ownership of a dwelling and/or verify identity. This includes but is not limited to:
- Driver's license;
- State/Federal issued photo identification;
- Mortgage payment receipts;
- Real property insurance;
- Tax receipts or property tax bill;
- Property title;
- Contract for deed;
- Voter registration card;
- Death certificate and will; and/or
- Maintenance receipts.

• Public records information for identity verification;
• Pre-registration questionnaire information;
• Disaster loan status (*i.e.,* rejected, approved, declined, verified, cancelled);
• Travel and accommodations related information (*e.g.,* flight information, travel assistance needs, companion information);
• Information related to determining eligibility for assistance, including date of the disaster, application status, insurance information, types and amount of damage to the dwelling, supporting documentation (*e.g.,* death certificates, invoices, receipts, and documentation to support accommodations or access and functional need requests and repairs) and results of the home inspection (including inspector's notes and determination);
• Landowner's or landlord's information (in cases where FEMA is placing a manufactured housing unit on the individual's land or for other temporary housing assistance):
- Name;
- Address;
- Phone number; and
- Signature.

• Correspondence and documentation related to determining eligibility and appropriate housing unit size, type, and location for temporary housing assistance, including general correspondence; complaints; requests for disbursement of payments; inquiries from tenants and landlords; information related to household access and functional needs; general administrative and fiscal information; payment schedules and forms; termination notices; information shared with the temporary housing program staff from other agencies to prevent the duplication of benefits; leases; contracts; specifications for repair of disaster damaged residences; reasons for revocation or denial of aid; sales information related to occupant purchase of housing units; and the status or disposition of housing applications;
• Recoupment, appeals and/or arbitration (oral hearings) of such determinations;
• Notice of Potential Debt Letter;
• Notations and reports of decisions for disaster or similar financial awards and assistance from other FEMA Programs, federal and state agencies, insurance companies, employers, banks, financial, power/utility companies, health care providers, safety/rescue services, and public or private entities as they relate to determinations of applicants' eligibility for Individuals and Households Program disaster assistance; and
• Unsolicited information concerning an individual's suspected or actual exposure to illness during a public health emergency, including, but not limited to quarantine or isolation orders.

(b) Inspection Reports:

• Inspection reports contain applicants' personally identifiable information (as outlined above) and results of assessments of damaged real property; personal property; and goods, which may include: descriptions and photographic images of an applicant's home and personal items; video and/or audio of the inspection conducted on the home; and notations of cleaning, sanitizing, and debris removal by contractors and partnering agencies. Inspection reports may also include Inspector ID.

(d) Assistance from Other Sources:

• Other files independently kept by the state, territory, tribe, local government, voluntary agency, or other source of assistance that contain records of persons who request disaster aid, including for the ''Other Needs'' assistance provision of the Individuals and Households Program administrative files and reports required by FEMA. The states, territories, tribes, local governments, voluntary agencies, and other sources of assistance keep the same type of information about individuals as described above under registration, inspection, and temporary housing assistance records.
• Records of assistance from the FEMA National Flood Insurance Program to avoid duplication of benefits (name, address, disaster assistance coverage required code, policy number, policy number, policy effective date, policy coverage building, policy coverage contents, new policy date, and expiration date).

(f) Customer service survey responses

• Demographic information (race, ethnicity, religion, gender, sex, nationality, age, disability, English proficiency, economic status, income level, marital status); and
• Responses to customer service and customer satisfaction survey questions.

(g) Investigation results that may contain the name and address of the applicants to support recoupment, appeals, oral hearings, or other legal proceedings in order to recover disaster assistance.

**RECORD SOURCE CATEGORIES:**

FEMA receives information from individuals who apply for disaster assistance through three different media: (1) Electronically via the internet at https://www.disasterassistance.gov (FEMA Form 009–0–1 and FEMA Form 009–0–2); (2) by calling FEMA's toll-free number 1–800–621–3362 (FEMA Form 009–0–1t and FEMA Form 009–0–2t); and (3) through submission of a paper copy of pre-registration intake, FEMA Form 009–0–1 and its Spanish-language equivalent, FEMA Form 009–0–2. In addition, information in this system of records derives from Temporary Housing Assistance Eligibility Determinations (FEMA Forms 009–0–5 and 009–0–6), Application for Continued Temporary Housing Assistance (FEMA Form 010–0–12), and Housing Inspections (FEMA Forms 009–0–143, 009–0–144, and 009–0–145). Information may also come from FEMA inspectors; financial institutions; insurance companies; other federal, state, territorial, local, tribal, and voluntary agencies; and commercial databases (for verification purposes). The final investigative summary report is stored in this system of records in the event that an applicant's file is investigated for fraud.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS/FEMA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other federal agencies conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. secs. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when (1) DHS suspects or has confirmed that there has been a breach of the system of records; (2) DHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To another federal agency or federal entity when DHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS/FEMA, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same requirements and limitations on disclosure as are applicable to DHS/FEMA officers and employees.

I. To certain government, private sector, voluntary entities, hospitals, and utility companies when disclosure of applicant information is necessary to prevent a duplication of efforts or a duplication of benefits in determining eligibility for disaster assistance, and/or to address unmet needs of eligible, ineligible, or partially-eligible FEMA applicants. The above-mentioned entities must have a disaster assistance program to address the unmet disaster-related needs of disaster survivors or be actively involved in the recovery efforts of the disaster, or a related assistance program involving FEMA applicants. The receiving entity is not permitted to alter or to further disclose the information to other disaster organizations or third parties, without express, prior written approval from FEMA, or as required by law.

FEMA may make Routine Use I disclosures under the following circumstances:

1. To federal entities with programs that make available disaster assistance to individuals and households, administer a disaster-related program, and/or give preference of priority to disaster applicants, including those that evacuate from a declared state to another state and to prevent a duplication of efforts or benefits. FEMA-authorized agreements address the federal entity sharing of information from FEMA with its contractors/grantees, and/or agents that are administering a disaster related program on behalf of the federal entity (*e.g.,* other state, tribal, and local agencies working under the guise of the requesting federal entity). FEMA may also share with other federal entities for the purpose of contacting FEMA Individuals and Households Program applicants to seek their voluntary participation in surveys or studies concerning effects of disasters, program effectiveness, and to identify possible ways to improve community preparedness and resiliency for future disasters.

2. To state, tribal, and territorial agency (STT) programs that make available any disaster assistance to individuals and households and/or give preference of priority to disaster applicants, including those that evacuate from a declared state to another state, and/or to prevent a duplication of efforts or benefits. State, tribal, and territorial agencies may request and receive information using the protocols established in an appropriate FEMA-authorized agreement. FEMA-authorized agreements address the state, tribal, and

territorial agency sharing of information from FEMA with its contractors/grantees, and/or agents that are administering a disaster related program on behalf of the Agency (*e.g.,* other state, tribal, and territorial agencies working under the guise of the requesting state agency). FEMA may also share with state, tribal, and territorial entities for the purpose of contacting FEMA Individuals and Households Program applicants to seek their voluntary participation in surveys or studies concerning effects of disasters, program effectiveness, and to identify possible ways to improve community preparedness and resiliency for future disasters.

3. To local government entities, including towns, counties/parishes, cities, townships, and locally governed subdivisions (Localities) with disaster assistance programs to address the unmet disaster-related needs of disaster survivors for a declared county charged through legislation or chartered with administering disaster relief/assistance programs. The Locality must be actively involved in the recovery efforts of the disaster. Localities may request data by submitting a written request to FEMA. The written request from the entity shall explain the type of tangible assistance being offered, the type of verification required, and, if applicable, the individuals for whom verification is required before the assistance can be provided. FEMA may also share with Localities for the purpose of contacting FEMA Individuals and Households Program applicants to seek their voluntary participation in surveys or studies concerning effects of disasters, program effectiveness, and community preparedness and resiliency for future disasters. Localities may share information they receive from FEMA with their contractors/grantees, and/or agents that are administering a disaster related program on behalf of the Locality according to a FEMA-authorized agreement.

4. Voluntary Organizations Active in Disaster (VOAD) (as defined in 44 CFR 206.2(a)(27)), and FEMA- and/or State-recognized Long Term Recovery Committees (LTRC) and their members with disaster assistance programs to address the unmet disaster-related needs of disaster survivors for a declared county charged through legislation or chartered with administering disaster relief/assistance programs. The voluntary organization must either have a national membership in good standing with the National Voluntary Organizations Active in Disaster association, be a Long Term Recovery Committee, or member of such committee for that disaster. The entity shall make a written request to either FEMA or a State agency for FEMA disaster applicant information. The written request from the entity shall explain the type of tangible assistance being offered, the type of verification required, and, if applicable, the individuals for whom verification is required before the assistance can be provided. The Voluntary Organization Active in Disaster must also have a disaster assistance program to address the unmet disaster-related needs of disaster survivors and be actively involved in the recovery efforts of the disaster. Voluntary Organizations Active in Disaster and Long Term Recovery Committees may share information they receive from FEMA with their contractors/grantees, and/or agents that are administering a disaster related program on their behalf according to a FEMA-authorized agreement.

5. To utility companies and hospitals (UC/H) that have a disaster assistance program to address the unmet disaster-related needs of disaster survivors and are actively involved in the recovery efforts of the disaster. FEMA may disclose lists of applicant names, contact information, their FEMA verified loss amount, amounts received, award category, and Small Business Administration loan status for the purpose of providing additional disaster assistance and/or addressing unmet needs. FEMA may disclose the aforementioned data elements according to different sub-categories of disaster applicants (*e.g.,* those that received maximum amounts, those that have flood insurance coverage, those with emergency needs, or those over a certain age). FEMA shall release this information only during the disaster period of assistance as defined in 44 CFR 206.110(e), plus 90 days to address any appeals (44 CFR 206.115(f)).

6. FEMA may immediately disclose, on a case-by-case basis, to an entity qualified under Routine Use (I)(4) or (I)(5) or to other organizations that loan or donate new or used durable medical equipment and assistive technology, information about applicants in need of such equipment or technology. The applicant in question must have an immediate need for durable medical equipment or assistive technology as a result of a declared disaster, and the qualifying entity is able to provide the requested assistance in question. An immediate need is a need that is of such urgency or severity that one could reasonably expect the absence of the durable medical equipment or assistive technology to place the health of the applicant in serious jeopardy, to compromise the safety of the applicant, or to prevent the applicant from relocating from a shelter facility to the next stage of recovery. Specifically, FEMA may release the applicant's name and limited contact information (telephone number, email address, and if being delivered to a location other than a shelter, the applicant's temporary or current residence).

J. To federal, state, tribal, territorial, or local government agencies; voluntary organizations; insurance companies; employers; any public or private entities; banks and financial institutions when an applicant's eligibility, in whole or in part, for FEMA's Individuals and Households Program depends upon financial benefits already received or available from that source for similar purposes as necessary to determine benefits; and to prevent duplication of disaster assistance benefits (as described in 42 U.S.C. 5155). FEMA initiates the transaction by only disclosing the name, address, and date of birth of an applicant in order to properly identify the same and obtain desired relevant information from entities listed above.

K. To contractors, medical providers, dental providers, landlords, mechanics, child care providers, or other private entities, when cited by applicants as proof of an expense, to verify the accuracy of an expense for FEMA's Individuals and Households Program. FEMA may disclose the applicant's name and limited contact information (telephone number, current address, and/or damaged dwelling address) and a record identifier (*e.g.,* account, invoice or estimate numbers) to the third-party service provider.

L. To federal, state, tribal, territorial, or local government agencies charged with the implementation of hazard mitigation measures and the enforcement of hazard-specific provisions of building codes, standards, and ordinances. FEMA will only disclose information for the following purposes:

1. For hazard mitigation planning purposes, to assist federal, state, territorial, tribal, or local government agencies in identifying high-risk areas and preparing mitigation plans that target those areas for hazard mitigation projects implemented under Federal, State, tribal, territorial, or local hazard mitigation programs.

2. For enforcement purposes, to enable federal, state, tribal, territorial, or local government agencies ensure that owners repair or rebuild structures in conformity with applicable hazard-specific building codes, standards, and ordinances.

M. To the Department of the Treasury, to verify identity and account information of an applicant as well as to determine eligibility for final payment from federal programs (*e.g.,* Do Not Pay program). An applicant's Social Security number will be released in connection with a request that the Department of the Treasury provide a disaster assistance payment to an applicant under the Individuals and Households Program.

N. To a state, local, territorial, or tribal government agency in connection with billing that state, local, territorial, or tribal government for the applicable non-federal cost share under the Individuals and Households Program. Information shared shall only include applicants' names, contact information, and amounts of assistance received.

O. To state, tribal, territorial, or local government emergency managers, when an applicant is occupying a FEMA temporary housing unit, for the purposes of preparing, administering, coordinating, and/or monitoring emergency response, public safety, and evacuation plans. FEMA shall only release the applicants' phone numbers, address, and number of household occupants of the housing unit.

P. To the Department of the Treasury, Department of Justice, the U.S. Attorney's Office, an Oral Hearing Official, or other third party for further collection action on any delinquent debt when circumstances warrant.

Q. To federal, state, territorial, tribal, or local law enforcement authorities, or agencies, or other entities authorized to investigate and/or coordinate locating missing children and/or reuniting families.

R. To state, tribal, territorial, or local government election agencies/authorities that oversee the voting process within their respective municipalities, for the purpose of ensuring voting rights of individuals who have applied for FEMA assistance, limited to their own respective citizens who are displaced from their voting jurisdiction by a presidentially declared major disaster or emergency out of their voting jurisdiction.

S. To other federal, state, or local government agencies under approved computer-matching programs for the purposes articulated in subsection (a)(8)(A) of the Privacy Act.

T. To the individual applicants, of whom the record contains third party personally identifiable information, to defend themselves during appeals and Oral Hearings on the recoupment of disaster assistance funds.

U. To any law enforcement agency of the federal government or a state, local, territorial, or tribal government in order to identify illegal conduct or address public safety or security issues, including compliance with sex offender notification laws, in the event of circumstances requiring an evacuation, sheltering, or mass relocation.

V. To entities providing temporary housing or sheltering to disaster survivors during a declared public health emergency to provide indication that a survivor with an infectious disease is inhabiting or has inhabited a specific location, when necessary for the safety of individuals located in the facility and to comply with additional necessary infectious disease protocols.

W. To state, local, territorial, and tribal government and private entities to verify applicant identity and account information as a fraud prevention measure.

X. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

DHS/FEMA stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital/electronic media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

DHS/FEMA may retrieve records by an individual's name, address, Social Security number, or case file number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records pertaining to disaster assistance will be placed in inactive storage two years after FEMA receives the application and will be destroyed when they are six years and three months old, in accordance with National Archives and Records Administration Authority N1–311–86–1, DAP 8–1, item 4C10a. Records pertaining to temporary housing will be destroyed three years after close of the operation in accordance with National Archives and Records Administration Authority N1–311–86–1, DAP 8–2, item 4C10b. Closeout of a disaster operation occurs when the disaster contract is terminated. Records pertaining to the Individuals and Households Program program will retire to the Federal Records Center (FRC) one year after closeout and be destroyed three years after closeout in accordance with National Archives and Records Administration Authority N1–311–86–1, item 4C6c. Records pertaining to individual assistance customer satisfaction assessments are stored in accordance with National Archives and Records Administration Authority N1–311–00–01. Records pertaining to investigations are retired to inactive storage when two years old, and destroyed when six years, three months old in accordance with National Archives and Records Administration Authority N1–311–86–001, item 4C10a. Customer service assessment forms that have been filled out and returned by disaster assistance applicants are temporary records that are destroyed upon transmission of the final report, per National Archives and Records Administration Authority N1–311–00–01, DAP–14–1. The statistical and analytical reports resulting from these assessments are temporary records that are retired three years after the final report cutoff and destroyed 20 years after the report cutoff, per National Archives and Records Administration Authority N1–311–00–01, DAP–14–2. The assessment results database are temporary records that are destroyed when no longer needed for analysis purposes, per National Archives and Records Administration Authority N1–311–00–01, DAP–14–3. Per current National Archives and Records Administration guidance, records pertaining to COVID–19 will be maintained permanently until further guidance regarding the retention of COVID–19 records is provided.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

DHS/FEMA safeguards the records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. FEMA has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have the appropriate clearances or permissions.

**RECORD ACCESS PROCEDURES:**

Individuals applying for Individuals and Households Program assistance may access their information online via the Disaster Assistance Center using the user ID, password, system generated PIN, and authentication that was established during the application process. Applicants may also call a FEMA National Processing Service Center (NPSC) representative to access their information by providing their registration ID, full name, damaged dwelling address, current mailing address (if different), current phone number, and the last four digits of their Social Security number.

In addition, individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and the FEMA Freedom of Information Act (FOIA) Officer, whose contact information can be found at *https://www.dhs.gov/foia* under ''Contact Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other FEMA system of records, the individual's request must conform with the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his or her identity, meaning that the individual must provide his or her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. In addition, the individual should:

- Explain why he or she believes the Department would have the information being requested;
- Identify which component(s) of the Department he or she believes may have the information;
- Specify when he or she believes the records would have been created; and
- Provide any other information that will help the DHS staff determine which DHS component agency may have responsive records;

If the request is seeking records pertaining to another living individual, the request must include an authorization from the individual whose record is being requested, authorizing the release to the requester.

Without the above information, the Component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

**CONTESTING RECORD PROCEDURES:**

For records covered by the Privacy Act or covered Judicial Redress Act records, individuals may make a request for amendment or correction of a record of the Department about the individual by writing directly to the Department component that maintains the record, unless the record is not subject to amendment or correction. The request should identify each particular record in question, state the amendment or correction desired, and state why the individual believes that the record is not accurate, relevant, timely, or complete. The individual may submit any documentation that would be helpful. If the individual believes that the same record is in more than one system of records, the request should state that and be addressed to each component that maintains a system of records containing the record.

**NOTIFICATION PROCEDURES:**

See ''Record Access Procedures.''

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

78 FR 25282 (April 30, 2013); 74 FR 48763 (September 24, 2009); 71 FR 38408 (July 6, 2006); 69 FR 65615 (November 15, 2004); 66 FR 51436 (October 9, 2001); 64 FR 40596 (July 27, 1999); 61 FR 49777 (September 23, 1996).

* * * * *

**Lynn P. Dupree,**

*Chief Privacy Officer, U.S. Department of Homeland Security.*

[FR Doc. 2022–02950 Filed 2–9–22; 8:45 am]

**BILLING CODE 9110–17–P**

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

### Intent To Request a Revision From OMB of One Current Public Collection of Information: Law Enforcement Officers (LEOs) Flying Armed

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 60-Day notice.

**SUMMARY:** The Transportation Security Administration (TSA) invites public comment on one currently-approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0072, that we will submit to OMB for a revision in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves gathering information from state, local, and tribal armed law enforcement officers (LEOs) who require specialized screening at the checkpoint.

**DATES:** Send your comments by April 11, 2022.

**ADDRESSES:** Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Arlington, VA 20598–6011.

**FOR FURTHER INFORMATION CONTACT:** Christina A. Walsh at the above address, or by telephone (571) 227–2062.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who

are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Information Collection Requirement**

TSA has broad statutory authority to assess a security risk for any mode of transportation, develop security measures for dealing with that risk, and enforce compliance with those measures.[1]

TSA's mission includes the screening of individuals, accessible property, checked baggage, and cargo before boarding or loading on an aircraft to prevent or deter the carriage of any explosive, incendiary, or deadly or dangerous weapon on an aircraft. Under 49 CFR 1540.107, individuals are required to submit to screening and inspection before entering a sterile area of an airport or boarding an aircraft. The prohibition on carrying a weapon, however, does not apply to LEOs required to carry a firearm or other weapons while in the performance of law enforcement duties at the airport. *See* 49 CFR 1540.111(b). In addition, LEOs may fly armed if they meet the requirements of 49 CFR 1544.219. This section includes requirements for being a Federal, municipal, county, or state law enforcement officer; authorization to carry the weapon; training for flying armed; validation of the need for the weapon to be accessible aboard the aircraft; and notification requirements. This section also discusses prohibitions related to alcoholic beverage consumption, and the appropriate location of the weapon while aboard the aircraft.

TSA has established a specialized screening process for state, local, and tribal LEOs when they are flying armed and need to go through screening at the checkpoint. When this situation occurs, LEOs are required to complete TSA Form 413A, Checkpoint Sign-In Log.

The information collected on TSA Form 413A includes identifying information for the LEOs; an affirmation that they are authorized to fly armed on official business and that they have an operational need to have their weapon accessible during the flight in accordance with 49 CFR part 1544; and identification of weapons they are carrying. TSA is revising the information collection by amending the identification of weapons section of the form, removing the language ''CBP only.'' TSA inadvertently included the limitation language ''CBP only'' in reference to LEOs carrying knives. However, there is no restriction as all LEOs may carry knives.

The information required by the form is used by the TSA Security Operations Center and the Law Enforcement/Federal Air Marshal Service in order to have situational awareness of armed LEOs presence on flights conducted by 49 CFR parts 1544 and/or 1546 regulated parties (aircraft operators and foreign air carriers). This real-time situational awareness is necessary in the event of an emergency on board the aircraft; such as but not limited to, a disruptive passenger, air piracy, or other threat to the safety and security of a commercial aircraft.

Respondents to this collection are state, local, and tribal police officers travelling with their weapons. TSA uses historical data to estimate 68,000 average annual responses. Each check-in requires filling out a log book and TSA estimates this activity requires one minute (0.016667 hours) to complete. TSA estimates this collection will place an annual average hour burden of 1,133 hours on the public.

Dated: February 7, 2022.

**Christina A. Walsh,**

*TSA Paperwork Reduction Act Officer, Information Technology.*

[FR Doc. 2022–02835 Filed 2–9–22; 8:45 am]

**BILLING CODE 9110–05–P**

[1] *See* 49 U.S.C. 114.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[FR–7062–N–02]**

### Privacy Act of 1974; Matching Program

**AGENCY:** Office of Administration, Department of Housing and Urban Development.

**ACTION:** Notice of a new matching program.

**SUMMARY:** Pursuant to the Privacy Act of 1974, as amended by the Computer Matching and Privacy Act of 1988 and the Computer Matching and Privacy Protections Amendment of 1990 (Privacy Act), and Office of Management and Budget (OMB) guidance on the conduct of matching programs, notice is hereby given of the re-establishment of a matching program between the U.S. Department of Housing and Urban Development (HUD) and Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA).

**DATES:** Please submit comments on or before March 14, 2022. The matching program will be effective on March 14, 2022 unless comments have been received from interested members of the public that require modification and republication of the notice. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice at *www.regulations.gov* or to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10110, Washington, DC 20410. Communications should refer to the above docket number. A copy of each communication submitted will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** To obtain additional information about this matching program and the contents of this Computer Matching Agreement between HUD and DHS–FEMA, please view this Computer Matching Agreement at the following websites:

*FEMA/DHS: https://www.dhs.gov/publication/computer-matching-agreements-and-notices.*

*HUD: https://www.hud.gov/program_offices/officeofadministration/privacy_act/cma.*

For general questions about this matching program, contact Matthew D. Redding, Deputy Director for Individual Assistance, U.S. Department of Homeland Security, Federal Emergency Management Agency, Individual Assistance Division, Recovery Directorate at (202) 212–7657 or Todd Richardson, General Deputy Assistant Secretary, Office of Policy Development and Research, U.S. Housing and Urban Development at (202) 402–5706. A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Relay Service).

**SUPPLEMENTARY INFORMATION:** HUD is providing this notice in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818

(June 19, 1989); and OMB Circular A–108, 81 FR 94424 (December 23, 2016).

Following a Presidentially declared disaster or emergency, HUD and FEMA will compare and match data between the two agencies for HUD-assisted individuals (1) receiving emergency sheltering when FEMA individuals and households assistance also has been authorized or (2) FEMA housing assistance in order to transition them from FEMA assistance back into pre-approved HUD housing and conduct duplication of benefits checks. HUD Community Development Block Grant Disaster Recovery (CDBG–DR) grantees will use FEMA data received through HUD to complete duplication of benefits checks. FEMA data will be used for additional purposes that will not determine individual benefits: HUD will use FEMA data to inform its CDBG–DR grant allocation formula and CDBG–DR grantees will use FEMA data for planning and marketing of CDBG–DR assisted activities.

**Participating Agencies**

U.S. Department of Housing and Urban Development (HUD) and the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA).

**Authority for Conducting the Matching Program**

A. Robert T. Stafford Disaster Relief and Emergency Assistance Act (as amended at 42 U.S.C. 5155(a) *et seq.*) (Stafford Act), section 312, which requires each federal agency that administers any program providing financial assistance because of a major disaster or emergency to assure that no individual or entity receives duplicate financial assistance under any program, from insurance, or through any other source. The Stafford Act, 42 U.S.C. 5155(c), requires FEMA or HUD (whichever agency provided the duplicative assistance) to recover all duplicative assistance from the recipient when the head of such agency considers it to be in the best interest of the Federal Government.

B. Section 408(i) of the Stafford Act, 42 U.S.C. 5174(i), directs and authorizes FEMA, in carrying out Section 408 (Federal Assistance to Individuals and Households), to ''develop a system, including an electronic database,'' to: (a) Verify the identity and address of recipients of assistance to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance, (b) Minimize the risk of making duplicative payments or payments for fraudulent claims, (c) Collect any duplicate payment on a claim or reduce the amount of subsequent payments to offset the amount of any such duplicate payment, (d) Provide instructions to recipients of assistance regarding the proper use of any such assistance, regardless of how such assistance is distributed, and (e) Conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance is denied.

C. HUD imposes the requirements of the Stafford Act, section 312, on CDBG–DR grantees. Appropriations acts making CDBG–DR funds available, as listed in Section II.C.8 of the Computer Matching Agreement, require CDBG–DR grantees to have adequate procedures to prevent the duplication of benefits. HUD enforces these requirements on CDBG–DR grantees using its statutory and regulatory remedies for noncompliance in Section 111 of Title I of the Housing and Community Development of 1974 (42 U.S.C. 5311) and regulations at 24 CFR part 570 and 2 CFR part 200.

D. Executive Order 13411, ''Improving Assistance for Disaster Victims,'' 71 FR 52729 (August 29, 2006), calls on federal agencies to ''reduce unnecessarily duplicative application forms and processes for Federal disaster assistance,'' which includes processing benefits applications submitted by individuals, businesses, or other entities for the same disaster.

E. The President may authorize both emergency sheltering and Section 408 federal assistance to individuals and households, pursuant to either a major disaster under Section 403, at 42 U.S.C. 5170b, or an emergency under Section 502 of the Stafford Act, 42 U.S.C. 5192. Essential Assistance, pursuant to Section 403(a)(3)(B) of the Stafford Act, 42 U.S.C. 5170b, authorizes emergency sheltering, including both congregate and non-congregate sheltering, to meet the immediate needs of disaster survivors for a major disaster. Additionally, federal assistance where necessary to prevent human suffering under Section 502(a)(8) authorizes emergency sheltering for an emergency.

F. The Debt Collection Improvement Act of 1996, 31 U.S.C. 3325(d) and 7701(c)(1), which requires federal agencies to collect the Taxpayer Identification Number (TIN) or Social Security Number (SSN) of each person who receives payments from the Federal Government; and each person doing business with the Federal Government is required to furnish his or her TIN. For the purposes of 31 U.S.C. 7701, a person is doing business with the Federal Government if the person is: (1) A lender or servicer in a federal guaranteed or insured loan program administered by a federal agency, (2) An applicant for, or recipient of, a federal license permit, right-of-way, grant, or benefit payment administered by a federal agency, (3) A contractor of a federal agency, (4) Assessed a fine, fee, royalty, or penalty by a federal agency, or (5) In a relationship with a federal agency that may give rise to a receivable due to that agency such as a partner of a borrower in or a guarantor of a federal direct or insured loan administered by the federal agency. Each federal agency must inform each person required to disclose his or her TIN of the agency's intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Federal Government.

G. The appropriations acts that authorize and appropriate supplemental CDBG–DR assistance lay out specific requirements, some of which may vary by appropriation. These appropriations acts impose requirements related to the (1) prevention of fraud, waste, and abuse, (2) order of assistance, and (3) prevention of duplication of benefits on HUD or its CDBG–DR grantees, as directed by the applicable act. The appropriations acts, listed below, also require HUD to make allocations based on a determination of unmet need in the ''most impacted and distressed areas'' resulting from major disasters.

Legal authority for CDBG–DR assistance is derived from Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*); subsequent appropriations acts making CDBG–DR assistance available; the following prior appropriations acts–Public Law 117–43, 116–20, 115–254, 115–123, 115–56, 115–31, 114–254, 114–223, 114–113, 113–2, 112–55, 111–212, 110–329, 110–252, 110–116, 109–234, 109–148, 108–324, 107–206, 107–117, 107–73, 107–38, 106–31, 105–277, 105–276, 105–174, 105–18, 104–134, 104–19, 103–327, 103–211, 103–75, and 103–50–and by the notices published in the **Federal Register** that govern CDBG–DR grant assistance including the *Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees* at 84 FR 28836 (June 20, 2019).

H. The HUD regulation at 24 CFR 982.352(c) prohibits a family from receiving the benefit of Section 8 tenant-based assistance under the Housing Choice Voucher Program while also receiving the benefit of any of the

following forms of other housing subsidy for the same or a different unit:

1. Public or Indian housing assistance,

2. Section 8 assistance (including other tenant-based assistance) under Section 8 of the U.S. Housing Act of 1937, 42 U.S.C. 1437f,

3. Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974),

4. Section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. 1701s (Section 101 rent supplements),

5. Section 236 of the National Housing Act, 12 U.S.C. 1715z–1 (Section 236 rental assistance payments),

6. Tenant-based assistance under the HOME Investment Partnerships Program (HOME) authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 12701 *et seq.,*

7. Rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 258 1441 *et seq.* (a program of the Rural Development Administration),

8. Any local or state rent subsidy,

9. Section 202 of the Housing Act of 1959, 12 U.S.C. 1701q, as amended (Section 202 supportive housing for the elderly),

10. Section 811 of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 8013 (Section 811 supportive housing for persons with disabilities),

11. Section 202 projects for non-elderly persons with disabilities (Section 162 assistance) authorized by Section 162 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701a note, amending Section 202(h) of the Housing Act of 1959, or

12. Any other duplicative federal, state, or local housing subsidy, as determined by HUD. For this purpose, ''housing subsidy'' does not include the housing component of a welfare payment, a Social Security payment received by the family, or a rent reduction because of a tax credit. (June 20, 2019).

**Purpose**

The Computer Matching Agreement describes the respective responsibilities of HUD and DHS–FEMA to determine and verify the accuracy of the data they provide, eligibility for their respective benefits, and to preserve the confidentiality of information in accordance with the matching program. The requirements of the Computer Matching Agreement will be carried out by authorized users of HUD and DHS–FEMA (which include the agencies' authorized employees, and contractors). The agreement also describes the responsibilities of HUD, HUD's CDBG–DR grantees, and DHS–FEMA for other purposes, as described below.

The Computer Matching Agreement reestablishes the terms and conditions governing FEMA's access to, and use of, HUD assistance program data and HUD's access to, and use of FEMA's Individual Assistance (IA), Individual's and Household Program data. All FEMA program data that HUD provides to CDBG–DR grantees will be shared via separate agreements between HUD and CDBG–DR grantees that reflect the requirements of the Computer Matching Agreement between FEMA and HUD. The data exchanged between FEMA and HUD will be used as described in the Agreement for three purposes.

(1) FEMA will use HUD data to establish or verify initial or continuing eligibility for DHS/FEMA disaster assistance and to prevent duplicative payments, or recoup duplicative payments and delinquent debts under the programs referenced in this agreement. Additionally, FEMA and HUD will use the information to transition HUD housing recipients, whose HUD homes are uninhabitable due to a declared disaster or emergency with Individual Assistance (IA) authorized, from emergency sheltering or FEMA housing assistance back into HUD assisted housing.

(2) HUD will use FEMA program data to develop the funding formulas to request additional appropriations from Congress and allocate funding for CDBG–DR grant awards as well as to collect FEMA data to share with HUD's CDBG–DR grantees. After calculating allocations for CDBG–DR grant awards, HUD provides CDBG–DR grantees a subset of the data used for making the allocation to the applicable CDBG–DR grantee so the CDBG–DR grantee can do planning and market the use of grant funds. These uses of FEMA data shall not determine individual benefits.

(3) HUD will provide FEMA data to CDBG–DR grantees (pursuant to separate agreements) for them to use to determine the correct award amount for eligible program beneficiaries by identifying unmet needs of FEMA applicants; prevent the duplication of benefits; implement the statutory requirement that CDBG–DR funds may not be used for activities reimbursable by or for which funds are made available by FEMA; and implement the statutory requirement to establish procedures to detect and prevent waste, fraud, and abuse of funds.

**Categories of Individuals**

DHS/FEMA data in this matching program includes individuals that have applied for or expressed interest in disaster assistance. HUD data in this matching program concerns individuals who have applied for or received assistance via HUD assistance programs.

**Categories of Records**

Data elements disclosed by each agency in this matching program are as follows:

*A. From DHS/FEMA to HUD*

- Name (First and Last of Applicant and Co-applicant)
- Date of Birth (Applicant and Co-Applicant)
- Social Security Number (last 4 of Applicant and Co-applicant)
- Phone Number (Applicant Alternate Phone Number, Applicant Current Phone Number, Co-applicant Current Phone Number)
- Email Address of Applicant
- Applicant Registration Number
- Current Mailing Address (Street, City, County, State, Zip Code)
- Current Location (as identified in applicant registration and applicant information screen)
- Damaged Dwelling Latitude and Longitude
- Damaged Address (Street, City, County, State, Zip Code + 4 Digit Ext.)
- Access and Functional Needs (Y/N)
- Household Member Age Range (Under 5 years, 5 to 17 years, 18 to 64 years, 65 and above)
- Number of Household Members
- Number of Dependents in Household
- Current Hotel (Name, Address, City, County)
- Initial Rental Assistance Approved Date
- Direct Housing First Licensed-In Date
- Last Continued Temporary Housing Assistance Date
- Small Business Administration (SBA) HAPP Referral Flag (Y/N)
- Census Block Group ID (if applicable)
- Cause(s) of Damage from Inspection
- Destroyed Flag (Y/N)
- Disaster Number
- Flood Zone
- High Water Mark Location
- High Water Depth in Inches
- Habitability Repairs Required (Y/N)
- Gross Income (as reported at Registration)
- Insurance Types (Insurance Code)
- Level of Damage
- Owner/Renter
- Personal Property Total FEMA Verified Loss (FVL)Amount
- Personal Property Flood Damage FVL Amount

- Real Property Total FVL Amount (Aggregated for all REAL PROPERTY FVL)
- Real Property Flood Damage FVL Amount
- Residence Type
- FEMA Inspection Completed (Y/N)
- Primary Residence (RI) (Yes/No)
- Household Member Age and Name (First and Last)
- Insurance Settlement Flood Amount
- Insurance Settlement Other Amount
- Non-Compliant with Flood Insurance Requirement NCOMP Flag (Y/N)
- Temporary Housing Unit (THU)—Latest Currently Licensed-In Date
- Total Housing Assistance Approved Amount (Aggregated Eligibility Amount)
- Total Housing Assistance Approved Flood Damage Amount
- Total Other Assistance Approved Amount (Aggregated Eligibility Amount)
- Total Other Assistance Flood Damage Approved Amount
- Total Other Needs Assistance Approved Amount (Aggregated Eligibility Amount)
- Total Other Needs Assistance Flood Damage Approved Amount
- Total Personal Property Assistance Approved Amount (Aggregated Eligibility Amount)
- Total Personal Property Assistance Flood Damage Amount
- Total Repair Assistance Approved Amount (Aggregated Eligibility Amount)
- Total Repair Assistance Flood Damage Amount
- Total Replacement Assistance Approved Amount (Aggregated Eligibility Amount)

*B. From HUD to FEMA*

- Name (First and Last of Recipient and Co-recipient)
- Social Security Number (last 4 digits of Recipient and Co-recipient)
- Date of Birth (Recipient and Co-recipient)
- Address (Street Address, State, City, County, Zip Code)
- Number of Household Members
- HUD Program Code (Program Type: H1—Section 8 (Multifamily), H4—Section 236 (Multifamily), H7—202/PRAC (Multifamily), P—Public Housing, PBV—Project Based Voucher, TBV—Tenant Based Voucher, HV—Homeownership Voucher, CE—Certificate, MR-Mod Rehab)
- HUD Rehoused (Y/N/Unknown)
- HUD Project Code
- HUD Public Housing Agency (PHA) Code
- HUD Date of Recertification

**System of Records**

- DHS/FEMA–008 Disaster Recovery Assistance Files System of Records Notice, 78 FR 25282 (April 30, 2013), or as amended.
- Inventory Management System (also known as the Public and Indian Housing Information Center) (IMS/PIC), HUD/PIH.01, 84 FR 11117 (March 25, 2019).
- Enterprise Income Verification (EIV), HUD/PIH–5, EIV 71 FR 45,066 (August 8, 2006), which was updated by 74 FR 45235 (September 1, 2009).
- Tenant Rental Assistance Certification System (TRACS), HSNG/MF.HTS.02, 81 FR 56684 (August 22, 2016).

**Nancy Corsiglia,**

*Senior Agency Official for Privacy Department of Housing & Urban Development.*

[FR Doc. 2022–02966 Filed 2–9–22; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–6313–N–01]**

## Waiver and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees—Tourism Waiver for Puerto Rico

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice governs Community Development Block Grant Disaster Recovery (CDBG–DR) funds awarded under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 and the Bipartisan Budget Act of 2018. Specifically, in response to a request by the Commonwealth of Puerto Rico, this notice grants a previously provided waiver and alternative requirement related to tourism and business marketing for the Commonwealth's use of CDBG–DR funds.

**DATES:** *Applicability Date:* February 15, 2022.

**FOR FURTHER INFORMATION CONTACT:** Jessie Handforth Kome, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street SW, Room 10166, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Facsimile inquiries may be sent to Ms. Kome at 202–708–0033. (Except for the ''800'' number, these telephone numbers are not toll-free). Email inquiries may be sent to *disaster_recovery@hud.gov.*

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**



### I. Authority To Grant Waivers

The Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Pub. L. 115–56, approved Sept. 8, 2017) and the Bipartisan Budget Act of 2018 (Pub. L. 115–123, approved Feb. 9, 2018) authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of grant funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment.

The waiver and alternative requirement authorized in this notice are based upon a determination by the Secretary that good cause exists, and that the waiver and alternative requirement is consistent with the overall purposes of title I of the Housing and Community Development Act of 1974 (HCDA). The basis for the Secretary's determination of good cause is described below.

### II. Waiver and Alternative Requirement Related to Tourism and Business Marketing (Commonwealth of Puerto Rico Only)

The Commonwealth submitted a request for an extension of the previously granted waiver and alternative requirement authorizing activities related to tourism and business marketing for an additional 180 days. The previously granted waiver and alternative requirement expired February 8, 2022. Accordingly, HUD hereby grants the waiver and alternative requirement described in this notice for 180 days from the applicability date of this notice. The cap on the activity costs remains unchanged. The grantee can expend no more than $25,000,000 on activities authorized by this waiver and alternative requirement.

In section IV.D.17. of the **Federal Register** notice published on August 14, 2018 (83 FR 40322) (the ''August 2018 Notice), the Department granted the Commonwealth a waiver of 42 U.S.C. 5305(a) to the extent necessary to create a new eligible activity and use up to $15,000,000 of CDBG–DR funds for tourism and marketing activities to promote travel and to attract new

businesses to disaster-impacted areas, consistent with the amount in the Commonwealth's action plan and substantial amendments submitted to and approved by HUD. In section IV.2. of the **Federal Register** notice published on February 19, 2019 (84 FR 4844) (the ''February 2019 Notice''), the Department amended this waiver and alternative requirement to authorize the use of an additional $10,000,000 of the Commonwealth's CDBG–DR funds for tourism and marketing activities. HUD required the waiver and alternative requirement to expire two years after the Commonwealth's first draw of its CDBG–DR funds allocated in the **Federal Register** notice published on February 9, 2018. In section VI.C. of the **Federal Register** notice published on January 6, 2021, HUD extended the waiver and alternative requirement, in accordance with the August 2018 Notice and February 2019 Notice, as referenced above, for one year due to issues related to the Coronavirus Disease 2019 (COVID–19) pandemic. This one-year extension expired on February 8, 2022.

Tourism is a significant part of the Commonwealth's economy and was severely impacted by Hurricanes Irma and Maria and further impacted by the COVID–19 pandemic. The expiration of the waiver and alternative requirement for tourism and marketing activities limits the ability of the Commonwealth to use the CDBG–DR funds during its peak tourism season, interrupting economic development gains made by the Commonwealth in its use of CDBG–DR funds for disaster recovery. As a result, the Secretary has determined that good cause exists to grant the waiver and alternative requirement described above, in accordance with the August 2018 Notice and February 2019 Notice, so that the Commonwealth may carry out tourism and marketing activities permitted by the waiver and alternative requirement for 180 days from the applicability date of this notice. HUD may further extend the waiver and alternative requirements administratively, if requested by the Commonwealth and good cause for such an extension exists at that time.

**James Arthur Jemison, II,**

*Principal Deputy Assistant Secretary for Community Planning and Development.*

[FR Doc. 2022–02770 Filed 2–9–22; 8:45 am]

**BILLING CODE 4210–67–P**

## INTER-AMERICAN FOUNDATION

### Sunshine Act Meetings

**TIME AND DATE:**

February 16, 2022, 10:00 a.m.–10:30 a.m. ET.

February 17, 2022, 12:30 p.m.–2.30 p.m. ET.

**PLACE:** Via tele-conference.

**STATUS:** Meeting of the IAF Board of Directors, closed to the public as provided for by 22 CFR 1004.4(b)

**MATTERS TO BE CONSIDERED:**

- Executive Session

**CONTACT PERSON FOR MORE INFORMATION:** Aswathi Zachariah, General Counsel, (202) 683–7118.

*For Dial-in Information Contact:* Denetra McPherson, Paralegal, (202) 688–3054.

The Inter-American Foundation is holding this meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

**Aswathi Zachariah,**

*General Counsel.*

[FR Doc. 2022–03009 Filed 2–8–22; 4:15 pm]

**BILLING CODE 7025–01–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[223A2100DD/AAKC001030/A0A501010.999900]**

### San Carlos Irrigation Project—Power Division, Arizona Power Rate Adjustment

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of proposed rate adjustment.

**SUMMARY:** The Bureau of Indian Affairs (BIA) proposes to adjust electric power rates for the Power Division of San Carlos Irrigation Project (SCIP/PD).

**DATES:**

*Comments due:* Interested parties may submit comments on the proposed rate adjustments on or before April 11, 2022.

*Meeting date:* BIA will hold a public meeting on the proposed rates March 3, 2022.

**ADDRESSES:** All comments on the proposed rate adjustments must be in writing. You may send comments via email to *comments@bia.gov.* Please reference ''Rate Adjustment for SCIP-Power Division'' in the subject line. Or you may submit comments to: Mr. David Fisher, Chief, Division of Water and Power, Office of Trust Services, 13922 Denver West Parkway, Suite 300, Lakewood, Colorado 80401.

**FOR FURTHER INFORMATION CONTACT:** For details about SCIP/PD, please contact Catherine Wilson, Acting Deputy Regional Director, Bureau of Indian Affairs, Western Region, 2600 N Central Avenue, Phoenix, AZ 85004, (602) 379–6600.

**SUPPLEMENTARY INFORMATION:** The table in this notice provides current and proposed electric power rates for 2022 and 2023.

#### Public Meeting

We will hold a public meeting on the proposed rate adjustments on March 3, 2022, at 5 p.m. MST time. To best accommodate all customers and ensure everyone's safety, we will be holding a virtual meeting. Please register in advance at: *https://zoom.us/webinar/register/WN_Eic1E73-RpGTYIhEPoWEvQ.* The purpose of the public meeting will be to answer questions about the proposed rate increase.

#### What is the meaning of key terms used in this notice?

*BIA* means the Bureau of Indian Affairs within the United States Department of the Interior or the BIA's authorized representative.

*Bill* means our written statement notifying you of the charges and/or fees you owe the United States for the administration, operation, maintenance, rehabilitation, and/or construction of the electric power utility servicing you.

*CFR* means Code of Federal Regulations.

*Customer* means any person or entity to whom we provide service.

*Customer service* is the assistance or service provided to customers, except for the actual delivery of electric power or energy. Customer service may include: Line extension, system upgrade, meter testing, connections or disconnection, special meter reading, or other assistance or service as provided in each utility's Operations Manual.

*Day(s)* means calendar day(s).

*Demand* is measured in kilowatts by the utility's meter and represents the rate at which electricity is consumed in a fifteen-minute period of maximum use.

*Electric power* means the energy we deliver to meet customers' electrical needs.

*Electric power rate* means the charges we establish for delivery of energy to our customers, which includes administration costs and operation and maintenance costs in addition to the cost of purchased power.

*Electric power utility* means all structures, equipment, components, and human resources necessary for the delivery of electric service.

*Electric service* means the delivery of electric power by our utility to our customers.

*Energy* means electric power.

*Fee* (see Service fee).

*I, me, my, you,* and *your* means all interested parties, especially persons or entities to which we provide service and receive use of our electric power service.

*Must* means an imperative or mandatory act or requirement.

*Purchased power* means the power we must purchase from power marketing providers for resale to our customers to meet changing power demands. Each of our utilities establishes its own power purchasing agreements based on its power demands and firm power availability.

*Rate* (see Electric power rate).

*Reserve Funds* means funds held in reserve for maintenance, repairs, or unexpected expenses.

*Revenue* means the monies we collect from our customers through service fees and electric power rates.

*Service* (see Electric service).

*Service fee* means our charge for providing or performing a specific administrative or customer service.

*Utility(ies)* see (Electric power utility).

*We, us,* and *our* means the United States Government, the Secretary of the Interior, the BIA, and all who are authorized to represent us in matters covered under this notice.

**Does this notice affect me?**

This notice affects you if we provide you electric service. SCIP/PD provides service to customers located within the San Carlos Indian Reservation, Gila River Indian Reservation, and to areas in Gila, Maricopa, Pima, and Pinal counties in Arizona. SCIP/PD provides power for residential, governmental, irrigation, commercial, and industrial uses, and approximately 83 percent of SCIP/PD's customers are non-Indians.

**Where can I get information on the regulatory and legal citations in this notice?**

You can contact us using the addresses provided at the beginning of this notice, or you can use the internet site for the Government Printing Office at *http://www.gpo.gov.*

**Why are you publishing this notice?**

We are publishing this notice to inform you that we propose to adjust our electric power rates. This notice is published in accordance with BIA's regulations governing its operation and maintenance of power projects, found at 25 CFR part 175. This regulation provides for the establishment and publication of rates for electric power assessments as well as related information about our power projects.

**What authorizes you to issue this notice?**

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of March 7, 1928 (45 Stat. 210–12), *as amended;* and 25 U.S.C. 385c. The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

**How do you calculate electric power rates?**

We calculate electric power rates by estimating the costs of energy delivery to our customers, which includes administration costs and operation and maintenance costs in addition to the cost of purchased power. Operation and maintenance costs include maintenance of a reserve fund to make repairs and replacements to the utility, defray emergency expenses, ensure the continuous operation of the power system, and pay other allowable expenses and obligations to the extent required or permitted by law. The result of this calculation is stated in the rate table in this notice.

**How does SCIP/PD know how much rate increase is needed?**

SCIP/PD completed a review of our rates in accordance with 25 CFR 175.205 to: (a) Determine if our financial requirements are being met to ensure the reliable operation of the utility; and (b) determine if revenues are sufficient to meet our statutory requirements. We have determined a rate increase is needed to ensure SCIP/PD can pay its expenses and replenish its reserve fund.

**When will you put the rate adjustments into effect?**

We will put the 2022 rate adjustment into effect for June 2022 bills. We will put the 2023 rate adjustment into effect for January 2023 bills.

**Will any additional monthly rates apply?**

We may add a purchased power cost adjustment to certain categories in the below table. This adjustment is the amount (rounded to the nearest $0.0001) that the SCIP/PD pays to its power suppliers. When we experience unforeseen increases in the cost of purchased power, we may adjust the existing electric power rate and put it into effect immediately. We will publish the purchased power changes in the local newspaper and adjust the purchased power component of your bill accordingly. Such changes are not included in the procedure for adjusting electric power rates because unforeseen increases in the cost of purchased power are: (a) Not under our control; (b) determined by current market rates; and (c) subject to market fluctuations that can occur at an undetermined time and frequency.

Weather and drought related events in 2020, combined with limited availability of summer energy resources, significantly increased power market rates and led to an immediate funding shortfall for SCIP/PD. As of November 2021, our purchased power costs increased by 218% from the previous year. To cover these unforeseen costs, BIA published notice in August 2021 of an adjustment to our purchased power rate in local newspapers (Apache Messenger, Aug. 4, 2021; Copper Area News, Aug. 4, 11, 18, 25, 2021; Casa Grande Valley Newspaper, Aug. 3, 10, 17, 24, 31, 2021). Except for Irrigation Project Pumps and Dawn-to-Dusk Lighting rate categories, the purchase power adjustment is $0.031 per kilowatt-hour. This adjustment became effective on September 1, 2021. Because we have added the $0.031 per kilowatt-hour adjustment into the proposed rates in the below table, the adjustment will end when our proposed 2022 rates become effective.

**Are there restrictions on my use of power?**

You must use any power that we supply you only on your property. You may not resell any power that we supply to you.

**How does BIA bill me if I have more than one meter?**

If you have more than one meter, we will calculate a separate bill for each meter.

**When should I pay my power bill?**

We will mail or email your bill notifying you (a) the amount you owe to the United States and (b) when such amount is due. You should pay your bill by the due date stated on the bill.

**What information must I provide for billing purposes?**

All responsible parties are required to provide the following information to the billing office associated with SCIP/PD:

(1) The full legal name of the person or entity responsible for paying the bill;

(2) An adequate and correct address for mailing our bill; and

(3) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

**Why are you collecting my taxpayer identification number or social security number?**

Public Law 104–134, the Debt Collection Improvement Act of 1996, requires that we collect the taxpayer identification number or social security number before billing a responsible party and as a condition to servicing the account.

**What can happen if I do not provide the information required for billing purposes?**

We can refuse to provide you electrical service.

**If I allow my bill to become past due, could this affect my electrical service?**

Yes. 25 CFR 175.315(b) states: ''If your bill is past due we may: (1) Disconnect your service; and (2) Not reconnect your service until your bill, including any applicable fees, is paid in full.'' Specific regulations regarding non-payment can be found in 25 CFR 143.5(c).

**Are there any additional charges if I am late paying my bill?**

Yes. We are required to assess interest, penalties, and administrative costs on past due bills in accordance with 31 U.S.C. 3717 and 31 CFR 901.9.

**What else will happen to my past due bill?**

If you do not pay your bill or make payment arrangements to which we agree, we are required to transfer your past due bill to Treasury for further action. Pursuant to 31 CFR 285.12, bills that are 120 days past due will be transferred to Treasury.

**What electric power rates are proposed for adjustment by this notice?**

The rate table below contains the present electric power rates for SCIP/PD. The table also contains proposed 2022 and 2023 rates. An asterisk immediately following the rate category notes where rates are proposed for adjustment.

| Rate category | Present rate | Proposed 2022 rate | Proposed 2023 rate |
|---|---|---|---|
| **Residential** | | | |
| Minimum monthly charge per bill—includes up to 50 kilowatt-hours*. | $10.00 | $14.08 | $14.08. |
| Each kilowatt-hour between 50 and 500* | $0.12 | $0.1385 | $0.1387. |
| All additional kilowatt-hours* | $0.09 | $0.1385 | $0.1387. |
| **Small Commercial** | | | |
| Minimum monthly charge per bill—includes up to 50 kilowatt-hours*. | $20.00 | $26.55 | $26.55. |
| Each kilowatt-hour between 50 and 950* | $0.13 | $0.1380 | $0.1412. |
| Each kilowatt-hour between 950 and 9,000* | $0.08 | $0.1380 | $0.1412. |
| Each kilowatt-hour over 9,000* | $0.06 | $0.1380 | $0.1412. |
| Demand charge per kilowatt | $2.00 | $2.00 | $2.00. |
| **Large Commercial** | | | |
| Minimum monthly charge per bill—includes up to 500 kilowatt-hours*. | $50.00 | $55.00 | $55.00. |
| Each kilowatt-hour between 500 and 10,000* | $0.095 | $0.099 | $0.101. |
| Each kilowatt-hour over 10,000* | $0.065 | $0.099 | $0.101. |
| Demand charge per kilowatt* | $3.00 | $9.15 | $9.15. |
| **Industrial** | | | |
| Minimum monthly charge per bill | $250.00 | $250.00 | $250.00. |
| Each kilowatt-hour* | $0.05 | $0.0851 | $0.0873. |
| Demand charge per kilowatt* | $7.00 | $11.29 | $11.29. |
| **Dusk-to-Dawn Lighting (see note #1)** | | | |
| Monthly charge for 150 watt lights* | $17.00 first light, $15.40 next 4 lights, $13.75 six or more lights. | $17.00 per light | $17.00 per light. |
| Monthly charge for 250 watt lights* | $20.85 first light, $19.00 next 4 lights, $16.35 six or more lights. | $20.85 per light | $20.85 per light. |
| Monthly charge for 400 watt lights* | $27.72 first light, $24.27 next 4 lights, $20.85 six or more lights. | $No longer available | $No longer available. |
| **Commercial Pumps** | | | |
| Minimum monthly charge per bill* | $25.00 | $29.69 | $29.69. |
| Each kilowatt-hour* | $0.039 | $0.0796 | $0.0815. |
| Demand charge per kilowatt* | $2.40 | $4.25 | $4.25. |
| **Irrigation Project Pumps (see note #2)** | | | |
| Each kilowatt-hour* | $0.035 | $0.05794 | $0.05794. |

*Notes rate categories proposed for adjustment.
Note #1 The Dusk-to-Dawn Lighting rate applies to existing and unmetered lights.

Note #2 The Irrigation Project Pumps rate has two components. The first rate component is SCIP/PD's direct cost of transmission, distribution, and administration; this is proposed to be $0.03183 per kilowatt-hour. The second rate component is SCIP/PD's direct cost of purchased power; this is $.02611 per kilowatt-hour. We are required to use our least expensive source of power available, which is currently our Parker-Davis Project power supply. The Parker-Davis Project power rate is established annually by Western Area Power Administration.

**Consultation and Coordination With Tribal Governments (Executive Order 13175)**

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this notice under the Department's consultation policy and under the criteria of Executive Order 13175 and have determined there to be substantial direct effects on federally recognized Tribes because the electric power utilities are located on or associated with Indian reservations. To fulfill its consultation responsibility to Tribes and Tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of electric power delivery, electric power availability, and costs of administration, operation, maintenance, and rehabilitation of our utilities that concern them. This is accomplished at the individual power utility by utility, agency, and regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust electric power rates.

**Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)**

The proposed rate adjustments are not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

**Civil Justice Reform (Executive Order 12988)**

This notice complies with the requirements of Executive Order 12988. Specifically, in issuing this notice, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct as required by section 3 of Executive Order 12988.

**Regulatory Planning and Review (Executive Order 12866)**

These proposed rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

**Regulatory Flexibility Act**

These proposed rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

**Takings (Executive Order 12630)**

These proposed rate adjustments do not effect a taking of private property or otherwise have ''takings'' implications under Executive Order 12630. The proposed rate adjustments do not deprive the public, State, or local governments of rights or property.

**Federalism (Executive Order 13132)**

Under the criteria in section 1 of Executive Order 13132, these proposed rate adjustments do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. A federalism summary impact statement is not required.

**National Environmental Policy Act**

The Department has determined that these proposed rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370(d)), pursuant to 43 CFR 46.210(i). In addition, the proposed rate adjustments do not present any of the 12 extraordinary circumstances listed at 43 CFR 46.215.

**Paperwork Reduction Act of 1995**

These proposed rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0021 and expires November 2022.

**Unfunded Mandates Reform Act of 1995**

These proposed rate adjustments do not impose an unfunded mandate on state, local, or Tribal governments in the aggregate, or on the private sector, of more than $130 million per year. They do not have a significant or unique effect on State, local, or Tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

**Bryan Newland,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2022–02916 Filed 2–8–22; 11:15 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNVS01000.L58530000.EU0000.241A; N–98610; 12–08807; MO#4500156773; TAS:15X5232]**

## Notice of Realty Action: Classification for Lease and/or Conveyance for Recreation and Public Purposes of Public Lands (N–98610) for a Park in the Southwest Portion of the Las Vegas Valley, Clark County, Nevada

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Notice of realty action.

**SUMMARY:** The Bureau of Land Management (BLM), Las Vegas Field Office, has examined and found suitable for classification for lease and subsequent conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, approximately 10 acres of public land in the Las Vegas Valley, Clark County, Nevada. Clark County Real Property Management proposes to use the land for a 10-acre public park that will help meet expanding recreational needs in the southwestern part of the Las Vegas Valley.

**DATES:** Interested parties may submit written comments regarding the proposed classification for lease and conveyance of the land until March 28, 2022.

**ADDRESSES:** Mail written comments to the BLM Las Vegas Field Office, Assistant Field Manager, 4701 North

Torrey Pines Drive, Las Vegas, Nevada 89130; or fax to 775–515–5010.

**FOR FURTHER INFORMATION CONTACT:** Jamie Moeini at the above address, by telephone at 702–515–5129, or by email at *jmoeini@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The parcel is located south of LeBaron Avenue and west of Lindell Road in southwest Las Vegas and is legally described as:

**Mount Diablo Meridian, Nevada**

T. 22 S., R. 60 E.,
Sec. 25, NE¼SE¼NW¼.

The area described contains 10 acres, according to the official plats of surveys on file with the BLM.

In accordance with the R&PP Act, Clark County Real Property Management has filed an application to develop the above-described land as a public park consisting of premanufactured restrooms with water bottle fillers, eight shade structures, a sport/exercise equipment area, a splash pad, multiage playground areas, tennis/pickle ball/sand volleyball/basketball courts, a trash enclosure, trees, planters, typical desert landscaping, paved walking trails, concrete sidewalks, street and park lighting, a paved parking lot, and utilities for direct support of the proposed park. The parcel is surrounded by private land and a fully developed elementary school, which is a previously approved R&PP project. Additional detailed information pertaining to this publication, the plan of development, and site plan is available in case file N–98610, which is available for review at the BLM Las Vegas Field Office at the above address.

Clark County Real Property Management is a political subdivision of the State of Nevada, and is therefore a qualified applicant under the R&PP Act.

Subject to limitations prescribed by law and regulation, prior to patent issuance, the holder of any right-of-way grant within the lease area may be given the opportunity to amend the right-of-way grant for conversion to a new term, including perpetuity, if applicable.

The land identified is not needed for any Federal purpose. The lease and/or conveyance is consistent with the BLM Las Vegas Resource Management Plan dated October 5, 1998, and would be in the public interest. Clark County Real Property Management has not applied for more than the 640-acre limitation for public purpose uses in a year and has submitted a statement that its application is for a definite project as required by regulations at 43 CFR 2741.4(b).

The lease and conveyance, when issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits for the same under applicable law and such regulations as the Secretary of the Interior may prescribe; and

3. Any lease and conveyance will also be subject to valid existing rights, will contain any terms or conditions required by law (including, but not limited to, any terms or conditions required by 43 CFR 2741.4), and will contain an appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or operations on the leased/patented lands. It will also contain any other terms and conditions deemed necessary and appropriate by the Authorized Officer.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease and conveyance under the R&PP Act, leasing under the mineral leasing laws, and disposals under the mineral material disposal laws.

Interested parties may submit written comments on the suitability for classification of the land as a public park project in Clark County. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with state and Federal programs. Interested parties may also submit written comments regarding the specific use proposed in the application, plan of development, and site plan, and whether the BLM followed proper administrative procedures in reaching the decision to lease and convey under the R&PP Act.

Before including your address, phone number, email, address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Only written comments submitted to the Assistant Field Manager, BLM Las Vegas Field Office, will be considered properly filed. Any adverse comments will be reviewed as protests, by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action.

In the absence of any adverse comments, the decision will become effective on April 11, 2022. The lands will not be available for lease and conveyance until after the decision becomes effective.

*Authority:* 43 CFR 2741.5.

**Shonna Dooman,**

*Field Manager, Las Vegas Field Office.*

[FR Doc. 2022–02882 Filed 2–9–22; 8:45 am]

**BILLING CODE 4310–HC–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1223]**

## Certain Shingled Solar Modules, Components Thereof, and Methods for Manufacturing the Same ; Commission Determination To Review in Part and Remand in Part a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that, on October 22, 2021, the presiding acting chief administrative law judge (''ALJ'') issued a combined final initial determination (''ID'') finding a violation of section 337 and a recommended determination (''RD'') on remedy and bonding in the above-captioned investigation. The Commission has determined to review the final ID in part. The Commission has also determined to remand the ID in part to the ALJ to make a determination regarding whether an on-sale bar applies to the asserted claims of U.S. Patent No. 10,651,333 (''the '333 patent'') based on alleged sales and offers for sale of certain products. The Commission requests briefing from the parties, interested government agencies, and

interested persons on the issues of remedy, the public interest, and bonding.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** On October 21, 2020, the Commission instituted this investigation based on a complaint filed by The Solaria Corporation (''Solaria'') of Fremont, California. 85 FR 67010–11 (Oct. 21, 2020). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain shingled solar modules, components thereof, and methods for manufacturing the same by reason of infringement of certain claims of U.S. Patent Nos. 10,522,707 (''the '707 patent''); the '333 patent; and 10,763,388 (''the '388 patent''). *Id.* at 67011. The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation named two respondents: Canadian Solar Inc. of Guelph, Ontario, Canada and Canadian Solar (USA) Inc. of Walnut Creek, California (collectively, ''Canadian Solar''). *Id.* The Office of Unfair Import Investigations is not named as a party. *Id.*

On July 15, 2021, the Commission determined to terminate the investigation as to the '707 patent based on Solaria's withdrawal of the allegations in the complaint as to that patent. Order No. 9 (June 28, 2021), *unreviewed by* Comm'n Notice (July 15, 2021). On October 13, 2021, the Commission determined to terminate the investigation as to asserted claims 18–20 of the '333 patent and asserted claims 6, 7, and 10 of the '388 patent based on Solaria's withdrawal of the allegations in the complaint as to those claims. Order No. 13 (Sept. 14, 2021), *unreviewed by* Comm'n Notice (Oct. 13, 2021).

On October 22, 2021, the ALJ issued the subject final ID on violation and RD on remedy and bonding. The ID finds violations of section 337 with respect to all asserted claims still at issue—*i.e.,* asserted claims 1–5, 8, 9, 11, 15–17, 19, and 20 of the '388 patent and asserted claims 1, 8, 9, and 12–17 of the '333 patent. Specifically, the ID finds that: (i) Solaria has standing to assert both the '388 and '333 patents; (ii) the asserted claims of each patent are infringed and not invalid; (iii) the '333 patent is not unenforceable due to unclean hands; and (iv) Solaria satisfied the technical and economic prongs of the domestic industry requirement as to both patents. The RD recommends that, should the Commission determine that violations of section 337 occurred, then the Commission should: (i) Issue a limited exclusion order against Canadian Solar's infringing products; (ii) not issue a cease and desist order against Canadian Solar; and (iii) set a 100 percent bond for any importations of infringing products during the period of Presidential review.

On November 5, 2021, Canadian Solar filed a petition for review of the ID on violation, including the ID's findings concerning standing, claim construction, infringement, invalidity, unenforceability, and satisfaction of the technical prong of the domestic industry requirement. On November 15, 2021, Solaria filed a response to Canadian Solar's petition.

On November 22, 2021, Canadian Solar filed a notice of supplemental authority to inform the Commission that a claim construction order issued in a related district court litigation (''district court order'') involving the same parties and patents at issue in this investigation.

On November 23, 2021, Canadian Solar filed a submission on the public interest pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission did not receive a public interest submission from Solaria. The Commission also did not receive any submissions on the public interest from members of the public in response to the Commission's **Federal Register** notice. 86 FR 62845–46 (Nov. 12, 2021).

The Commission has determined to review the ID in part and remand the ID in part. Specifically, the Commission has determined to review: (i) The ID's construction of the claim term ''ablation'' of the '388 and '333 patents in light of the district court order's construction of that term; (ii) the ID's allocation of the burden of proof regarding the asserted claims' entitlement to claim priority to the filing date of U.S. Provisional Application No. 62/349,547 (''the '547 provisional application''); (iii) the ID's finding that claim 19 of the '388 patent and claim 8 of the '333 patent find written description support in the '547 provisional application; (iv) the ID's findings on validity for the '388 patent; and (v) the ID's finding concerning secondary considerations with respect to the '333 patent. The Commission has determined to remand the ID to the ALJ to address, in the first instance, Canadian Solar's on-sale bar defenses as to the asserted claims of the '333 patent based on alleged sales and offers for sale of Solaria's BIPV and GIPV products. The Commission has also determined to correct one typographical error on page 48 of the ID. The Commission has determined not to review the remaining findings in the ID.

In connection with its review, the Commission requests responses to the following questions. The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.

(1) Explain the proper allocation of burdens in the context of showing a patentee's entitlement to rely on a parent application to avoid prior art. *See* ID at 62 (citing *Tech. Licensing Corp.* v. *Videotek, Inc.,* 545 F.3d 1316, 1327–28 (Fed. Cir. 2008)).

(2) Explain whether claim 19 of the '388 patent and claim 8 of the '333 patent find written description support in the '547 provisional application. Provide any citations to the record that support your contention.

(3) Identify each product-by-process limitation recited in the asserted claims of the '388 patent (*e.g.,* ''cut by an ablation from multiple passes of a laser beam'') and explain whether each such limitation should be accorded patentable weight in the validity analysis of the claims at issue.

The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

In connection with the final disposition of this investigation, the statute authorizes issuance of: (1) An exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) a cease and desist order that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for

consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994).

The statute requires the Commission to consider the effects of any remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or cease and desist order would have on: (1) The public health and welfare; (2) competitive conditions in the U.S. economy; (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation; and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

The Commission requests full briefing on the public interest, setting forth a complete and fulsome discussion of whether exclusion of the accused products would have an effect on each public interest factor and providing evidence to substantiate factual assertions. Within the context of the applicable public interest factor, please include particular briefing on the following public interest issues:

(1) Please identify and describe any planned but not yet completed projects involving the accused products, including the amount (wattage) of accused products needed to complete the project and the anticipated power generation associated with the project.

(2) Please address the extent to which domestic industry products or other products are technically and practicably capable of replacing the accused products in the planned projects. Please address the extent to which replacing the accused products would result in project delays, additional costs, or reduced power generation.

(3) To the extent that cancellation, delay, or reduced power generation of a project would result from a remedy in this investigation, how would that impact the overall supply of solar and other forms of clean energy in the United States? Please be as specific as possible.

(4) What is Solaria's and its manufacturing partners' capacity to produce domestic industry products and do they currently have available capacity that could be used to increase production to replace the accused products? To the extent products other than domestic industry products are capable of replacing the accused products, please address the available capacity of any producers to supply those products.

(5) What is the relevant market for purposes of considering the public interest in this investigation, for example, the market for shingled solar modules or the broader solar module market? What share of the market do the various market participants hold, including Canadian Solar and Solaria? What market share do domestically-produced solar modules have?

(6) Please address whether an exception to any remedial orders for modules and/or parts for warranty, service, or repair obligations is necessary to address any identified public interest concerns. Please identify the scope of any such exception, if any, and any evidence relevant to this issue. Please also address whether Canadian Solar's warranty, service, or repair obligations could be met with non-infringing alternatives.

(7) Please address whether Canadian Solar's U.S. inventories of accused products are commercially significant in an appropriate context. Are these inventories sufficient to supply the planned projects identified in response to Question 1?

(8) To the extent tailoring is requested of any remedial orders to address one or more public interest concerns, is non-issuance of a cease and desist order (*i.e.,* allowing Canadian Solar to continue to sell infringing U.S. inventories) sufficient to address those concerns?

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

*Written Submissions:* The parties, interested government agencies, and any other interested parties are invited to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should include views on the recommended determination by the ALJ on remedy and bonding.

In its initial written submission, Solaria is requested to submit proposed remedial orders for the Commission's consideration. Solaria is further requested to identify the dates the asserted patents expire, to provide the HTSUS subheadings under which the subject articles are imported, and to supply identification information for all known importers of the subject articles. Solaria is additionally requested to identify and explain, from the record, articles that are ''components of'' the subject articles, and thus covered by the proposed remedial orders, if imported separately from the subject articles.

Initial written submissions, including proposed remedial orders, must be filed no later than close of business on February 18, 2022. Reply submissions must be filed no later than the close of business on March 4, 2022. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (Inv. No. 337–TA–1223) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews,

and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on February 4, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 4, 2022.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2022–02795 Filed 2–9–22; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1190–0001]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change, of a Previously Approved Collection; Procedures for the Administration of Section 5 of the Voting Rights Act of 1965

**AGENCY:** Civil Rights Division, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Civil Rights Division, Voting Section will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 60 days until April 11, 2022.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Robert S. Berman, Deputy Chief, Department of Justice, Civil Rights Division, Voting Section, 950 Pennsylvania Avenue, 7243 NWB, (phone: 202–514–8690).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Civil Rights Division, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None (Civil Rights Division).

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: None. Abstract: Jurisdictions specially covered under the Voting Rights Act are required to comply with Sections 3 or 5 of the Act before they may implement any change in a standard, practice, or procedure affecting voting. One option for such compliance is to submit that change to Attorney General for review and establish that the proposed voting changes are not racially discriminatory. The procedures facilitate the provision of information that will enable the Attorney General to make the required determination.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1 respondent will complete each form within approximately 3.0 hours.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 3.0 total hours.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: February 7, 2022.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2022–02884 Filed 2–9–22; 8:45 am]

**BILLING CODE 4410–13–P**

## DEPARTMENT OF JUSTICE

**[OMB 1140–0074]**

### Agency Information Collection Activities; Proposed eCollection of eComments Requested; Extension Without Change of a Currently Approved Collection; List of Responsible Persons

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection (IC) is also being published to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and will be accepted for 60 days until April 11, 2022.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, contact: Shawn Stevens, ATF National Services Center, Federal Explosives Licensing Center, by mail at 244 Needy Road, Martinsburg, WV 25405, email at *Shawn.Stevens@atf.gov,* or telephone at 304–616–4400.

[1] All contract personnel will sign appropriate nondisclosure agreements.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

1. *Type of Information Collection (check justification or form 83):* Extension without Change of a Currently Approved Collection.

2. *The Title of the Form/Collection:* List of Responsible Persons.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

*Form number (if applicable):* None.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Business or other for-profit.

*Other (if applicable):* None.

*Abstract:* All holders of Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) explosives licensees or permits must report identifying information for each responsible person (RP) and possessor of explosives to ATF. Subsequent changes to their list of RPs must be reported to ATF within 30 days.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 50,000 respondents will respond to this collection twice annually, and it will take each respondent approximately one hour to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 100,000 hours, which is equal to 50,000 (total respondents) * 2 (# of responses per respondent) * 1 (one hour or the time taken to prepare each response).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Mail Stop 3.E–405A, Washington, DC 20530.

Dated: February 7, 2022.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2022–02883 Filed 2–9–22; 8:45 am]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice on Reallotment of Workforce Innovation Opportunity Act (WIOA) Title I Formula Allotted Funds for Dislocated Worker Activities for Program Year (PY) 2021

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Workforce Innovation Opportunity Act (WIOA), requires the Secretary of Labor (Secretary) to conduct reallotment of certain WIOA formula allotted funds based on ETA 9130 financial reports submitted by states as of the end of the prior PY. This notice publishes the dislocated worker PY 2021 funds for recapture by state and the amount to be reallotted to eligible states.

**DATES:** This notice is effective February 10, 2022.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kimberly Vitelli, Administrator, U.S. Department of Labor, Office of Workforce Investment, Employment and Training Administration, Room C–4510, 200 Constitution Avenue NW, Washington, DC Telephone (202) 693–3980 (this is not a toll-free number) or fax (202) 693–3981.

**SUPPLEMENTARY INFORMATION:** In the Fiscal Year (FY) 2021 Appropriations Act, Congress appropriated WIOA PY 2021 funds in two portions: (1) Funds available for obligation July 1, 2021 (*i.e.,* PY 2021 ''base'' funds), and (2) funds available for obligation October 1, 2021 (*i.e.,* FY 2022 ''advance'' funds). Together, these two portions make up the complete PY 2021 WIOA funding. Training and Employment Guidance Letter (TEGL) No. 19–20 announced WIOA allotments based on this appropriation and TEGL No. 16–19 alerted states to the recapture and reallotment of funds' provisions based on obligations of PY 2020 funding, as required under WIOA Section 132(c). This section and 127(c) of WIOA requires the Secretary of Labor (Secretary) to conduct reallotment of excess unobligated WIOA Adult, Youth, and Dislocated Worker formula funds based on ETA 9130 financial reports submitted by states at the end of the prior program year (*i.e.,* PY 2020).

WIOA regulations at 20 CFR 683.135 describe the procedures the Secretary uses for recapture and reallotment of funds. ETA will not recapture any PY 2021 funds for the Adult and Youth programs because there are no states where PY 2020 unobligated funds exceed the statutory requirements of 20 percent of state allotted funds. However, for the Dislocated Worker program, Oklahoma had unobligated PY 2020 funds in excess of 20 percent of their allotments. Therefore, ETA will recapture a total of $89,236 from PY 2021 funding from Oklahoma and reallot those funds to the remaining eligible states, as required by WIOA Section 132(c).

ETA will issue a Notice of Award to the states to reflect the recapture and reallotment of these funds. ETA will make adjustments of funds to the FY 2022 advance portion of the PY 2021 allotments, which ETA issued in October 2021. The attached tables display the net changes to PY 2021 formula allotments.

WIOA and its implementing regulations are silent on how states must distribute realloted funds, so states have flexibility to determine the methodology used. For any state subject to recapture of funds, WIOA Section 132(c)(5) requires the Governor to prescribe equitable procedures for reacquiring funds from the state and local areas.

As mentioned, ETA will make the recapture/reallotment adjustments to the FY 2022 advance portion of the PY 2021 allotment. Therefore, for reporting purposes, states must reflect the recapture/reallotment amount (decrease or increase) in the ''Total Federal Funds Authorized'' line of any affected FY 2022 ETA 9130 financial reports (State Dislocated Worker Activities, Statewide Rapid Response, Local Dislocated Worker Activities) in a manner consistent with the method of

distribution of these amounts to state and local areas used by the state. The state must include an explanation of the adjustment in the remarks section of the adjusted reports.

## I. Attachment A

BILLING CODE 4510–FR–P

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
WIOA Dislocated Worker Activities
PY 2021 Reallotment to States

| | Calculating Reallotment Amount* | | | Impact on PY 2021 Allotments | | |
|---|---|---|---|---|---|---|
| | Excess Unobligated PY 2020 Funds to be Recaptured from PY 2021 funds | Eligible States' PY 2020 [1/] Dislocated Worker Allotments | Reallotment Amount for Eligible States (Based on eligible states' share of PY 2020 Allotments) | Total Original PY 2021 [2/] Allotments Before Reallotment | Recapture/ Reallotment Adjustment to PY 2021 Allotments | Revised Total PY 2021 Allotments |
| | | | | | | |
| Alabama | 0 | 17,484,622 | 1,494 | 15,759,598 | 1,494 | 15,761,092 |
| Alaska | 0 | 8,455,610 | 723 | 7,633,223 | 723 | 7,633,946 |
| Arizona ** | 0 | 39,991,436 | 3,418 | 36,101,896 | 3,418 | 36,105,314 |
| Arkansas | 0 | 6,094,547 | 521 | 5,494,037 | 521 | 5,494,558 |
| California | 0 | 142,857,606 | 12,208 | 149,720,406 | 12,208 | 149,732,614 |
| Colorado | 0 | 10,039,967 | 858 | 12,159,989 | 858 | 12,160,847 |
| Connecticut | 0 | 13,687,185 | 1,170 | 12,337,604 | 1,170 | 12,338,774 |
| Delaware | 0 | 2,356,710 | 201 | 3,066,268 | 201 | 3,066,469 |
| District of Columbia | 0 | 11,155,134 | 953 | 10,070,193 | 953 | 10,071,146 |
| Florida | 0 | 51,130,393 | 4,369 | 51,290,725 | 4,369 | 51,295,094 |
| Georgia | 0 | 37,075,724 | 3,168 | 33,419,357 | 3,168 | 33,422,525 |
| Hawaii | 0 | 1,627,134 | 139 | 2,119,112 | 139 | 2,119,251 |
| Idaho | 0 | 1,972,984 | 169 | 2,028,089 | 169 | 2,028,258 |
| Illinois | 0 | 56,979,269 | 4,869 | 51,358,724 | 4,869 | 51,363,593 |
| Indiana | 0 | 13,419,872 | 1,147 | 14,963,227 | 1,147 | 14,964,374 |
| Iowa | 0 | 4,099,259 | 350 | 4,937,575 | 350 | 4,937,925 |
| Kansas | 0 | 4,619,587 | 395 | 4,544,741 | 395 | 4,545,136 |
| Kentucky | 0 | 13,353,727 | 1,141 | 14,548,366 | 1,141 | 14,549,507 |
| Louisiana | 0 | 20,483,992 | 1,750 | 18,464,174 | 1,750 | 18,465,924 |
| Maine | 0 | 2,576,662 | 220 | 2,322,923 | 220 | 2,323,143 |
| Maryland | 0 | 15,100,595 | 1,290 | 13,613,404 | 1,290 | 13,614,694 |
| Massachusetts | 0 | 15,512,508 | 1,326 | 20,199,573 | 1,326 | 20,200,899 |
| Michigan | 0 | 28,256,546 | 2,415 | 34,356,689 | 2,415 | 34,359,104 |
| Minnesota | 0 | 8,669,666 | 741 | 10,349,177 | 741 | 10,349,918 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Mississippi | 0 | 16,945,945 | 1,448 | 15,297,756 | 1,448 | 15,299,204 |
| Missouri | 0 | 13,344,176 | 1,140 | 12,028,805 | 1,140 | 12,029,945 |
| Montana | 0 | 1,598,328 | 137 | 1,753,248 | 137 | 1,753,385 |
| Nebraska | 0 | 2,443,343 | 209 | 2,203,020 | 209 | 2,203,229 |
| Nevada | 0 | 12,874,745 | 1,100 | 15,074,356 | 1,100 | 15,075,456 |
| New Hampshire | 0 | 1,786,308 | 153 | 2,326,314 | 153 | 2,326,467 |
| New Jersey | 0 | 30,127,687 | 2,575 | 33,932,137 | 2,575 | 33,934,712 |
| New Mexico ** | 0 | 18,177,069 | 1,553 | 16,389,748 | 1,553 | 16,391,301 |
| New York | 0 | 50,275,614 | 4,296 | 65,468,288 | 4,296 | 65,472,584 |
| North Carolina | 0 | 28,569,103 | 2,441 | 25,754,357 | 2,441 | 25,756,798 |
| North Dakota | 0 | 831,934 | 71 | 864,826 | 71 | 864,897 |
| Ohio | 0 | 37,386,625 | 3,195 | 33,700,620 | 3,195 | 33,703,815 |
| Oklahoma | 89,236 | 0 | 0 | 6,740,873 | (89,236) | 6,651,637 |
| Oregon | 0 | 11,079,605 | 947 | 11,192,082 | 947 | 11,193,029 |
| Pennsylvania | 0 | 49,130,164 | 4,199 | 47,138,266 | 4,199 | 47,142,465 |
| Puerto Rico | 0 | 75,753,107 | 6,474 | 69,068,117 | 6,474 | 69,074,591 |
| Rhode Island | 0 | 3,827,132 | 327 | 3,900,287 | 327 | 3,900,614 |
| South Carolina | 0 | 14,348,091 | 1,226 | 12,933,091 | 1,226 | 12,934,317 |
| South Dakota | 0 | 1,197,226 | 102 | 1,451,487 | 102 | 1,451,589 |
| Tennessee | 0 | 17,574,700 | 1,502 | 15,841,903 | 1,502 | 15,843,405 |
| Texas | 0 | 60,145,020 | 5,140 | 65,619,333 | 5,140 | 65,624,473 |
| Utah ** | 0 | 4,284,604 | 366 | 3,862,696 | 366 | 3,863,062 |
| Vermont | 0 | 847,786 | 72 | 1,103,914 | 72 | 1,103,986 |
| Virginia | 0 | 13,768,158 | 1,177 | 15,538,166 | 1,177 | 15,539,343 |
| Washington | 0 | 27,098,739 | 2,316 | 24,433,523 | 2,316 | 24,435,839 |
| West Virginia | 0 | 11,471,767 | 980 | 11,649,037 | 980 | 11,650,017 |
| Wisconsin | 0 | 11,272,862 | 963 | 11,939,631 | 963 | 11,940,594 |
| Wyoming | 0 | 1,075,040 | 92 | 1,104,049 | 92 | 1,104,141 |
| STATE TOTAL | **$89,236** | **$1,044,235,613** | **$89,236** | **$1,059,169,000** | **$0** | **$1,059,169,000** |

*** Including prior year recapture/reallotment amounts**
**** Includes funds allocated to the Navajo Nation**

**[1/] PY 2020 allotment amounts are used to determine the reallotment amount eligible states receive of the recaptured amount.**
**[2/] PY 2021 allotment amounts are original allotment amounts per TEGL 19-20.**

**II. Attachment B**

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
WIOA Dislocated Worker Activities
PY 2021 Revised Allotments with Reallotment - PY/FY Split

| | Total Allotment | | | Available 7/1/21 | | | Available 10/1/21 | | |
|---|---|---|---|---|---|---|---|---|---|
| | Original | Recapture/ Reallotment | Revised | Original | Recapture/ Reallotment | Revised | Original | Recapture/ Reallotment | Revised |
| Alabama | 15,759,598 | 1,494 | 15,761,092 | 2,998,949 | - | 2,998,949 | 12,760,649 | 1,494 | 12,762,143 |
| Alaska | 7,633,223 | 723 | 7,633,946 | 1,452,553 | - | 1,452,553 | 6,180,670 | 723 | 6,181,393 |
| Arizona * | 36,101,896 | 3,418 | 36,105,314 | 6,869,957 | - | 6,869,957 | 29,231,939 | 3,418 | 29,235,357 |
| Arkansas | 5,494,037 | 521 | 5,494,558 | 1,045,480 | - | 1,045,480 | 4,448,557 | 521 | 4,449,078 |
| California | 149,720,406 | 12,208 | 149,732,614 | 28,490,824 | - | 28,490,824 | 121,229,582 | 12,208 | 121,241,790 |
| Colorado | 12,159,989 | 858 | 12,160,847 | 2,313,967 | - | 2,313,967 | 9,846,022 | 858 | 9,846,880 |
| Connecticut | 12,337,604 | 1,170 | 12,338,774 | 2,347,766 | - | 2,347,766 | 9,989,838 | 1,170 | 9,991,008 |
| Delaware | 3,066,268 | 201 | 3,066,469 | 583,491 | - | 583,491 | 2,482,777 | 201 | 2,482,978 |
| District of Columbia | 10,070,193 | 953 | 10,071,146 | 1,916,293 | - | 1,916,293 | 8,153,900 | 953 | 8,154,853 |
| Florida | 51,290,725 | 4,369 | 51,295,094 | 9,760,293 | - | 9,760,293 | 41,530,432 | 4,369 | 41,534,801 |
| Georgia | 33,419,357 | 3,168 | 33,422,525 | 6,359,487 | - | 6,359,487 | 27,059,870 | 3,168 | 27,063,038 |
| Hawaii | 2,119,112 | 139 | 2,119,251 | 403,253 | - | 403,253 | 1,715,859 | 139 | 1,715,998 |
| Idaho | 2,028,089 | 169 | 2,028,258 | 385,932 | - | 385,932 | 1,642,157 | 169 | 1,642,326 |
| Illinois | 51,358,724 | 4,869 | 51,363,593 | 9,773,233 | - | 9,773,233 | 41,585,491 | 4,869 | 41,590,360 |
| Indiana | 14,963,227 | 1,147 | 14,964,374 | 2,847,405 | - | 2,847,405 | 12,115,822 | 1,147 | 12,116,969 |
| Iowa | 4,937,575 | 350 | 4,937,925 | 939,589 | - | 939,589 | 3,997,986 | 350 | 3,998,336 |
| Kansas | 4,544,741 | 395 | 4,545,136 | 864,835 | - | 864,835 | 3,679,906 | 395 | 3,680,301 |
| Kentucky | 14,548,366 | 1,141 | 14,549,507 | 2,768,460 | - | 2,768,460 | 11,779,906 | 1,141 | 11,781,047 |
| Louisiana | 18,464,174 | 1,750 | 18,465,924 | 3,513,613 | - | 3,513,613 | 14,950,561 | 1,750 | 14,952,311 |
| Maine | 2,322,923 | 220 | 2,323,143 | 442,037 | - | 442,037 | 1,880,886 | 220 | 1,881,106 |
| Maryland | 13,613,404 | 1,290 | 13,614,694 | 2,590,543 | - | 2,590,543 | 11,022,861 | 1,290 | 11,024,151 |
| Massachusetts | 20,199,573 | 1,326 | 20,200,899 | 3,843,848 | - | 3,843,848 | 16,355,725 | 1,326 | 16,357,051 |
| Michigan | 34,356,689 | 2,415 | 34,359,104 | 6,537,855 | - | 6,537,855 | 27,818,834 | 2,415 | 27,821,249 |
| Minnesota | 10,349,177 | 741 | 10,349,918 | 1,969,381 | - | 1,969,381 | 8,379,796 | 741 | 8,380,537 |
| Mississippi | 15,297,756 | 1,448 | 15,299,204 | 2,911,064 | - | 2,911,064 | 12,386,692 | 1,448 | 12,388,140 |
| Missouri | 12,028,805 | 1,140 | 12,029,945 | 2,289,004 | - | 2,289,004 | 9,739,801 | 1,140 | 9,740,941 |
| Montana | 1,753,248 | 137 | 1,753,385 | 333,632 | - | 333,632 | 1,419,616 | 137 | 1,419,753 |
| Nebraska | 2,203,020 | 209 | 2,203,229 | 419,220 | - | 419,220 | 1,783,800 | 209 | 1,784,009 |
| Nevada | 15,074,356 | 1,100 | 15,075,456 | 2,868,552 | - | 2,868,552 | 12,205,804 | 1,100 | 12,206,904 |
| New Hampshire | 2,326,314 | 153 | 2,326,467 | 442,682 | - | 442,682 | 1,883,632 | 153 | 1,883,785 |
| New Jersey | 33,932,137 | 2,575 | 33,934,712 | 6,457,066 | - | 6,457,066 | 27,475,071 | 2,575 | 27,477,646 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| New Mexico * | 16,389,748 | 1,553 | 16,391,301 | 3,118,863 | - | 3,118,863 | 13,270,885 | 1,553 | 13,272,438 |
| New York | 65,468,288 | 4,296 | 65,472,584 | 12,458,191 | - | 12,458,191 | 53,010,097 | 4,296 | 53,014,393 |
| North Carolina | 25,754,357 | 2,441 | 25,756,798 | 4,900,887 | - | 4,900,887 | 20,853,470 | 2,441 | 20,855,911 |
| North Dakota | 864,826 | 71 | 864,897 | 164,571 | - | 164,571 | 700,255 | 71 | 700,326 |
| Ohio | 33,700,620 | 3,195 | 33,703,815 | 6,413,010 | - | 6,413,010 | 27,287,610 | 3,195 | 27,290,805 |
| Oklahoma | 6,740,873 | (89,236) | 6,651,637 | 1,282,744 | - | 1,282,744 | 5,458,129 | (89,236) | 5,368,893 |
| Oregon | 11,192,082 | 947 | 11,193,029 | 2,129,781 | - | 2,129,781 | 9,062,301 | 947 | 9,063,248 |
| Pennsylvania | 47,138,266 | 4,199 | 47,142,465 | 8,970,107 | - | 8,970,107 | 38,168,159 | 4,199 | 38,172,358 |
| Puerto Rico | 69,068,117 | 6,474 | 69,074,591 | 13,143,215 | - | 13,143,215 | 55,924,902 | 6,474 | 55,931,376 |
| Rhode Island | 3,900,287 | 327 | 3,900,614 | 742,199 | - | 742,199 | 3,158,088 | 327 | 3,158,415 |
| South Carolina | 12,933,091 | 1,226 | 12,934,317 | 2,461,083 | - | 2,461,083 | 10,472,008 | 1,226 | 10,473,234 |
| South Dakota | 1,451,487 | 102 | 1,451,589 | 276,209 | - | 276,209 | 1,175,278 | 102 | 1,175,380 |
| Tennessee | 15,841,903 | 1,502 | 15,843,405 | 3,014,612 | - | 3,014,612 | 12,827,291 | 1,502 | 12,828,793 |
| Texas | 65,619,333 | 5,140 | 65,624,473 | 12,486,934 | - | 12,486,934 | 53,132,399 | 5,140 | 53,137,539 |
| Utah* | 3,862,696 | 366 | 3,863,062 | 735,046 | - | 735,046 | 3,127,650 | 366 | 3,128,016 |
| Vermont | 1,103,914 | 72 | 1,103,986 | 210,068 | - | 210,068 | 893,846 | 72 | 893,918 |
| Virginia | 15,538,166 | 1,177 | 15,539,343 | 2,956,812 | - | 2,956,812 | 12,581,354 | 1,177 | 12,582,531 |
| Washington | 24,433,523 | 2,316 | 24,435,839 | 4,649,541 | - | 4,649,541 | 19,783,982 | 2,316 | 19,786,298 |
| West Virginia | 11,649,037 | 980 | 11,650,017 | 2,216,736 | - | 2,216,736 | 9,432,301 | 980 | 9,433,281 |
| Wisconsin | 11,939,631 | 963 | 11,940,594 | 2,272,034 | - | 2,272,034 | 9,667,597 | 963 | 9,668,560 |
| Wyoming | 1,104,049 | 92 | 1,104,141 | 210,093 | - | 210,093 | 893,956 | 92 | 894,048 |
| STATE TOTAL | **1,059,169,000** | **-** | **1,059,169,000** | **201,553,000** | **-** | **201,553,000** | **857,616,000** | **-** | **857,616,000** |

* Includes funds allocated to the Navajo Nation

**Angela Hanks,**

*Acting Assistant Secretary for Employment and Training.*

[FR Doc. 2022–02762 Filed 2–9–22; 8:45 am]

**BILLING CODE 4510–FR–C**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reports of Injuries to Employees Operating Mechanical Power Presses

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Occupational Health and Safety Administration (OSHA)-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 agency receives on or before March 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 the event an employee is injured while operating a mechanical power press, 29 CFR 1910.217(g) requires an employer to provide information to OSHA regarding the accident. This information includes the employer's and employee's name, the type of clutch, the type of safeguard(s) used, the cause of the accident, the means to actuate the press stroke, and the number of operators involved. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 26, 2021 (86 FR 40082).

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–OSHA.

*Title of Collection:* Reports of Injuries to Employees Operating Mechanical Power Presses.

*OMB Control Number:* 1218–0070.

*Affected Public:* Private Sector—Businesses or other for-profits.

*Total Estimated Number of Respondents:* 1,170.

*Total Estimated Number of Responses:* 1,170.

*Total Estimated Annual Time Burden:* 390 hours.

*Total Estimated Annual Other Costs Burden:* $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

**Nora Hernandez,**

*Department Clearance Officer.*

[FR Doc. 2022–02767 Filed 2–9–22; 8:45 am]

**BILLING CODE 4510–26–P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Job Corps Evidence Building Portfolio

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Chief Evaluation Office (OS)-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 agency receives on or before March 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:** The Chief Evaluation Office (CEO) of the U.S. DOL seeks approval to collect information for the implementation, outcome, and impact feasibility studies of two Job Corps demonstration pilots. The Job Scholars pilot has 30 separate grantees. The Idaho Job Corps pilot has one grantee, which operates four locations. These studies, funded as part of the broader Job Corps Evidence-Building Portfolio Program, aim to understand who the pilots enroll, what services they provide, how these services are implemented, and how the pilots compare with traditional Job Corps centers. The evaluation will also assess outcomes of participants in the demonstration pilots, as well as identify any best practices. The project also includes impact feasibility assessments of each of the pilots to assess the potential for conducting an impact evaluation of the pilot's effectiveness or similar future pilots. For additional substantive information about this ICR,

see the related notice published in the **Federal Register** on January 8, 2021 (86 FR 1528).

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–OS.

*Title of Collection:* Job Corps Evidence Building Portfolio.

*OMB Control Number:* 1290–0NEW.

*Affected Public:* Individuals or Households.

*Total Estimated Number of Respondents:* 430.

*Total Estimated Number of Responses:* 430.

*Total Estimated Annual Time Burden:* 631 hours.

*Total Estimated Annual Other Costs Burden:* $0.

*Authority:* 44 U.S.C. 3507(a)(1)(D).

**Nora Hernandez,**

*Department Clearance Officer.*

[FR Doc. 2022–02765 Filed 2–9–22; 8:45 am]

**BILLING CODE 4510–HX–P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Bureau of Labor Statistics Data Sharing Program

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that the agency receives on or before March 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:** Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** An important aspect of the mission of the BLS is to disseminate to the public the maximum amount of information possible. Not all data are publicly available because of the importance of maintaining the confidentiality of BLS data. However, the BLS has opportunities available on a limited basis for eligible researchers to access confidential data for purposes of conducting valid statistical analyses that further the mission of the BLS as permitted in the Confidential Information Protection and Statistical Efficiency Act (CIPSEA). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 30, 2021 (86 FR 67976).

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–BLS.

*Title of Collection:* Bureau of Labor Statistics Data Sharing Program.

*OMB Control Number:* 1220–0180.

*Affected Public:* Individuals or Households.

*Total Estimated Number of Respondents:* 161.

*Total Estimated Number of Responses:* 161.

*Total Estimated Annual Time Burden:* 81 hours.

*Total Estimated Annual Other Costs Burden:* $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: February 4, 2022.

**Mara Blumenthal,**

*Senior PRA Analyst.*

[FR Doc. 2022–02764 Filed 2–9–22; 8:45 am]

**BILLING CODE 4510–24–P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Transition Assistance Program Employment Navigator and Partnership Pilot

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Chief Evaluation Office (OS)-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 agency receives on or before March 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:** The Chief Evaluation Office of the DOL has commissioned an evaluation of the Transition Assistance Program Employment Navigator and Partnership Pilot (TAP ENPP, or ENPP). By establishing the ENPP, DOL aims to provide individualized career counseling and guidance to transitioning service members (TSMs) and military spouses. Under the ENPP model, Employment Navigators will provide individualized career services including self-assessment, interest and aptitude testing, career exploration, and detailed labor market information (referred to as the Assist-Explore-Plan [AEP] model) as well as warm handovers and connections to governmental and nongovernmental partners for additional services. ICF has been contracted by CEO to conduct a formative evaluation of this 12-month pilot program. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 19, 2021 (86 FR 27114).

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–CEO.

*Title of Collection:* Transition Assistance Program Employment Navigator and Partnership Pilot.

*OMB Control Number:* 1290–0NEW.

*Affected Public:* Individuals or Households.

*Total Estimated Number of Respondents:* 127.

*Total Estimated Number of Responses:* 127.

*Total Estimated Annual Time Burden:* 193 hours.

*Total Estimated Annual Other Costs Burden:* $0.

*Authority:* 44 U.S.C. 3507(a)(1)(D).

**Nora Hernandez,**

*Department Clearance Officer.*

[FR Doc. 2022–02766 Filed 2–9–22; 8:45 am]

**BILLING CODE 4510–HX–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

**[NARA–2022–029]**

### Freedom of Information Act (FOIA) Advisory Committee Meeting

**AGENCY:** Office of Government Information Services (OGIS), National Archives and Records Administration (NARA).

**ACTION:** Notice of Federal advisory committee meeting.

**SUMMARY:** We are announcing an upcoming Freedom of Information Act (FOIA) Advisory Committee meeting in accordance with the Federal Advisory Committee Act and the second United States Open Government National Action Plan.

**DATES:** The meeting will be on March 10, 2022, from 10 a.m. to 1 p.m. Eastern Time (ET). You must register by 11:59 p.m. ET March 8, 2022, to attend the meeting. (See registration information below.)

*Location:* This meeting will be a virtual meeting. We will send access instructions to those who register according to the instructions below.

**FOR FURTHER INFORMATION CONTACT:** Kirsten Mitchell, Designated Federal Officer for this committee, by email at *foia-advisory-committee@nara.gov,* or by telephone at 202–741–5775.

**SUPPLEMENTARY INFORMATION:**

*Agenda and meeting materials:* We will post all meeting materials at *https://www.archives.gov/ogis/foia-advisory-committee/2020-2022-term.* This will be the seventh meeting of the 2020–2022 committee term. The purpose of this meeting is to hear updates and consider any draft recommendations from the four subcommittees: Classification, Legislation, Process, and Technology.

*Procedures:* This virtual meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. app. 2). You must register in advance (see deadline in Dates section above) through Eventbrite at *https://foiaac-mtg-mar-9-2022.eventbrite.com* if you wish to offer oral comments during the public comment period of the meeting. You must provide an email address so that we can provide you access information. To request additional accommodations (*e.g.,* a transcript or closed captioning), email *foia-advisory-committee@nara.gov* or call 202–741–5775.

**Tasha Ford,**

*Committee Management Officer.*

[FR Doc. 2022–02792 Filed 2–9–22; 8:45 am]

**BILLING CODE 7515–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permits Issued Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** On December 16, 2021, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on January 18, 2022, to:

**Permit No. 2022–026**

1. Brandon Savory

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2022–02877 Filed 2–9–22; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Meeting for Astronomy and Astrophysics Advisory Committee; Correction

**ACTION:** Request change in published advisory committee meeting date; Corrected.

**SUMMARY:** The National Science Foundation (NSF) published a document in the **Federal Register** of November 26, 2021, concerning a 1-day, virtual advisory committee meeting for the Astronomy and Astrophysics Advisory Committee. The advisory committee meeting will no longer be held on February 22, 2022. Instead, the 1-day virtual session will be taking place on March 4, 2022.

**FOR FURTHER INFORMATION CONTACT:** Please contact Crystal Robinson *crrobins@nsf.gov* or 703–292–8687.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** published November 26, 2021, in FR Doc. 2021–25778 (Filed 11–24–21), on page 67501, second column, Date and Time Section, please change the date to March 4, 2022; 12:00 p.m.—4:00 p.m. (VIRTUAL).

Dated: February 7, 2022.

**Crystal Robinson,**

*Committee Management Officer, National Science Foundation.*

[FR Doc. 2022–02829 Filed 2–9–22; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meetings

The National Science Board's (NSB) Committee on External Engagement hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

**TIME AND DATE:** Monday, February 14, 2022, from 5:00–6:00 p.m. EST.

**PLACE:** This meeting will be held by teleconference through the National Science Foundation.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The agenda of the teleconference is: Approval of minutes from the December 2021 meeting; discussion of *Science & Engineering Indicators* engagement; discussion of the February 2022 external panel and ideas for May and August panels relating to the geography of innovation; and revisiting NSB's goals for its honorary awards.

**CONTACT PERSON FOR MORE INFORMATION:** Point of contact for this meeting is: Nadine Lymn, *nlymn@nsf.gov,* 703/292–7000. Meeting information, updates and YouTube link may be found at the National Science Board website at *www.nsf.gov/nsb.*

**Chris Blair,**

*Executive Assistant to the National Science Board Office.*

[FR Doc. 2022–02921 Filed 2–8–22; 11:15 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permits Issued Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** On January 6, 2022, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on February 7, 2022, to:

**Permit No. 2022–027**

1. Richard Bailey, Deneb US LLC

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2022–02880 Filed 2–9–22; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request; Office of Small and Disadvantaged Business Utilization Vendor Information Form

**AGENCY:** National Science Foundation.

**ACTION:** Notice.

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to establish this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

**DATES:** Written comments on this notice must be received by April 11, 2022 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

**FOR FURTHER INFORMATION CONTACT:** Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Office of Small and Disadvantaged Business Utilization Vendor Outreach Form.

*OMB Control No.:* 3145-New.

*Expiration Date of Approval:* Not applicable.

*Abstract:* The purpose of the National Science Foundation's (NSF) Office of Small and Disadvantaged Business Utilization (OSDBU) Vendor Information form is to collect vendor contact information (company name, point of contact name, email address, phone number), along with identifiers such as NAICS codes, SAM ID, DUNS#, description of supplies/services, and Socio-economic indicator. This will assist the NSF OSDBU in maintaining a database of small businesses that can provide supplies and/or services for requirements listed on the NSF Acquisition Forecast. Collecting this information supports the mission of the OSDBU, as outlined in section 15k of the Small Business Act, and ensures that small businesses can participate in NSF acquisitions to the maximum extent practicable. In addition, the Biden Administration has made it a priority to ensure equity in federal contracting via Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities through the Federal Government,* and implemented in OMB M–22–03, *Advancing Equity in Federal Procurement.* The President directed federal agencies to make Federal contracting and procurement opportunities more readily available to all eligible vendors and charged every agency to assess available tools to increase opportunities for small businesses and underserved entrepreneurs to compete for Federal contracts. This form will allow us to

reach vendors, to a greater extent, through our external website on *NSF.gov* and participation in various conferences and conventions, which ensures NSF complies with these mandates.

*Respondents:* Small and disadvantaged businesses.

*Estimated Number of Annual Respondents:* 275.

*Burden on the Public:* Estimated 15 minutes to fill out the form, including the collection of data to fill in the fields. This information should be readily available as most companies have capability statements that include this information. The estimated burden time is 69 hours.

Dated: February 7, 2022.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2022–02895 Filed 2–9–22; 8:45 am]

**BILLING CODE 7555–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. PI2022–1; Order No. 6101]**

## Public Inquiry on Resolving Suspended Post Offices

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is initiating a public inquiry proceeding to identify and address issues impeding the Postal Service's progress in resolving suspended post offices. This document informs the public of this proceeding, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* April 29, 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

The Commission establishes this public inquiry proceeding to identify and address issues impeding the Postal Service's progress in resolving suspended post offices in a timely manner. Specifically, the Commission seeks input from the public regarding suggested procedures or courses of action for how the Postal Service may expeditiously resolve suspended post offices. The Commission welcomes comments with any data analysis related to suspended post offices, including, but not limited to, the spatial analysis of suspended post offices.[1]

### II. Background

The Postal Accountability and Enhancement Act (PAEA)[2] requires the Postal Service to include in its Annual Compliance Report (ACR) ''measures of the quality of service afforded by the Postal Service in connection with [each Market Dominant] product, including . . . the degree of customer satisfaction with the service provided.'' 39 U.S.C. 3652(a)(2)(B)(ii). As part of its annual reporting concerning customer satisfaction, the Postal Service must report information concerning suspended post offices. *See* 39 CFR 3055.91(a)(4)–0 (6). A suspension occurs when the Postal Service stops operations at a post office due to an emergency or similar situation. *See* 39 CFR 241.3(a)(5)(i)(B). The Postal Service resolves a suspension by either discontinuing or reopening the post office.

The Commission has monitored the Postal Service's progress in resolving suspensions for multiple fiscal years, primarily via its ACR review proceedings. At the end of FY 2016, there were 662 suspended post offices.[3] Of these post offices, 206 remained suspended at the end of FY 2021. *Id.* at 80. In addition, the Postal Service reports in the FY 2021 ACR that it suspended 247 other post offices between FY 2017 and FY 2021,[4] for a total of 453 post offices suspended at the end of 2021.[5]

In its FY 2016 ACD, the Commission stated that it expected the Postal Service to significantly reduce the number of suspended post offices.[6] In its FY 2020 ACD, the Commission expressed concern regarding the apparent lack of commitment by the Postal Service in addressing and resolving suspended post offices in recent years and announced its intent to initiate a public inquiry docket on the matter.[7] Accordingly, the Commission establishes this proceeding to identify and address issues impeding the Postal Service's progress in resolving suspended post offices in a timely manner.

### III. Comments

The Commission invites comments on suggested procedures or courses of action that would allow for the Postal Service to expeditiously resolve the 206 suspended post offices remaining from FY 2016, with a special focus on the post offices that have been suspended for more than 5 years.

The Commission also invites comments on how the Postal Service should resolve the post offices suspended after FY 2016. The Commission encourages the commenters to discuss specific issues related to the recent suspension of post offices (after FY 2019). These comments should focus on facilitating the process for resolving the backlog of suspended post offices, as well as prevent such backlogs from recurring.

The scope of this proceeding is limited to the Postal Service's process for resolving suspended post offices as a whole. This proceeding does not cover ancillary issues, including concerns about individual post offices and the Commission's jurisdiction to consider post office closing appeals. The Commission, however, welcomes comments with any data analysis related to the suspended post offices, including, but not limited to, the spatial analysis of the suspended post offices. Comments are due on April 29, 2022. Material filed in this docket—including tables, figures and library references—will be available for review on the Commission's website, *http://www.prc.gov.*

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[1] Spatial analysis is a diverse and comprehensive capability that includes the simple visual analysis of maps and imagery, computational analysis of geographic patterns, finding optimum routes, site selection, and advanced predictive modeling. ESRI, *The Language of Spatial Analysis,* available at *https://www.esri.com/content/dam/esrisites/sitecore-archive/Files/Pdfs/library/books/the-language-of-spatial-analysis.pdf,* at 6.

[2] Public Law 109–435, 120 Stat. 3198 (2006).

[3] Docket No. ACR2021, United States Postal Service FY 2021 *Annual Compliance Report,* December 29, 2021, at 79.

[4] *See* Docket No. ACR2021, Library Reference USPS–FY21–33, December 29, 2021, folder ''USPS.FY21.33.Files,'' Excel file ''PostOfficesFY2021.xlsx,'' tab ''Suspension Summary,'' cell I17.

[5] The numbers in this order reflect the most up-to-date numbers provided by the Postal Service in the FY 2021 ACR, FY 2021 post office suspension quarterly reports, and Library Reference USPS–FY21–33. CHIRs were issued in Docket No. ACR2021 to reconcile these numbers, and the Commission will provide updated numbers in the upcoming FY 2021 ACD.

[6] Docket No. ACR2016, Postal Regulatory Commission, *Annual Compliance Determination Report Fiscal Year 2016,* March 28, 2017, at 151.

[7] Docket No. ACR2020, Postal Regulatory Commission, *Annual Compliance Determination Report Fiscal Year 2020,* March 29, 2021, at 221.

Pursuant to 39 U.S.C. 505, Kenneth R. Moeller will serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

**IV. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket No. PI2022–1 to identify and address issues impeding the Postal Service's progress in resolving suspended post offices in a timely manner.

2. Interested persons may submit written comments no later than April 29, 2022.

3. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller will serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of a general statement as to the basis and purpose of this Notice in the **Federal Register**.

By the Commission.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2022–02886 Filed 2–9–22; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* February 10, 2022.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 28, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 735 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–38, CP2022–45.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2022–02751 Filed 2–9–22; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–827, OASB Generic Clearance Request, OMB Control No. 3235–XXXX]**

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*Extension for New ICR:*

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission submitted this new collection of information to the Office of Management and Budget for extension and approval.

The Commission's Office of the Advocate for Small Business Capital Formation (''Office'') seeks to collect feedback from small businesses and their investors to understand better the population that it is serving and their role in the small business ecosystem. The proposed collection of information will help ensure that the Office's outreach efforts and communication materials and other program initiatives are effective and responsive to customer needs. More specifically, the Office will seek the following four categories of information: (i) Demographic information about program participants, (ii) feedback on the Office's outreach and educational materials, (iii) capital formation-related questions, and (iv) issues and challenges faced by small businesses and their investors. This feedback will allow the Office to tailor its outreach efforts and communication materials to serve its customers more effectively. Collecting feedback will also allow the Office to understand better its target audience and improve outreach events and educational materials by optimizing their content and delivery, while strategizing how best to deploy the Office's resources to address issues and challenges faced by its customers.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

Below are the projected average estimates for the next three years:

Expected Annual Number of:

*Activities:* [20].

*Respondents:* [6,200].

*Responses:* [6,200].

*Frequency of Response:* Once per request.

*Average Minutes per Response:* [5].

*Burden Hours:* [517].

*Written comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Office, including whether the information shall have practical utility; (b) the accuracy of the estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: David L. Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: PRA_*Mailbox@sec.gov.*

Comments must be submitted to OMB within 30 days of this notice.

Dated: February 7, 2022.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–02827 Filed 2–9–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–94159; File No. SR–EMERALD–2021–42]**

### Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Withdrawal of Proposed Rule Change To Amend the MIAX Emerald Fee Schedule To Adopt a Tiered-Pricing Structure for Certain Connectivity Fees

February 4, 2022.

On December 1, 2021, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange

Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's Fee Schedule to adopt a tiered pricing structure for certain connectivity fees. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on December 20, 2021.[4] On January 27, 2022, the Commission temporarily suspended the proposed rule change and instituted proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule change.[6] On Febraury 1, 2022, the Exchange withdrew the proposed rule change (SR–EMERALD–2021–42).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–02786 Filed 2–9–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–94156; File No. SR–FINRA–2022–002]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate the Transaction Query Fee for the FINRA/Nasdaq TRF

February 4, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 31, 2022, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA Rule 7620A (FINRA/Nasdaq Trade Reporting Facility Reporting Fees) to modify the query fee applicable to non-retail participants that use the FINRA/Nasdaq Trade Reporting Facility Carteret (the ''FINRA/Nasdaq TRF Carteret'') and the FINRA/Nasdaq Trade Reporting Facility Chicago (the ''FINRA/Nasdaq TRF Chicago'') (collectively, the ''FINRA/Nasdaq TRF'').

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The FINRA/Nasdaq TRF is a facility of FINRA that is operated by Nasdaq, Inc. (''Nasdaq''). In connection with the establishment of the FINRA/Nasdaq TRF, FINRA and Nasdaq entered into a limited liability company agreement (the ''LLC Agreement''). Under the LLC Agreement, FINRA, the ''SRO Member,'' has sole regulatory responsibility for the FINRA/Nasdaq TRF. Nasdaq, the ''Business Member,'' is primarily responsible for the management of the FINRA/Nasdaq TRF's business affairs, including establishing pricing for use of the FINRA/Nasdaq TRF, to the extent those affairs are not inconsistent with the regulatory and oversight functions of FINRA. Additionally, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the FINRA/Nasdaq TRF.

Pursuant to FINRA Rule 7620A (''Rule''), FINRA/Nasdaq TRF participants that do not constitute Retail Participants [3] (such non-Retail Participants are referred to herein as ''Participants'') must pay a $0.50/query fee for each FINRA/Nasdaq TRF transaction query. FINRA members use WebLink ACT/Nasdaq Workstation Post Trade (''WebLink'') [4], Act Workstation (''Workstation'') [5], and Nasdaq WorkX™ (''WorkX'') [6] in connection with FINRA/Nasdaq TRF reporting.[7] According to the Business Member, these products permit members to perform data searches on reported transactions, which members use to monitor large volumes of data in furtherance of performing their regulatory responsibilities.

Nasdaq administers this Rule in its capacity as the Business Member and operator of the FINRA/Nasdaq TRF on behalf of FINRA,[8] and Nasdaq collects all fees on behalf of the FINRA/Nasdaq TRF. Nasdaq has determined to modify the current schedule of fees by removing the 0.50/query fee applicable to FINRA/Nasdaq TRF transaction queries performed using WebLink, Workstation, and WorkX, and FINRA is proposing to amend the Rule accordingly. Nasdaq has determined to eliminate this fee to allow users to make maximum use of the query tool available in WebLink,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 93776 (December 14, 2021), 86 FR 71983.

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 94089, 87 FR 5910 (February 2, 2022).

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Retail Participants,'' as that term is defined in Supplementary Material .01 to Rule 7620A, is ''a participant in the FINRA/Nasdaq Trade Reporting Facility for which substantially all of its trade reporting activity on the FINRA/Nasdaq Trade Reporting Facility comprises Retail Orders.''

[4] WebLink ACT is a browser-based application that electronically facilitates trade reporting and clearing functions for trades reported to the FINRA/Nasdaq Trade Reporting Facility.

[5] Workstation is a web-based application that electronically facilitates trade reporting and clearing functions for trades reported to the FINRA/Nasdaq TRF. Workstation services include trade entry, trade scan, and uploads for bulk trade entry to support FINRA/Nasdaq TRF participant trade reporting in accordance with FINRA rules.

[6] WorkX is a re-platformed version of Workstation that simplifies regulatory responsibilities and enhances the user experience with improved workflow, system performance, and data visualization. WorkX also upgrades trade reporting and monitoring with a modern user interface using cloud-based technology. FINRA rules and FINRA/Nasdaq Trade Reporting Facility system processing are unchanged.

[7] FINRA notes that firms reporting to the FINRA/Nasdaq TRF pay Nasdaq associated user fees for WebLink, Workstation, and WorkX under Nasdaq rules. *See, e.g.,* Equity 7 Pricing Schedule, Section 115(e) of the Nasdaq Rule.

[8] FINRA's oversight of this function performed by the Business Member is conducted through a recurring assessment and review of TRF operations by an outside independent audit firm.

Workstation, and WorkX, thereby supporting member compliance efforts.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date will be February 1, 2022.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[9] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

FINRA believes that the proposed rule change is reasonable because it eliminates the existing query fee-permitting members to use the tool without incurring a separate charge. FINRA believes that the proposal is an equitable allocation of reasonable fees and is not unfairly discriminatory because removal of the query fee applies equally to all users of WebLink, Workstation, and WorkX, and it eliminates any impediment to users freely utilizing the query function-reducing members' costs associated with monitoring trade reporting activity and satisfying regulatory responsibilities. Moreover, participation in the FINRA/Nasdaq TRF is voluntary, as is the use of the query feature.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Regulatory Need

As discussed above, Nasdaq believes that eliminating this fee will increase the usability of the query tool. Nasdaq believes it is beneficial for users to be able to perform unlimited queries of their trade history at no cost in support of meeting their regulatory responsibilities.

Economic Baseline

From October 2020 to September 2021, on average, approximately 200 Participants paid on average $200 per month in WebLink, Workstation, and WorkX query charges.[10]

Economic Impacts

The proposed rule change would eliminate query charges to all firms using WebLink, Workstation, and WorkX services.[11] The number of firms charged query fees each month varies based on the level of product usage and scans by individual subscribers. Assuming that, going forward, these same Participants maintain their existing levels of query activity, they stand to save on average $200 per month in query charges.

The potential net impact of the proposed rule change depends on whether Participants alter their query activity as a result of the proposed rule change. Thus, Participants who continue to perform queries in line with prior usage will reap corresponding benefits. However, to the extent that the proposed rule change results in Participants performing more queries, then the potential net benefit will be greater.

Alternatives Considered

No other alternatives were considered for the proposed rule change.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f)(2) of Rule 19b–4 thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2022–002 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–FINRA–2022–002. 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 such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FINRA–2022–002 and should be submitted on or before March 3, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–02784 Filed 2–9–22; 8:45 am]

**BILLING CODE 8011–01–P**

[9] 15 U.S.C. 78*o*–3(b)(5).

[10] From October 2020 to September 2021, 303 Participants were charged WebLink, Workstation, or WorkX query fees for scan searches.

[11] This discussion of economic impacts does not relate to any fee other than the $0.50/query fee that is proposed to be eliminated in the instant filing.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–94157; File Nos. SR–MIAX–2021–59, SR–PEARL–2021–57]**

### Self-Regulatory Organizations; Miami International Securities Exchange, LLC, MIAX PEARL, LLC; Notice of Withdrawal of Proposed Rule Changes To Amend the Fee Schedules To Adopt a Tiered-Pricing Structure for Certain Connectivity Fees

February 4, 2022.

On December 1, 2021, Miami International Securities Exchange, LLC (''MIAX'') and MIAX PEARL, LLC (''MIAX Pearl'') (collectively, the ''Exchanges'') each filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (File Numbers SR–MIAX–2021–59 and SR–PEARL–2021–57) to amend the MIAX Fee Schedule and MIAX Pearl Options Fee Schedule to adopt a tiered pricing structure for certain connectivity fees. The proposed rule changes were immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule changes were published for comment in the **Federal Register** on December 20, 2021.[4] On January 27, 2022, the Commission temporarily suspended the proposed rule changes and instituted proceedings under Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposed rule changes.[6] On February 1, 2022, the Exchanges withdrew the proposed rule changes (SR–MIAX–2021–59 and SR–PEARL–2021–57).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–02785 Filed 2–9–22; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release Nos. 93775 (December 14, 2021), 86 FR 71996 (SR–MIAX–2021–59); 93774 (December 14, 2021), 86 FR 71952 (SR–PEARL–2021–57).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 94088, 87 FR 5901 (February 2, 2022).

[7] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–94155; File Nos. SR–MIAX–2021–60, SR–EMERALD–2021–43]**

### Self-Regulatory Organizations; Miami International Securities Exchange, LLC, MIAX Emerald, LLC; Notice of Withdrawal of Proposed Rule Changes To Amend Fee Schedules To Adopt Tiered-Pricing Structures for Additional Limited Service MIAX and MIAX Emerald Express Interface Ports

Feburary 4, 2022.

On December 1, 2021, Miami International Securities Exchange, LLC (''MIAX'') and MIAX Emerald, LLC (''MIAX Emerald'') (collectively, the ''Exchanges'') each filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (File Numbers SR–MIAX–2021–60 and SR–EMERALD–2021–43) to adopt a tiered-pricing structure for additional limited service express interface ports. The proposed rule changes were immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule changes were published for comment in the **Federal Register** on December 20, 2021.[4] On January 27, 2022, the Commission temporarily suspended the proposed rule changes and instituted proceedings under Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposed rule changes.[6] On February 1, 2022, the Exchanges withdrew the proposed rule changes (SR–MIAX–2021–60 and SR–EMERALD–2021–43).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–02783 Filed 2–9–22; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release Nos. 93771 (December 14, 2021), 86 FR 71940 (December 20, 2021) (SR–MIAX–2021–60); 93772 (December 14, 2021), 86 FR 71965 (December 20, 2021) (SR–EMERALD–2021–43).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 94087, 87 FR 5918 (February 2, 2022).

[7] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–94152; File No. SR–NYSEAMER–2022–10]**

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 975NY

February 4, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 31, 2022, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 975NY (Nullification and Adjustment of Options Transactions including Obvious Errors) to improve the operation of the Rule. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this rule change is to amend Rule 975NY (Nullification and Adjustment of Options Transactions including Obvious Errors) to improve the operation of the Rule. Following discussions with other exchanges and a cross-section of industry participants and in coordination with the Listed Options Market Structure Working Group (''LOMSWG'') (collectively, the ''Industry Working Group''), the Exchange proposes: (1) To amend section (b)(3) of the Rule to permit the Exchange to determine the Theoretical Price of a Customer option transaction in a wide market so long as a narrow market exists at any point during the 10-second period after an opening or re-opening; and (2) to amend section (c)(4)(B) of the Rule to adjust, rather than nullify, Customer transactions in Obvious Error situations, provided the adjustment does not violate the limit price.

Proposed Change to Section (b)(3)

Rule 975NY has been part of various harmonization efforts by the Industry Working Group.[4] These efforts have often centered around the Theoretical Price for which an options transaction should be compared to determine whether an Obvious Error has occurred. For instance, all options exchanges have adopted language comparable to Commentary .06,[5] which explains how an exchange is to determine Theoretical Price at the open, when there are no valid quotes, and when there is a wide quote. This includes at times the use of a singular third-party vendor, known as a TP Provider (currently CBOE Livevol, LLC).

Similarly, section (b)(3) of Rule 975NY was previously harmonized across all options exchanges to handle situations where executions occur in markets that are wide (as set forth in the rule).[6] Under that section, the Exchange determines the Theoretical Price if the NBBO for the subject series is wide immediately before execution and a narrow market (as set forth in the rule) existed ''during the 10 seconds prior to the transaction.'' The rule goes on to clarify that, should there be no narrow quotes ''during the 10 seconds prior to the transaction,'' the Theoretical Price for the affected series is the NBBO that existed at the time of execution (regardless of its width).

In recent discussions, the Industry Working Group has identified proposed changes to section (b)(3) of Rule 975NY that would improve the Rule's functioning. Currently, section (b)(3) does not permit the Exchange to determine the Theoretical Price unless there is a narrow quote 10 seconds prior to the transaction. However, in the first seconds of trading, there is no 10-second period ''prior to the transaction.'' Further, the Industry Working Group has observed that prices in certain series can be disjointed at the start of trading. Accordingly, the Exchange proposes to provide additional protections to trading in certain circumstances immediately after the opening before liquidity has had a chance to enter the market. The Exchange proposes to amend section (b)(3) to allow the Exchange to determine the Theoretical Price in a wide market so long as a narrow market exists at any point during the 10-second period after an opening or re-opening.

Specifically, the Exchange proposes that the existing text of section (b)(3) would become sub-section ''A.'' The Exchange proposes to add the following heading and text as sub-section ''B.'':

B. Customer Transactions Occurring Within 10 Seconds or less After an Opening or Re-Opening:

(i) The Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in paragraph A above and there was a bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction.

(ii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds prior to the transaction, then the Exchange will determine the Theoretical Price if the bid/ask differential of the NBB and NBO for the affected series just prior to the Customer's erroneous transaction was equal to or greater than the Minimum Amount set forth in paragraph A above and there was a bid/ask differential less than the Minimum Amount anytime during the 10 seconds after an opening or re-opening.

(iii) If there was no bid/ask differential less than the Minimum Amount during the 10 seconds following an Opening or Re-Opening, then the Theoretical Price of an option series is the last NBB or NBO just prior to the Customer transaction in question, as set forth in paragraph (b) above.

(iv) Customer transactions occurring more than 10 seconds after an opening or re-opening are subject to paragraph A above.

The following examples illustrate the functioning of the proposed rule change. Consider that the NBBO of a series opens as $0.01 at $4.00. A marketable limit order to buy one contract arrives one second later and is executed at $4.00. In the third second of trading, the NBBO narrows from $0.01 at $4.00 to $2.00 at $2.10. While the execution occurred in a market with wide widths, there was no tight market within the 10 seconds prior to execution. Accordingly, under the current rule, the trade would not qualify for obvious error review, in part due to the fact that there was only a single second of trading before the execution. Under the proposal, since a tight market existed at some point in the first 10 seconds of trading (*i.e.,* in the third second), the Exchange would be able to determine the Theoretical Price as provided in Commentary .06.

As another example, the NBBO for a series opens as $0.01 at $4.00. In the seventh second of trading, a marketable limit order is received to buy one contract and is executed at $4.00. Five seconds later (*i.e.,* in the twelfth second of trading), the NBBO narrows from $0.01 at $4.00 to $2.00 at $2.10. While the execution occurred in a market with wide widths, there was no tight market within 10 seconds prior to execution. Accordingly, under the current rule, the trade would not qualify for obvious error review. Under the proposal, since no tight market existed at any point during the first 10 seconds of trading (*i.e.,* the narrow market occurred in the twelfth second), the trade would not qualify for obvious error review.

The proposed rule change would also better harmonize section (b)(3) with section (b)(1) of the Rule. Under section (b)(1), the Exchange is permitted to determine the Theoretical Price for transactions occurring as part of the opening auction process (as defined in Rule 952NY) if there is no NBB or NBO for the affected series just prior to the erroneous transaction. However, under the current version of section (b)(3), a core trading transaction could occur in the same wide market but the Exchange would not be permitted to determine the Theoretical Price. Consider an example where one second after the Exchange opens a selected series, the NBBO is $1.00 at $5.00. At 9:30:03, a customer submits a marketable buy order to the Exchange and pays $5.00. At 9:30:03, a different exchange runs an opening auction that results in a customer paying $5.00 for the same selected

[4] *See, e.g.,* Securities Exchange Act Release Nos. 74920 (May 8, 2015), 80 FR 27816 (May 14, 2015) (SR–NYSEMKT–2015–39); 80497 (April 20, 2017), 82 FR 19290 (April 26, 2017) (SR–NYSEMKT–2017–22).

[5] *See, e.g.,* Securities Exchange Act Release No. 81582 (September 12, 2017), 82 FR 43601 (September 18, 2017) (SR–NYSEAMER–2017–12).

[6] *See, e.g.,* Securities Exchange Act Release No. 74920 (May 8, 2015), 80 FR 27816 (May 14, 2015) (SR–NYSEMKT–2015–39).

series. At 9:30:06, the NBBO changes from $1.00 at $5.00 to $1.35 at $1.45. Under the current version of section (b)(3), the Exchange would not be able to determine the Theoretical Price for the trade occurring during core trading. However, the trade on the other exchange could be submitted for review under (b)(1) and that exchange would be able to determine the Theoretical Price. If the proposed change to section (b)(3) were approved, both of the trades occurring at 9:30:03 (on the Exchange during core trading and on another exchange via auction) would also be entitled to the same review regarding the same Theoretical Price based upon the same time.

The proposal would not change any obvious error review beyond the first 10 seconds of an opening or re-opening.

Proposed Change to Section (c)(4)(B)

The Exchange proposes to amend section (c)(4)(B)—the ''Adjust or Bust'' rule for Customer transactions in Obvious Error situations—to adjust rather than nullify such orders, provided the adjustment does not violate the Customer's limit price.

Currently, the Rule provides that in Obvious Error situations, transactions involving non-Customers should be adjusted, while transactions involving Customers are nullified, unless a certain condition applies.[7] The Industry Working Group has concluded that the treatment of these transactions should be harmonized under the Rule, such that transactions involving Customers may benefit from adjustment, just as non-Customer transactions currently do, except where such adjustment would violate the Customer's limit price; in that instance, the trade would be nullified.

Specifically, the Exchange proposes to amend the text of section (c)(4)(B) to add that where at least one party to the Obvious Error is a Customer, ''the execution price of the transaction will be adjusted by the Official pursuant to the table immediately above. Any Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in sub-paragraph (a)(4) above. However, if such adjustment(s) would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price,'' the trade will be nullified. The ''table immediately above'' referenced in the proposed text refers to the table at current Section (c)(4)(A), which provides for the adjustment of prices a specified amount away from the Theoretical Price, rather than adjusting the Theoretical Price.

The Exchange proposes no other changes at this time.

Implementation Date

The proposed rule change will become operative no sooner than six months following the approval of SR–NYSEArca–2021–91 [8] to coincide with implementation on other options exchanges. The Exchange will announce the effective date of the proposed changes in a Trader Update distributed to all OTP Holders and OTP Firms.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change to section (b)(3) of the Rule would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest because it provides a method for addressing Obvious Error Customer transactions that occur in a wide market at the opening of trading. Generally, a wide market is an indication of a lack of liquidity in the market such that the market is unreliable. Current section (b)(3) recognizes that a persistently wide quote (*i.e.,* more than 10 seconds) should be considered the reliable market regardless of its width, but does not address transactions that occur in a wide market in the first seconds of trading, where there is no preceding 10-second period to reference. Accordingly, in the first 10 seconds of trading, there is no opportunity for a wide quote to have persisted for a sufficiently lengthy period such that the market should consider it a reliable market for the purposes of determining an Obvious Error transaction.

The proposed change would rectify this disparity and permit the Exchange to consider whether a narrow quote is present at any time during the 10-second period after an opening or re-opening. The presence of such a narrow quote would indicate that the market has gained sufficient liquidity and that the previous wide market was unreliable, such that it would be appropriate for the Exchange to determine the Theoretical Price of an Obvious Error transaction. In this way, the proposed rule harmonizes the treatment of Customer transactions that execute in an unreliable market at any point of the trading day, by making them uniformly subject to Exchange determination of the Theoretical Price.

The Exchange believes that the proposed change to section (c)(4)(B) of the Rule would remove impediments to and perfect the mechanism of a free and open market and a national market system and enhance the protection of investors by harmonizing the treatment of non-Customer transactions and Customer transactions under the Rule. Under the current Rule, Obvious Error situations involving non-Customer transactions are adjusted, while those involving Customer transactions are generally nullified, unless they meet the additional requirements of section (c)(4)(C) (*i.e.,* where an OTP Holder has 200 or more Customer transactions under review concurrently and the orders resulting in such transactions were submitted during the course of 2 minutes or less). The proposal would harmonize the treatment of non-Customer and Customer transactions by providing for the adjustment of all such transactions, except where such adjustment would violate the Customer's limit price.

When it proposed the current rule in 2015, the Exchange believed there were sound reasons for treating non-Customer transactions and Customer transactions differently. At the time, the Exchange stated its belief that ''Customers are not necessarily immersed in the day-to-day trading of the markets, are less likely to be watching trading activity in a particular option throughout the day, and may have limited funds in their trading accounts,'' and that nullifying Obvious Error transactions involving

[7] Specifically, the current Rule provides at section (c)(4)(C) that if an OTP Holder has 200 or more Customer transactions under review concurrently and the orders resulting in such transactions were submitted during the course of 2 minutes or less, where at least one party to the Obvious Error is a non-Customer, then the Exchange will apply the non-Customer adjustment criteria found in section (c)(4)(A).

[8] *See* Securities Exchange Act Release No. 93818 (December 17, 2021), 86 FR 73009 (December 23, 2021) (SR–NYSEArca–2021–91) (Order Approving a Proposed Rule Change to Amend Rule 6.87–O).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

Customers would give Customers ''greater protections'' than adjusting such transactions by eliminating the possibility that a Customer's order will be adjusted to a significantly different price. The Exchange also noted its belief that ''Customers are . . . less likely to have engaged in significant hedging or other trading activity based on earlier transactions, and thus, are less in need of maintaining a position at an adjusted price than non-Customers.'' [11]

Those assumptions about Customer trading and hedging activity no longer hold. The Exchange and the Industry Working Group believe that over the course of the last five years, Customers that use options have become more sophisticated, as retail broker-dealers have enhanced the trading tools available. Pursuant to OCC data, volumes clearing in the Customer range have expanded from 12,022,163 ADV in 2015 to 35,081,130 ADV in 2021. This increase in trading activity underscores the greater understanding of options by Customers as a trading tool and its use in the markets. Customers who trade options today largely are more educated, have better trading tools, and have better access to financial news than any time prior.[12] The proposed rule would extend the hedging protections currently enjoyed by non-Customers to Customers, by allowing them to maintain an option position at an adjusted price, which would in turn prevent a cascading effect by maintaining the hedge relationship between the option transaction and any other transactions in a related security.

The Exchange believes that extending such hedging protections to Customer transactions would remove impediments to and perfect the mechanism of a free and open market and a national market system and enhance the protection of investors by providing greater certainty of execution for all participants to options transactions. Under the current Rule, a Customer that believes its transaction was executed pursuant to an Obvious Error may be disincentivized from submitting the transaction for review, since during the review process, the Customer would be uncertain whether the trade would be nullified, and if so, whether market conditions would still permit the opportunity to execute a related order at a better price after the nullification ruling is finalized. In contrast, under the proposed rule, the Customer would know that the only likely outcomes of submitting a trade to Obvious Error review would be that the trade would stand or be re-executed at a better price; the trade would only be nullified if the adjustment would violate the order's limit. Similarly, under the current Rule, during the review period, a market maker who traded contra to the Customer would be uncertain if it should retain any position executed to hedge the original trade, or attempt to unwind it, possibly at a significant loss. Under the proposed rule change, this uncertainty is largely eliminated, and the question would be whether the already-executed and hedged trade would be adjusted to a better price for the Customer, or if it would stand as originally executed. In this way, the proposed rule enhances the protection of investors and removes impediments to and perfects the mechanism of a free and open market and a national market system.

The proposed rule also addresses the concern the Exchange cited in its 2015 filing that adjusting, rather than nullifying, Customer transactions could lead to a Customer's order being adjusted to a significantly different price. To address that concern, the proposed rule would prevent Customer transactions from being adjusted to a price that violates the order's limit; if the adjustment would violate a Customer's limit, the trade would instead be nullified. The Exchange believes it is in the best interest of investors to expand the availability of adjustments to Customer transactions in all Obvious Error situations except where the adjustment would violate the Customer's limit price.

Further, the Exchange believes that, with respect to such proposed adjustments to Customer transactions, it is appropriate to use the same form of adjustment as is currently in place with respect to non-Customer transactions as laid out in the table in section (c)(4)(A). That is, the Exchange believes that it is appropriate to adjust to prices a specified amount away from the Theoretical Price rather than to adjust the Theoretical Price, even though the Exchange has determined a given trade to be erroneous in nature, because the parties in question should have had some expectation of execution at the price or prices submitted. Also, it is common that by the time it is determined that an Obvious Error has occurred, additional hedging and trading activity has already occurred based on the executions that previously happened. The Exchange believes that providing an adjustment to the Theoretical Price in all cases would not appropriately incentivize market participants to maintain appropriate controls to avoid potential errors, while adjusting to prices a specified amount away from the Theoretical Price would incentivize such behavior.

The Exchange believes that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change to section (b)(3) would apply to all instances of a wide market occurring within the first 10 seconds of trading followed by a narrow market at any point in the subsequent 10-second period, regardless of the types of market participants involved in such transactions. The proposed change to section (c)(4)(B) would harmonize the treatment of Obvious Error transactions involving Customers and non-Customers, no matter what type of market participants those parties may be.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.[13] The Exchange anticipates that the other options exchanges will adopt substantively similar proposals, such that there would be no burden on intermarket competition from the Exchange's proposal. Accordingly, the proposed change is not meant to affect competition among the options exchanges. For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and Rule

[11] *See, e.g.,* Securities Exchange Act Release No. 74920 (May 8, 2015), 80 FR 27816, 27829 (May 14, 2015) (SR–NYSEMKT–2015–39).

[12] *See* ''Retail Traders Adopt Options En Masse'' by Dan Raju, available at *https://www.nasdaq.com/articles/retail-traders-adopt-options-en-masse-2020-12-08.*

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2022–10 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–NYSEAMER–2022–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions.

You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2022–10 and should be submitted on or before March 3, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–02782 Filed 2–9–22; 8:45 am]

**BILLING CODE 8011–01–P**

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–94151; File No. SR–NYSEArca–2021–90]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of Grayscale Bitcoin Trust (BTC) Under NYSE Arca Rule 8.201–E

February 4, 2022.

On October 19, 2021, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of Grayscale Bitcoin Trust (BTC) (''Trust'') under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares). The proposed rule change was published for comment in the **Federal Register** on November 8, 2021.[3]

On December 15, 2021, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

## I. Summary of the Proposal

As described in more detail in the Notice,[7] the Exchange proposes to list and trade the Shares of the Trust under NYSE Arca Rule 8.201–E, which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

The investment objective of the Trust is for the value of the Shares (based on bitcoin per Share) to reflect the value of the bitcoins held by the Trust, as determined by reference to the ''Index Price,'' less the Trust's expenses and other liabilities.[8] The ''Index Price'' is the U.S. dollar value of a bitcoin as represented by the ''Index,'' calculated at 4:00 p.m., New York time, on each business day.[9] According to the Exchange, the Index Provider develops, calculates, and publishes the Index on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93504 (Nov. 2, 2021), 86 FR 61804 (''Notice''). Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-nysearca-2021-90/srnysearca202190.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 93788, 86 FR 72291 (Dec. 21, 2021). The Commission designated February 6, 2022, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3.

[8] *See id.* at 61805. Grayscale Investments, LLC (''Sponsor'') is the sponsor of the Trust and is a wholly-owned subsidiary of Digital Currency Group, Inc. Delaware Trust Company (''Trustee'') is the trustee of the Trust, the custodian for the Trust is Coinbase Custody Trust Company, LLC (''Custodian''), and the distribution and marketing agent for the Trust is Genesis. The Trust operates pursuant to a trust agreement (''Trust Agreement'') between the Sponsor and the Trustee. *See id.*

[9] *See id.* at 61810. The index provider for the Trust is TradeBlock, Inc. (''Index Provider''). *See id.* at 61805. While the Exchange does not name the Index that the Trust would use to value the bitcoin held by the Trust, the Exchange provides that the value of the Index, as well as additional information regarding the Index, may be found at: *https://tradeblock.com/markets/index/xbx. See id.* at 61817.

a continuous basis using the volume-weighted price at certain bitcoin spot trading platforms selected by the Index Provider. As of June 30, 2021, the bitcoin spot trading platforms included in the Index were: Coinbase Pro, Bitstamp, Kraken, and LMAX Digital (''Constituent Platforms''). The Index applies an algorithm to the 24-hour volume-weighted average price of bitcoin on the Constituent Platforms calculated on a per second basis.[10] To calculate volume weighted price, the weighting algorithm is applied to the price and volume of all inputs for the immediately preceding 24-hour period at 4:00 p.m., New York time, on the trade date.[11] The Trust's assets will consist solely of bitcoins; Incidental Rights; [12] IR Virtual Currency; [13] proceeds from the sale of bitcoins, Incidental Rights, and IR Virtual Currency pending use of such cash for payment of Additional Trust Expenses [14] or distribution to the shareholders; and any rights of the Trust pursuant to any agreements, other than the Trust Agreement, to which the Trust is a party. Each Share represents a proportional interest, based on the total number of Shares outstanding, in each of the Trust's assets as determined in the case of bitcoin by reference to the Index Price, less the Trust's expenses and other liabilities (which include accrued but unpaid fees and expenses).[15]

On each business day at 4:00 p.m., New York time, or as soon thereafter as practicable, the Sponsor will evaluate the bitcoin held by the Trust and calculate and publish the ''Digital Asset Holdings'' [16] of the Trust. The Trust's website, as well as one or more major market data vendors, will provide an intra-day indicative value (''IIV'') per Share updated every 15 seconds, as calculated by the Exchange or a third party financial data provider during the Exchange's Core Trading Session (9:30 a.m. to 4:00 p.m., E.T.). The IIV will be calculated using the same methodology as the Digital Asset Holdings of the Trust, specifically by using the prior day's closing Digital Asset Holdings per Share as a base and updating that value during the NYSE Arca Core Trading Session to reflect changes in the value of the Trust's Digital Asset Holdings during the trading day.[17] In addition, according to the Exchange, ''each investor will have access to the current Digital Asset Holdings of the Trust through the Trust's website, as well as from one or more major market data vendors.'' [18]

The Trust will issue Shares to authorized participants from time to time, but only in one or more Baskets (each ''Basket'' being a block of 100 Shares).[19] The creation of Baskets will be made only in exchange for the delivery to the Trust of the number of whole and fractional bitcoins represented by each Basket being created. The Trust may redeem Shares from time to time but only in Baskets. The redemption of Baskets requires the distribution by the Trust of the number of bitcoins represented by the Baskets being redeemed. The redemption of a Basket will be made only in exchange for the distribution by the Trust of the number of whole and fractional bitcoins represented by each Basket being redeemed.[20]

## II. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2021–90 and Grounds for Disapproval under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [21] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[22] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.'' [23]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[24] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data where appropriate to support their views:

1. What are commenters' views on whether the proposed Trust and Shares would be susceptible to manipulation? What are commenters' views generally on whether the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices? What are commenters' views generally with respect to the liquidity and transparency of the bitcoin markets, the bitcoin markets' susceptibility to manipulation, and thus the suitability of bitcoin as an underlying asset for an exchange-traded product?

2. The Exchange asserts that ''the Index represents a novel means to prevent fraud and manipulation from impacting a reference price for [b]itcoin and that it offers protections beyond those that exist in traditional commodity markets or equity markets.'' [25] Specifically, the Exchange states that the Index Price is determined through a process in which trade data is cleansed and compiled ''in such a manner as to algorithmically reduce the impact of anomalistic or manipulative trading . . . by adjusting the weight of each data input based on price deviation relative to the observable set, as well as recent and long-term trading volume at each venue relative to the observable set'' [26] and that the Index Price only includes data from executed trades on Constituent [Platforms] that charge trading fees to its users ''in order to attach a real, quantifiable cost to any manipulation attempts.'' [27] The Exchange concludes that, ''[b]y referencing multiple trading venues and

[10] *See id.* at 61809.

[11] *See id.*

[12] ''Incidental Rights'' are rights to acquire, or otherwise establish dominion and control over, any virtual currency or other asset or right, which rights are incident to the Trust's ownership of bitcoins and arise without any action of the Trust, or of the Sponsor or Trustee on behalf of the Trust. *See id.* at 61805 n.9.

[13] ''IR Virtual Currency'' is any virtual currency tokens, or other asset or right, acquired by the Trust through the exercise (subject to the applicable provisions of the Trust Agreement) of any Incidental Right. *See id.* at 61805 n.10.

[14] ''Additional Trust Expenses'' are any expenses incurred by the Trust in addition to the Sponsor's fee that are not Sponsor-paid expenses. *See id.* at 61805 n.11.

[15] *See id.* at 61805, 61807.

[16] The Exchange does not define this term in the proposed rule change. Additional information about the calculation of the Digital Asset Holdings can be found in the Notice. *See id.* at 61807.

[17] *See id.* at 61817.

[18] *See id.*

[19] *See id.* at 61815.

[20] *See id.* at 61816.

[21] 15 U.S.C. 78s(b)(2)(B).

[22] *Id.*

[23] 15 U.S.C. 78f(b)(5).

[24] *See* Notice, *supra* note 3.

[25] *See id.* at 61812.

[26] *See id.* at 61808–09.

[27] *See id.* at 61809–10.

weighting them based on trade activity, . . . the impact of any potential fraud, manipulation or anomalous trading activity occurring on any single venue is reduced.'' [28] What are commenters' views of these assertions and conclusion?

3. The Exchange also asserts that, although the global spot bitcoin market ''is not inherently resistant to fraud and manipulation, the Index serves as a means sufficient to mitigate the impact of instances of fraud and manipulation on a reference price for [b]itcoin.'' [29] Are the characteristics of the Index that the Exchange identifies sufficient to support a determination that the proposal to list and trade the Shares is designed to protect investors and the public interest and is consistent with the other applicable requirements of Section 6(b)(5) of the Act?

4. The Exchange asserts that the Sponsor ''conducted a lead/lag analysis of per minute data comparing the [b]itcoin futures maker, as represented by the [Chicago Mercantile Exchange (''CME'')] futures market, to the [b]itcoin spot market, as represented by the Index'' and that ''[b]ased on this analysis, the Sponsor has concluded that there does not appear to be a significant lead/lag relationship between the two instruments for the period of November 1, 2019 to August 31, 2021.'' [30] What are commenters' views on this assertion?

5. The Exchange states that, ''[a]lthough there is no significant lead/lag relationship'' between the bitcoin futures and the bitcoin spot market, ''the CME futures market represents a large, surveilled and regulated market.'' [31] The Exchange also asserts that ''[g]iven the significant size of the CME futures markets . . . there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to successfully manipulate the ETP, since arbitrage between the derivative and spot markets would tend to counter an attempt to manipulate the spot market alone.'' [32] What are commenters' views regarding these assertions? Do these assertions provide an appropriate basis for determining that the proposal is consistent with the applicable requirements of Section 6(b)(5) of the Act? Based on data provided by the Exchange, do commenters agree that the CME bitcoin futures market now represents a regulated market of significant size? [33] What are commenters' views on whether there is a reasonable likelihood that a person attempting to manipulate the Shares would also have to trade on CME to manipulate the Shares?

6. The Exchange states that, if ''the Commission is open to reviewing and potentially approving proposals for [b]itcoin-based ETPs registered under the [Investment Act of 1940], then it should take a similar view towards proposals for [b]itcoin based ETPs registered under the [Securities Act of 1933], given that both products would be reliant on [b]itcoin's underlying price in the spot markets.'' [34] The Exchange further states that ''any potential fraud or manipulation in the underlying [bitcoin spot market] would impact both types of ETP proposals.'' [35] What are commenters' views on such assertions?

## III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[36]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by March 3, 2022. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by March 17, 2022.

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–NYSEArca–2021–90 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2021–90. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–90 and should be submitted by March 3, 2022. Rebuttal comments should be submitted by March 17, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–02781 Filed 2–9–22; 8:45 am]

**BILLING CODE 8011–01–P**

[28] *See id.*

[29] *See id.* at 61818.

[30] *See id.* at 61814.

[31] *See id.*

[32] *See id.* at 61815.

[33] *See id.* at 61814–15.

[34] *See id.* at 61815.

[35] *See id.*

[36] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[37] 17 CFR 200.30–3(a)(57).

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #17334 and #17335; Tennessee Disaster Number TN–00133]**

### Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Tennessee

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Tennessee (FEMA–4637–DR), dated 02/03/2022.

*Incident:* Severe Storms, Straight-line Winds, and Tornadoes.

*Incident Period:* 12/10/2021 through 12/11/2021.

**DATES:** Issued on 02/03/2022.

*Physical Loan Application Deadline Date:* 04/04/2022.

*Economic Injury (EIDL) Loan Application Deadline Date:* 11/03/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 02/03/2022, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Cheatham, Davidson, Decatur, Dickson, Dyer, Gibson, Henderson, Henry, Lake, Obion, Stewart, Sumner, Weakley

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-Profit Organizations with Credit Available Elsewhere ... | 1.875 |
| Non-Profit Organizations without Credit Available Elsewhere ..... | 1.875 |
| *For Economic Injury:* | |
| Non-Profit Organizations without Credit Available Elsewhere ..... | 1.875 |

The number assigned to this disaster for physical damage is 17334 C and for economic injury is 17335 0.

(Catalog of Federal Domestic Assistance Number 59008)

**Barbara Carson,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2022–02828 Filed 2–9–22; 8:45 am]

**BILLING CODE 8026–03–P**

## SMALL BUSINESS ADMINISTRATION

**[License No. 09/09–0467]**

### The Central Valley Fund II (SBIC) L.P.; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 09/09–0467 issued to The Central Valley Fund II (SBIC), L.P., said license is hereby declared null and void.

United States Small Business Administration.

**Bailey DeVries,**

*Associate Administrator, Office of Investment and Innovation.*

[FR Doc. 2022–02833 Filed 2–9–22; 8:45 am]

**BILLING CODE P**

## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments

**ACTION:** 60-day notice and request for comments.

**SUMMARY:** The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

**DATES:** Submit comments on or before April 11, 2022.

**ADDRESSES:** Send all comments to Rachel Karton, for the Office of Entrepreneurial Development, Small Business Administration, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Rachel Karton, 202–619–1816 or *Rachel.newman-karton@sba.gov* for the Office of Entrepreneurial Development, Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov*

**SUPPLEMENTARY INFORMATION:** In accordance with regulations and policy, the Small Business Development Centers (SBDCs) must provide SBA semi-annual financial and programmatic reports outlining expenditures and accomplishments. The information collected will be used to monitor the progress of the program. The Office of Entrepreneurial Development made minor adjustments to the form in number 3), under the heading EXPENSE CATEGORY to align with the SF 424 as follows:

1. Travel is moved from the fifth line to the third line.
2. Equipment is moved from the sixth line to the fourth line.
3. Supplies is moved from the seventh line to the fifth line.
4. Contractual is added as the sixth line.
5. Consultants is moved from the third line to the seventh line.

The remainder of the form stays the same.

**Solicitation of Public Comments**

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

**Summary of Information Collection**

*OMB Control Number: 3245–0169.*

*Title:* ''Federal Cash Transaction Report; Financial Status Report Program Income Report Narrative Program Report''.

*Description of Respondents:* SBDC Program Stakeholders, including State Directors.

*Form Number:* 2113.

*Annual Responses:* 126.

*Annual Burden:* 7,308.

**Curtis Rich,**

*Management Analyst.*

[FR Doc. 2022–02855 Filed 2–9–22; 8:45 am]

**BILLING CODE 8026–03–P**

## SMALL BUSINESS ADMINISTRATION

**[License No. 08/78–0163]**

### Bluestem Capital Partners III, L.P.; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 08/78–0163 issued to Bluestem Capital Partners III, L.P., said license is hereby declared null and void.

United States Small Business Administration.

**Bailey DeVries,**

*Associate Administrator, Office of Investment and Innovation.*

[FR Doc. 2022–02830 Filed 2–9–22; 8:45 am]

**BILLING CODE P**

## SMALL BUSINESS ADMINISTRATION

**Disaster Declaration #17336 and #17337; CONNECTICUT Disaster Number CT–00056**

### Presidential Declaration of a Major Disaster for Public Assistance Only for the State of CONNECTICUT

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of CONNECTICUT (FEMA–4629–DR), dated 02/03/2022.

*Incident:* Remnants of Hurricane Ida.

*Incident Period:* 09/01/2021 through 09/02/2021.

**DATES:** Issued on 02/03/2022.

*Physical Loan Application Deadline Date:* 04/04/2022.

*Economic Injury (EIDL) Loan Application Deadline Date:* 11/03/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 02/03/2022, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Fairfield, Litchfield.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-Profit Organizations with Credit Available Elsewhere ... | 2.000 |
| Non-Profit Organizations without Credit Available Elsewhere ..... | 2.000 |
| *For Economic Injury:* | |
| Non-Profit Organizations without Credit Available Elsewhere ..... | 2.000 |

The number assigned to this disaster for physical damage is 17336 8 and for economic injury is 17337 0.

(Catalog of Federal Domestic Assistance Number 59008)

**Barbara Carson,**

*Acting Associate Administrator for Disaster Assistance*

[FR Doc. 2022–02831 Filed 2–9–22; 8:45 am]

**BILLING CODE 8026–03–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36578]**

### R.J. Corman Railroad Company, LLC and R.J. Corman Railroad Group, LLC.—Continuance in Control Exemption—Knoxville and Cumberland Gap Railroad, LLC

R.J. Corman Railroad Company, LLC (RJCRC), and R. J. Corman Railroad Group, LLC (RJCG),[1] both noncarrier holding companies, have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Knoxville and Cumberland Gap Railroad, LLC (KXCG), a noncarrier controlled by Applicants, upon KXCG's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in *Knoxville & Cumberland Gap Railroad—Acquisition & Operation Exemption with Interchange Commitment—Rail Lines of Norfolk Southern Railway in Anderson, Campbell, Claiborne, Grainger, Knox, & Union Counties, Tenn., Bell & Whitley Counties, Ky., & Lee County, Va.,* Docket No. FD 36577, in which KXCG seeks to acquire from Norfolk Southern Railway Company (NSR) various rail lines (via purchase or lease assignment) and trackage rights, totaling approximately 154.0 miles in length.[2]

The transaction may be consummated on or after February 24, 2022, the effective date of the exemption (30 days after the verified notice was filed).

According to the verified notice of exemption, Applicants currently control 18 Class III rail carriers, collectively operating in multiple states. For a complete list of these rail carriers and the states in which they operate, see Applicants' January 25, 2022 verified notice of exemption, available at *www.stb.gov.*

Applicants represent that: (1) KXCG will not connect with any other railroad in Applicants' corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect KXCG with any railroad in the Applicants' corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 17, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36578, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must

[1] RJCRC is a wholly owned subsidiary of RJCG. RJCRC and RJCG are referred to together as Applicants.

[2] This total includes approximately 112.0 miles of NSR rail line that KXCG will acquire from NSR; 13.0 miles of lines currently leased by NSR from CSX Transportation, Inc. (CSXT), which lease will be assigned to KXCG; 6.3 miles of NSR trackage rights over a CSXT line, which trackage rights will be assigned to KXCG; and 22.7 miles of NSR line over which NSR will grant KXCG trackage rights.

be served on Applicants' representative, David A. Hirsh, Dentons US LLP, 1900 K Street NW, Washington, DC 20006.

According to Applicants, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: February 7, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Stefan Rice,**

*Clearance Clerk.*

[FR Doc. 2022–02875 Filed 2–9–22; 8:45 am]

**BILLING CODE 4915–01–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36577]**

### Knoxville and Cumberland Gap Railroad, LLC—Acquisition and Operation Exemption With Interchange Commitment—Rail Lines of Norfolk Southern Railway Company in Anderson, Campbell, Claiborne, Grainger, Knox, and Union Counties, Tenn., Bell and Whitley Counties, Ky., and Lee County, Va.

Knoxville and Cumberland Gap Railroad, LLC (KXCG), a noncarrier, has filed a verified notice of exemption to permit KXCG to acquire approximately 112.0 miles of rail lines from Norfolk Southern Railway Company (NSR), assume NSR's lease of approximately 13.0 miles of CSX Transportation, Inc. (CSXT) rail line, assume NSR's trackage rights over approximately 6.3 miles of a CSXT line, and acquire trackage rights over approximately 22.7 miles of an NSR line, for a total of approximately 154.0 miles (collectively, the Lines), and to operate the Lines.

The portion of the Lines KXCG will acquire from NSR consists of: (1) The Jellico Line, running from the insulated joint in Clinton, Tenn. (at or around milepost 20.9C±) to Lot, Ky. (at or around milepost 67.7±), and from Hyde, Tenn. (at or around milepost 74C±) to Clairfield, Tenn. (at or around milepost 80C±); and (2) the Middlesboro Line, running from the insulated joints of the wye track, north of the derails located in Beverly, Tenn. (at or near milepost 5.8CG±) to Cumberland Gap, Tenn. (at or around milepost 65CG±).

The transaction also provides for assignment to KXCG, with permission of CSXT, of:

(1) NSR's lease of the following CSXT lines: (a) On the Harbell Branch between a point 125.3 feet south of the point of switch of the connecting track to NSR at Cumberland Gap just south of the end of the Cumberland Gap Tunnel, which point of connection is at milepost CV 219.5, and a point where the Harbell Branch connects near milepost CV 216 in Middlesboro, Ky., with the north leg of the wye track of Bennett's Fork Branch; (b) on Bennett's Fork Branch from and including the north and south legs of the aforesaid wye, to Stony Fork Junction and end of track near milepost MR 221 north of Motch, Tenn.; and (c) on Stony Fork Branch between Stony Fork Junction and end of track near milepost MS 221.8 near Pioneer, Tenn., including approximately one mile of track leased to Bell County Coal Corporation; and (d) on the Harbell Branch main track from the aforesaid north leg wye connection near milepost CV 216 to milepost CV 215.0 north thereof, including CSXT's Middlesboro Yard and related trackage; and

(2) NSR's trackage rights over CSXT's line between Lot at approximately milepost 67.7C and Hyde at approximately milepost 74C.

Finally, as part of the transaction, KXCG will acquire trackage rights over NSR's line from the NSR switch at the connection with the Jellico Line at Clinton at approximately milepost 20.9C, continuing to the NSR switch at Coster, Tenn., connecting to the NSR Coster Line (milepost 2.3C/7.9CO), and then to the NSR switch connecting to the Middlesboro Line at or near Beverly (milepost 5.8CG±(3.8CO)).

This transaction is related to a verified notice of exemption filed concurrently in *R.J. Corman Railroad—Continuance in Control Exemption—Knoxville & Cumberland Gap Railroad,* Docket No. FD 36578, in which R.J. Corman Railroad Company, LLC, and R.J. Corman Railroad Group, LLC, seek to continue in control of KXCG upon KXCG's becoming a Class III rail carrier.

KXCG certifies that its projected annual revenues from this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million. KXCG further states that the Transaction Agreement between KXCG and NSR contains an interchange commitment. The affected interchanges are with CSXT at Lot, Ky., and Hyde and Cumberland Gap, Tenn. KXCG has provided additional information regarding the interchange commitment as required by 49 CFR 1150.33(h).[1]

The earliest this transaction may be consummated is February 24, 2022, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 17, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36577, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on KXCG's representative, David A. Hirsh, Dentons US LLP, 1900 K Street NW, Washington, DC 20006.

According to KXCG, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: February 7, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Stefan Rice,**

*Clearance Clerk.*

[FR Doc. 2022–02871 Filed 2–9–22; 8:45 am]

**BILLING CODE 4915–01–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36579]**

### Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company

Union Pacific Railroad Company (UP), a Class I railroad, has filed an amended verified notice of exemption under 49 CFR 1180.2(d)(8) for the acquisition of temporary overhead trackage rights over an approximately 51.7-mile rail line of BNSF Railway Company (BNSF) between milepost 579.3 on BNSF's Creek Subdivision near Mill Creek, Okla., and milepost 631.0 on BNSF's Madill Subdivision near Joe Junction, Tex., pursuant to the terms of a written temporary trackage rights agreement dated December 31, 2021 (Agreement).[1]

UP states that the sole purpose of the temporary trackage rights is to allow UP to move loaded and empty unit ballast trains, which will be used solely for UP maintenance-of-way projects. UP states

[1] A copy of the Transaction Agreement containing the interchange commitment was filed under seal with the verified notice. *See* 49 CFR 1150.33(h)(1).

[1] A copy of the Agreement was filed with the amended verified notice.

that the temporary trackage rights will expire on December 31, 2022.

The transaction may be consummated on or after March 3, 2022, the effective date of the exemption (30 days after the amended verified notice was filed).

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

If the amended verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 24, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36579, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on UP's representative, Whitney C. Larkin, Union Pacific Railroad Company, 1400 Douglas Street, Stop 1580, Omaha, NE 68179.

According to UP, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: February 4, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Raina S. White,**

*Clearance Clerk.*

[FR Doc. 2022–02850 Filed 2–9–22; 8:45 am]

**BILLING CODE 4915–01–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Commission Meeting

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** The Susquehanna River Basin Commission will conduct its regular business meeting on March 17, 2022 from Harrisburg, Pennsylvania. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice. Also the Commission published a document in the **Federal Register** on January 11, 2022, concerning its public hearing on February 3, 2022, in Harrisburg, Pennsylvania.

**DATES:** The meeting will be held on Thursday, March 17, 2022, at 9 a.m.

**ADDRESSES:** The meeting will be conducted in person and digitally from the Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, PA 17110.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: 717–238–0423; fax: 717–238–2436.

**SUPPLEMENTARY INFORMATION:** The business meeting will include actions or presentations on the following items: ratification of contracts/grants and actions on 17 Regulatory Program projects.

This agenda is complete at the time of issuance, but other items may be added, and some stricken without further notice. The listing of an item on the agenda does not necessarily mean that the Commission will take final action on it at this meeting. When the Commission does take final action, notice of these actions will be published in the **Federal Register** after the meeting. Any actions specific to projects will also be provided in writing directly to project sponsors.

The meeting will be conducted both in person at the Commission's headquarters and digitally. The public is invited to attend the Commission's business meeting. You can access the Business Meeting through a computer (Audio and Video) by following the link: *https://srbc.webex.com/srbc/j.php?MTID=m4dc4fb39bd80768df639dae20600a08d* then enter meeting number 177 791 3605 and password CommBusMtg0317. You may also participant telephonically by dialing 1–877–668–4493 and entering the meeting number 177 791 3605 followed by the # sign.

Written comments pertaining to items on the agenda at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110–1788, or submitted electronically through *www.srbc.net/about/meetings-events/business-meeting.html.* Such comments are due to the Commission on or before March 15, 2022. Comments will not be accepted at the business meeting noticed herein.

*Authority:* Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: February 7, 2022.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2022–02866 Filed 2–9–22; 8:45 am]

**BILLING CODE 7040–01–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Grandfathering (GF) Registration Notice

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists Grandfathering Registration for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** January 1–31, 2022.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries May be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists GF Registration for projects, described below, pursuant to 18 CFR 806, subpart E for the time period specified above:

*Grandfathering Registration Under 18 CFR part 806, subpart E:*

1. Village of Alfred—Public Water Supply System, GF Certificate No. GF–202201202, Village of Alfred, Allegany County, N.Y.; Wells 1 and 2; Issue Date: January 28, 2022.

2. Barletta Materials & Construction, Inc.—Honey Hole Quarry, GF Certificate No. GF–202201203, Nescopeck Township, Luzerne County, Pa.; Susquehanna River and consumptive use; Issue Date: January 28, 2022.

3. The Municipal Authority of the Borough of Catawissa—Public Water Supply System, GF Certificate No. GF–202201204, Catawissa Township and Catawissa Borough, Columbia County, Pa.; Well 6; Issue Date: January 28, 2022.

4. Mifflintown Municipal Authority—Public Water Supply System, GF

Certificate No. GF–202201205, Fermanagh Township, Juniata County, Pa.; Macedonia Wells 1 and 2; Issue Date: January 28, 2022.

5. Pennsy Supply, Inc.—Small Mountain Quarry, GF Certificate No. GF–202201206, Dorrance Township, Luzerne County, Pa.; Wells 1, 2, and 3; Issue Date: January 28, 2022.

*Authority:* Public Law 91–575, 84 stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: February 7, 2022.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2022–02867 Filed 2–9–22; 8:45 am]

**BILLING CODE 7040–01–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket Number USTR–2022–0001]**

## Request for Comments Concerning the Operation of the United States-Mexico-Canada Agreement With Respect to Trade in Automotive Goods

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Request for comments.

**SUMMARY:** The U.S. Trade Representative must conduct a review of trade in automotive goods under the United States-Mexico-Canada Agreement (USMCA) and submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives no later than July 1, 2022. USTR invites comments concerning the operation of the USMCA with respect to automotive goods, including the implementation and enforcement of the USMCA rules of origin for automotive goods, as well as whether the automotive provisions of the USMCA are relevant in light of technological and production advances.

**DATES:** USTR must receive your written comments by March 28, 2022.

**ADDRESSES:** USTR strongly prefers electronic submissions made through the online USTR portal: *https://comments.ustr.gov/s/.* Follow the instructions for submitting comments in sections C and D below. The docket number is USTR–2022–0001.

**FOR FURTHER INFORMATION CONTACT:** Justin Hoffmann, Director for Industrial Goods at (202) 395–2990 or *Justin.D.Hoffmann@ustr.eop.gov.*

**SUPPLEMENTARY INFORMATION:**

### A. USMCA Background

On January 29, 2020, the President signed into law the USMCA Implementation Act (Pub. L. 116–113), which implements the USMCA between the United States, the United Mexican States, and Canada attached as an Annex to the Protocol Replacing the North American Free Trade Agreement. The USMCA entered into force on July 1, 2020.

The USMCA includes new rules of origin to claim preferential treatment for automotive goods, including higher Regional Value Content (RVC) thresholds, mandatory requirements to produce core parts in the region, mandatory steel and aluminum purchasing requirements, and a Labor Value Content (LVC) requirement. The USMCA allows vehicle producers to request an alternative staging regime for these requirements that would permit a longer period of transition to help ensure that future production is able to meet the new rules. The standard staging regime is specified under the Automotive Appendix to Chapter 4 of the USMCA, with the exception of Article 8, which specifies provisions relating to the alternative staging regime.

The USMCA Implementation Act and Executive Order 13908 established the Interagency Committee on Trade in Automotive Goods (Committee) to advise the President and the U.S. Trade Representative on the implementation, enforcement, and modification of the USMCA provisions related to automotive goods. In addition, the Committee reviews the operation of the USMCA with respect to trade in automotive goods, including the economic effects of the USMCA automotive rules of origin on the U.S. economy, workers, consumers, and the impact of new technology on such rules.

### B. Report to Congress

Section 202A(g) of the USMCA Implementation Act requires the U.S. Trade Representative, in consultation with the Committee, to conduct a biennial review of the operation of the USMCA with respect to trade in automotive goods, including:

(a) To the extent practicable, a summary of actions taken by producers to demonstrate compliance with the automotive rules of origin, use of the alternative staging regime, enforcement of such rules of origin, and other relevant matters.

(b) Whether the automotive rules of origin are effective and relevant in light of new technology and changes in content, production processes, and character of automotive goods.

No later than July 1, 2022, USTR will submit the results of the biennial review to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and post a public version of the report to its website at *https://www.ustr.gov.*

### C. Request for Public Input

In accordance with the USMCA Implementation Act, USTR and the Committee seek views from producers of automotive goods, labor organizations, and other interested parties regarding:

1. The overall operation of the USMCA with respect to automotive goods.

2. Actions taken by automotive and parts producers to demonstrate compliance with the USMCA automotive rules of origin, including:

a. The applicable RVC requirements for passenger vehicles, light trucks, heavy trucks, other vehicles, and parts thereof.

b. The North American steel and aluminum purchase requirements.

c. The LVC requirements.

3. The use of alternative staging regimes by vehicle producers to meet the USMCA automotive rules of origin.

4. Enforcement of the USMCA automotive rules of origin, including the alternative staging regimes and the automotive certification process for steel and aluminum content, LVC, and RVC.

5. Whether the current USMCA automotive rules of origin are effective and relevant in light of new technology and changes in the content, production processes, and character of automotive goods.

6. Any other topics relevant to the trade in automotive goods under the USMCA.

### D. Procedures for Written Submissions

All submissions must be in English and submitted using the electronic portal at *https://comments.ustr.gov/s/.* You will be able to view a docket entitled 'Request for Comments Concerning the Operation of the United States-Mexico-Canada Agreement (USMCA) with Respect to Trade in Automotive Goods' on the portal, docket number USTR–2022–0001.

You do not need to establish an account to make a submission. Fields with a gray (BCI) notation are for Business Confidential Information (BCI), which will not be made publicly available. Required fields are marked 'Required' and have a red asterisk (*). Fields with a green (Public) notation will be viewable by the public. The first screen of the portal requires you to enter identification and contact information.

Submitters should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission.

For uploads containing BCI, the file name of the business confidential version should begin with the characters 'BCI'. Any page containing BCI must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Parties uploading attachments containing BCI also must submit a public version of their submission. The file name of the public version, which you must upload on *https://comments.ustr.gov/s/,* should begin with the character 'P'. Follow the 'BCI' and 'P' with the name of the person or entity making the submission. USTR will post attachments uploaded to the docket for public inspection, except for attachments marked as BCI.

You can view all public submissions on the USTR portal at *https://comments.ustr.gov/s/.*

**Greta Peisch,**

*General Counsel, Office of the United States Trade Representative.*

[FR Doc. 2022–02793 Filed 2–9–22; 8:45 am]

**BILLING CODE 3390–F2–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Aviation Rulemaking Advisory Committee; Meeting

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

**SUMMARY:** This notice announces a meeting of the ARAC.

**DATES:** The meeting will be held on Thursday, March 17, 2022, from 1:00 p.m. to 4:00 p.m. Eastern Time.

Requests to attend the meeting must be received by Monday, February 28, 2022.

Requests for accommodations to a disability must be received by Monday, February 28, 2022.

Requests to submit written materials to be reviewed during the meeting must be received no later than Monday, February 28, 2022.

**ADDRESSES:** The meeting will be held virtually. Members of the public who wish to observe the meeting must RSVP by emailing *9-awa-arac@faa.gov.* General committee information including copies of the meeting minutes will be available on the FAA Committee website at *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/.*

**FOR FURTHER INFORMATION CONTACT:** Lakisha Pearson, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–4191; fax (202) 267–5075; email *9-awa-arac@faa.gov.* Any committee-related request should be sent to the person listed in this section.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The ARAC was created under the Federal Advisory Committee Act (FACA), in accordance with Title 5 of the United States Code (5 U.S.C. App. 2) to provide advice and recommendations to the FAA concerning rulemaking activities, such as aircraft operations, airman and air agency certification, airworthiness standards and certification, airports, maintenance, noise, and training.

#### II. Agenda

At the meeting, the agenda will cover the following topics:

- Approval of Minutes
- Status Updates
  - Active Working Groups
  - Transport Airplane and Engine (TAE) Subcommittee
- Recommendation Reports
- FAA Updates

Detailed agenda information will be posted on the FAA Committee website address listed in the **ADDRESSES** section at least one week in advance of the meeting.

#### III. Public Participation

This virtual meeting will be open to the public on a first-come, first-served basis. Members of the public who wish to attend are asked to register via email by submitting the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation, to the email listed in the **ADDRESSES** section. When registration is confirmed, registrants will be provided the virtual meeting information/teleconference call-in number and passcode. Callers are responsible for paying associated long-distance charges.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

The FAA is not accepting oral presentations at this meeting due to time constraints. Any member of the public may present a written statement to the committee at any time. The public may present written statements to ARAC by providing a copy to the Designated Federal Officer via the email listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC, on February 7, 2022.

**Brandon Roberts,**

*Executive Director, Office of Rulemaking.*

[FR Doc. 2022–02862 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. FTA 2022–0009]**

### Rescission: Equitable Economic Recovery and Workforce Development Through Construction Hiring Pilot Program

**AGENCY:** Federal Transit Administration, Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** As a result of a provision in the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act, that authorizes a recipient or subrecipient of a grant provided under title 23 or 49, United States Code, to implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by the grant subject to applicable State and local laws, FTA is rescinding the Equitable Economic Recovery and Workforce Development Through Construction Hiring Pilot Program (Pilot Program).

**DATES:** Effective February 10, 2022.

**FOR FURTHER INFORMATION CONTACT:** Dana Nifosi, Deputy Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–4011.

**SUPPLEMENTARY INFORMATION:**

*Background:* On May 21, 2021, FTA announced an initiative to permit FTA recipients and subrecipients to utilize geographic, economic, or other hiring preferences on FTA-funded

construction projects. (86 FR 27672). The initiative was carried out as a pilot program for a period of four years and the purpose of the program was to provide flexibility to utilize hiring preferences to promote equitable creation of employment opportunities and workforce development activities, particularly for economically or socially disadvantaged workers, while evaluating the impact of such preferences on full and open competition and project delivery. This initiative implemented Section 199B of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260), a provision that has been included in prior Appropriations Acts since Fiscal Year (FY) 2016 that authorizes the Secretary to permit States and local governments to implement geographic, economic, or other hiring preferences not otherwise authorized by law, subject to certain mandatory certifications that the recipient must make. Through this Pilot Program, FTA also intended to exercise flexibility recently granted to Federal agencies by the Office of Management and Budget (OMB) to support recipients and subrecipients in achieving equitable economic recovery from the COVID–19 pandemic. Additionally, the pilot program advanced Executive Order 13985, ''Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' issued on January 20, 2021, by supporting workers in overcoming barriers to obtaining successful, long-term careers in the transit construction industry.

*Reason for Recission:* Section 25019 of the Bipartisan Infrastructure Law (Section 25019), enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117–58), authorizes recipients or subrecipients of Federal funds under title 23 or 49, United States Code, to implement certain hiring preferences related to the use of labor for construction projects. Specifically, Section 25019 provides that a ''recipient or subrecipient of a grant provided by the Secretary under title 23 or 49, United States Code, may implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by the grant, including prehire agreements, subject to any applicable State and local laws, policies, and procedures.'' In addition, this provision specifically states that the use of such preferences ''shall not be considered to unduly limit competition.'' Therefore, FTA will not engage in or have a role in evaluating the effects on competition, if any, of labor or hiring preferences expressly authorized by Section 25019.

FTA has determined that because Section 25019 provides an express authorization for FTA recipients and subrecipients to utilize a local or other geographical or economic hiring preference relating to the use of labor for the construction of a project funded under title 49, United States Code, FTA recipients and subrecipients no longer must request approval from FTA through the Pilot Program to utilize such preferences. Additionally, the certification requirements of Section 199B of the Consolidated Appropriations Act, 2021 do not apply to hiring preferences authorized by Section 25019 because such requirements only apply to hiring preferences ''not otherwise authorized by law.''

FTA has determined there are no hiring preferences eligible for FTA approval under the Pilot Program that are not authorized by Section 25019, and so such preferences going forward are subject to Section 25019, not Section 199B of the Consolidated Appropriations Act, 2021. Accordingly, FTA has concluded that the Pilot Program no longer is necessary, and hereby rescinds it.

**Nuria I. Fernandez,**

*Administrator.*

[FR Doc. 2022–02874 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. FTA 2022–0004]**

### Agency Information Collection Activity Under OMB Review

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

**DATES:** Comments must be submitted on or before March 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:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590, (202) 366–0354 or *tia.swain@dot.gov.*

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On November 1, 2021 FTA published a 60-day notice (86 FR 60332) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received one comment on January 1, 2022 after issuing this 60-day notice. The commentor suggested that although implied, FTA specifically include a reference to the American with Disabilities Act (ADA) of 1990 in the wording of future **Federal Register** Notices. FTA has a robust ADA program that is separate from this information collection, however we have added the reference to this **Federal Register** Notice and all future notices so it is explicitly clear FTA supports and enforces the ADA. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for

public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

*Title:* Nondiscrimination as It Applies to FTA Grant Programs.

*OMB Control Number:* 2132–0542.

*Type of Request:* The Federal Transit Laws, 49 U.S.C. 5332(b), provide that ''no person in the United States shall on the grounds of race, color, religion, national origin, sex, or age be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any project, program or activity funded in whole or in part through financial assistance under this Act.'' This applies to employment and business opportunities and is considered to be in addition to the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Any FTA applicant, recipient, sub-recipient, and contractor who employ 100 or more transit-related employees and requests or receives capital or operating assistance in excess of $1 million in the previous Federal fiscal year, or requests or receives planning assistance in excess of $250,000 in the previous Federal fiscal year must implement all of the EEO Program elements. Agencies that have between 50–99 transit-related employees are required to prepare and maintain an EEO Program that includes the statement of policy, dissemination plan, designation of personnel, assessment of employment practices, and a monitoring and reporting system.

*Respondents:* Transit agencies, States and Metropolitan Planning Organizations.

*Estimated Annual Respondents:* 53.

*Estimated Total Annual Burden Hours:* 1,575.

*Frequency:* Annual.

**Nadine Pembleton,**

*Director, Office of Management Planning.*

[FR Doc. 2022–02872 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. FTA 2022–0005]**

### Agency Information Collection Activity Under OMB Review

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

**DATES:** Comments must be submitted on or before March 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:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590, (202) 366–0354 or *tia.swain@dot.gov.*

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On December 8, 2021 FTA published a 60-day notice (86 FR 69712) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

*Title:* Job Access and Reverse Commute Program.

*OMB Control Number:* 2132–0563.

*Type of Request:* The Job Access and Reverse Commute (JARC) program, provided grants for filling gaps in employment transportation. The primary beneficiaries of this program were low-income families and families coming off welfare assistance who otherwise would have a difficult time getting to jobs and related services, such as child care and training. The program was begun in 1999 and was continued under Section 5316 of the federal transportation legislation, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), passed by

Congress in 2005. The JARC program authorized two kinds of grants: Job Access grants (aimed at developing new transportation services for low-income workers and/or filling in gaps in existing services) and Reverse Commute projects (intended to provide transportation to suburban jobs from urban, rural and other suburban locations—but not necessarily just for low-income people). The JARC program was repealed under the Moving Ahead for Progress in the 21st Century Act (MAP–21). Although the program has expired, JARC activities are eligible for funding under FTA's Urbanized Area Formula Grants (Section 5307) and the Formula Grants for Rural Areas (Section 5311) programs. However, funds previously authorized for the program repealed by MAP–21 remain available for their originally authorized purposes until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated.

*Respondents:* State and local government, business or other for-profit institutions, and non-profit institutions.

*Estimated Total Annual Respondents:* 49.

*Estimated Total Burden Hours per Respondent:* 2 hours.

*Estimated Annual Burden on Respondents:* 98 hours.

*Frequency:* Annually.

**Nadine Pembleton,**

*Director, Office of Management Planning.*

[FR Doc. 2022–02873 Filed 2–9–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0031**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: Zing (Sail); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0031 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0031 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0031, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel ZING is:

—*Intended Commercial Use of Vessel:* ''Use this vessel to continue taking passengers for daytime cruises in the Georgetown SC area.''

—*Geographic Region Including Base of Operations:* ''South Carolina.'' (Base of Operations: Georgetown, SC)

—*Vessel Length and Type:* 42.8′ Sail (catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0031 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov*, keyword search MARAD–2021–0031 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your

submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02820 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0026]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: VENTURE (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0026 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0026 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0026, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel VENTURE is:

—*Intended Commercial Use of Vessel:* ''Carry passengers, recreational, coastwise.''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Coral Gables, FL)
—*Vessel Length and Type:* 101′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0026 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0026 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA)

request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02819 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0029]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: DINGO (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0029 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0029 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0029, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel DINGO is:

—*Intended Commercial Use of Vessel:* ''Leisure and pleasure cruising.''

—*Geographic Region Including Base of Operations:* ''South Carolina, North Carolina, Georgia, Florida, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine.'' (Base of Operations: Wilmington, DE)

—*Vessel Length and Type:* 50′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0029 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2022–0029 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA

regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02803 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0033]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: JUST BECAUSE (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0033 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0033 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0033, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel JUST BECAUSE is:

—*Intended Commercial Use of Vessel:* ''Day charters and overnight charters in Puget Sound and Lake Washington areas of Washington State.''

—*Geographic Region Including Base of Operations:* ''Washington.'' (Base of Operations: Seattle, WA)

—*Vessel Length and Type:* 64′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0033 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov*, keyword search MARAD–2022–0033 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential

under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02807 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0025]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FAIR ISLE (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0025 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0025 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0025, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel FAIR ISLE is:

—*Intended Commercial Use of Vessel:* ''We intend to use the vessel as a platform for a two-hour evening cruise of the inner part of Resurrection Bay. We will have a 6-passenger maximum and only operate in fair weather conditions, several nights a week, during the summer months (June 1 to September 1).''

—*Geographic Region Including Base of Operations:* ''Alaska'' (Base of Operations: Seward, AK)

—*Vessel Length and Type:* 37′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0025 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0025 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential

under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02806 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0015]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MIRABEL (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0015 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0115 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0015, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MIRABEL is:

—*Intended Commercial Use of Vessel:* ''Bareboat charter with USCG Captain hired by charterer to carry passengers.''

—*Geographic Region Including Base of Operations:* ''Washington.'' (Base of Operations: Kirkland, WA)

—*Vessel Length and Type:* 62.7′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0015 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2022–0015 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02811 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0019]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SEAS OF SOLACE (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0019 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0019 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0019, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel SEAS OF SOLACE is:

—*Intended Commercial Use of Vessel:* ''Will be using this vessel for sailing tours/charters.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Naples, FL)

—*Vessel Length and Type*: 44.0′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0019 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2022–0019 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without

edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02815 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0013]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MARSAN (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0013 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0013 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0013, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MARSAN is:

—*Intended Commercial Use of Vessel:* ''Live aboard sport fishing and diving.''

—*Geographic Region Including Base of Operations:* ''Washington and Alaska.'' (Base of Operations: Tacoma, WA)

—*Vessel Length and Type:* 60.0′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0013 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0013 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible

through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02809 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0032]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: OZ (Sail); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0032 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0032 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0032, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel OZ is:

—*Intended Commercial Use of Vessel:* ''Sailing catamaran charter experiences including day sails, dinner cruises, sunset sails and multi-day charters.''

—*Geographic Region Including Base of Operations:* ''Washington.'' (Base of Operations: Seattle, WA)

—*Vessel Length and Type:* 40′ Sail (catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0032 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2022–0032 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible

through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02812 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0016]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SALTSHAKER (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0016 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0016 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0016, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel SALTSHAKER is:

—*Intended Commercial Use of Vessel:* ''Fishing, federally permitted 6-pack charter vessel.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Panama City Beach, FL)

—*Vessel Length and Type:* 34.0′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0016 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2022–0016 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of

names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02814 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0012]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LINTIKA (Sail); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0012 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0012 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0012, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel LINTIKA is:

—*Intended Commercial Use of Vessel:* ''We intend to use the vessel for training and therapy sailing programs. We will teach the skills needed to live on a sailboat full time and sail from country to country. With the therapy sailing program we will take cancer survivors and underprivileged young adults sailing in order to help them heal and see life in a brighter perspective.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Sausalito, CA)

—*Vessel Length and Type:* 41.4′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0012 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0012 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible

through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02804 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0028]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LEGEND (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0028 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0028 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0028, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel LEGEND is:

—*Intended Commercial Use of Vessel:* ''Recreational charters.''

—*Geographic Region Including Base of Operations:* ''North Carolina, South Carolina, Florida, Delaware, Georgia, New Jersey, New York, Pennsylvania, Virginia, and Maryland'' (Base of Operations: Aventura, FL)

—*Vessel Length and Type:* 67′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0028 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0028 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible

through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02808 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0027]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ZODIAC (Sail); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0027 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0027 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0027, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel ZODIAC is:

—*Intended Commercial Use of Vessel:* ''Sailing charters, ECO-tours.''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Key West, FL)
—*Vessel Length and Type:* 58.6′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0027 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0027 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02821 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0014]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MELE KAI (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0014 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0014 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0014, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MELE KAI is:

—*Intended Commercial Use of Vessel:* ''Private vessel charters, passengers only.''

—*Geographic Region Including Base of Operations:*''Hawaii, California'' (Base of Operations: Honolulu, HI)

—*Vessel Length and Type:* 55.0′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0014 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2022–0014 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without

edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02810 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0034]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: RADIANT (Sail); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0034 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0034 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0034, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel RADIANT is:

—*Intended Commercial Use of Vessel:* ''Passenger day and overnight trips on the East Coast.''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida.'' (Base of Operations: Boothbay, ME)

—*Vessel Length and Type:* 43.6′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0034 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2022–0034 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without

edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02813 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0018]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: Spoiled (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0018 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0018 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0018, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel SPOILED is:

—*Intended Commercial Use of Vessel:* ''Sightseeing.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Miami, FL)

—*Vessel Length and Type:* 70.0′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0018 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0018 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible

through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02817 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0017]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SOMETHING ABOUT MERI (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0017 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0017 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0017, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel SOMETHING ABOUT MERI is:

—*Intended Commercial Use of Vessel:* ''UPV charters (usually 6, not more than 12, passengers per USCG) catering to upscale clientele based primarily at home port. Will cruise with clients to other regions, such asa the Bahamas, but always return to US home port.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Aventura, FL)

—*Vessel Length and Type:* 92.9′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0017 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0017 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as

described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02816 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2022–0030]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: UNIVERSE (Sail); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before March 14, 2022.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2022–0030 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0030 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0030, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel UNIVERSE is:

—*Intended Commercial Use of Vessel:* ''Sailing charter cruise.''

—*Geographic Region Including Base of Operations:* ''Hawaii.'' (Base of Operations: Honolulu, HI)

—*Vessel Length and Type:* 42′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0030 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0030 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible

through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–02818 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2020–0031; Notice 2]**

### Automobili Lamborghini S.p.A., Denial of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Denial of petition.

**SUMMARY:** Automobili Lamborghini S.p.A. (Automobili Lamborghini) has determined that certain model year (MY) 20152012;2020 Lamborghini Huracan motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Automobili Lamborghini filed a noncompliance report dated March 4, 2020, and subsequently petitioned NHTSA on March 25, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces and explains the denial of Automobili Lamborghini's petition.

**FOR FURTHER INFORMATION CONTACT:** Leroy Angeles, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5304, facsimile (202) 366–3081.

**SUPPLEMENTARY INFORMATION:**

#### I. Overview

Automobili Lamborghini has determined that certain MY 20152012;2020 Lamborghini Huracan motor vehicles do not fully comply with the requirements of paragraph S10.18.9.2 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). Automobili Lamborghini filed a noncompliance report dated March 4, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on March 25, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of Automobili Lamborghini's petition was published with a 30-day public comment period, on July 15, 2020, in the **Federal Register** (85 FR 42979). One comment was received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2020–0031.''

#### II. Vehicles Involved

Approximately 4,727 MY 20152012;2020 Lamborghini Huracan motor vehicles manufactured between July 30, 2014, and February 26, 2020, are potentially involved.

#### III. Noncompliance

Automobili Lamborghini explains that the noncompliance is that the subject vehicles are equipped with headlamp assemblies that do not fully meet the requirements in paragraph S10.18.9.2 of FMVSS No. 108. Specifically, it is possible to adjust the horizontal aim of the lower beam because the beam horizontal adjustment screw is not covered by a blanking cap, and the headlamp is not otherwise equipped with a horizontal vehicle headlamp aiming device (VHAD).

#### IV. Rule Requirements

Paragraph S10.18.9.2 of FMVSS No. 108 includes the requirements relevant to this petition. The standard requires that the headlamp not be adjustable in terms of horizontal aim unless the headlamp is equipped with a horizontal VHAD.

#### V. Summary of Automobili Lamborghini's Petition

The following views and arguments presented in this section, ''V. Summary of Automobili Lamborghini's Petition,'' are the views and arguments provided by Automobili Lamborghini and do not reflect the views of the Agency. Automobili Lamborghini describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Automobili Lamborghini states that ''[t]he horizontal aim adjustment of the subject beams is possible, due to the absence of a blanking cap over the beam horizontal adjustment screw.'' Customers with advanced technical knowledge can reach the horizontal adjustment screw by demounting the luggage compartment liner and make the horizontal adjustment themselves. However, Automobili Lamborghini argues that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. ''First, the adjustment screw is hidden by the luggage liner when the vehicle's hood is open, so the screw is not visible.''
2. ''Second, the Owner's Manual does not identify this screw, so no vehicle owner would ever need to try to search for and adjust the screw in question.''
3. ''The only possibility to reach the adjustment screw without removing the luggage liner is through a small hole in the luggage liner using a long screwdriver, but without any possibility to see it and without any indication [of] how to do it.''
4. ''Automobili Lamborghini is unaware of any accidents, injuries, or customer complaints related to the horizontal aim adjustment of the subject beams.''
5. The issue was corrected in production during calendar week 15 (fifteen) of 2020.

Automobili Lamborghini concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and asking that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, be granted.

#### VI. Public Comment

NHTSA received one comment from the general public which was outside the scope of this petition.

#### VII. NHTSA's Analysis

The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement with no performance implications*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[1]

[1] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which the recall would otherwise protect.[2] In general, NHTSA does not consider the absence of complaints or injuries as evidence that the issue is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.[3]

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected also do not justify granting an inconsequentiality petition.[4] Similarly, mere assertions that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance are unpersuasive. The percentage of potential occupants that could be adversely affected by a noncompliance is not relevant to whether the noncompliance poses an inconsequential risk to safety. Rather, NHTSA focuses on the consequence to an occupant who is exposed to the consequence of that noncompliance.[5] The Safety Act is preventive, and manufacturers cannot and should not wait for deaths or injuries to occur in their vehicles before they carry out a recall. *See, e.g., United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977). Indeed, the very purpose of a recall is to protect individuals from risk. *Id.*

NHTSA has evaluated the merits of Automobili Lamborghini's petition and has decided to deny the petition.

The purpose of a blanking cap on the horizontal adjustment screw is to prevent adjustment of the horizontal aim in cases where there are no references or scales relative to the longitudinal axis of the vehicle. Such references or scales are necessary to assume correct aim for the purposes of repeatable photometric testing and proper on-vehicle aim. The obvious possible safety risk associated with a headlamp that is missing a blanking cap is that someone could locate and improperly adjust the lower beam horizontal adjustment mechanism either intentionally or inadvertently. Improper horizontal aim, in turn, can pose one or more of the following safety risks, which can lead to a crash: Glare to other motorists/road users, reduced visibility on one of the sides of the road, and reduced down-road visibility.

In the vehicles subject to the petition, the location of the horizontal adjustment screw is near the vertical adjustment screw, and both can be accessed through a small hole in the luggage liner. While the Agency does not disagree with Lamborghini that the horizontal adjustment screw itself is not visible, it does not find this argument compelling because the screw can be accessed using a long screwdriver via a hole in the luggage liner and potentially be confused with the vertical adjustment screw. The Agency also does not find compelling Lamborghini's argument that there is no information in the owner's manual that documents the location of the horizontal adjustment screw, because the horizontal screw is located both in close proximity to the vertical adjustment screw, and where the vertical adjustment access point would typically be located in vehicles. Accordingly, it is possible for the horizontal adjustment screw to be mistaken for the vertical adjustment screw, resulting in an improper adjustment of the horizontal adjustment screw–which, as noted above, poses several safety risks.

*NHTSA's Decision*

In consideration of the foregoing, NHTSA has decided that Automobili Lamborghini has not met its burden of persuasion that the subject FMVSS No. 108 noncompliance is inconsequential to motor vehicle safety. Accordingly, Automobili Lamborghini's petition is hereby denied and Automobili Lamborghini is consequently obligated to provide notification of and free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Anne L. Collins,**

*Associate Administrator for Enforcement.*

[FR Doc. 2022–02825 Filed 2–9–22; 8:45 am]

**BILLING CODE 4910–59–P**

[2] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[3] *See Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016); *see also United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

[4] *See Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance,* 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

[5] *See Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance,* 64 FR 29408, 29409 (June 1, 1999).

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

### Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of a currently approved information collection found in existing Bank Secrecy Act regulations. Specifically, the regulations prohibit covered financial institutions from maintaining correspondent accounts for or on behalf of a foreign shell bank. The regulations require that a covered financial institution take reasonable steps to ensure that any correspondent account that it maintains in the United States for a foreign bank is not used by the foreign bank to indirectly provide banking services to a foreign shell bank. The regulations also mandate that a covered financial institution maintaining correspondent accounts in the United States for foreign banks retain records in the United States identifying: The owners of each such foreign bank whose shares are not publicly traded, unless the foreign bank files a Form FR–Y with the Federal Reserve Board identifying the current owners of the foreign bank; and the name and address of a person who resides in the United States who is authorized to serve as each such foreign bank's agent for service of legal process for records regarding each such

correspondent account. Although no changes are proposed to the information collection, this request for comments covers a future expansion of the scope of the annual hourly burden and cost estimate associated with these regulations. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments are welcome, and must be received on or before April 11, 2022.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2022–0003 and the specific Office of Management and Budget (OMB) control number 1506–0043.
- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2022–0003 and OMB control number 1506–0043.

Please submit comments by one method only. Comments will be reviewed consistent with the Paperwork Reduction Act of 1995 and applicable OMB regulations and guidance. Comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Regulatory Support Section at 1–800–767–2825 or electronically at *frc@fincen.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107–56 (October 26, 2001), and other legislation, including most recently the Anti-Money Laundering Act of 2020 (AML Act).[1] The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, 31 U.S.C. 5311–5314 and 5316–5336, and includes notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury, *inter alia,* to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement AML programs and compliance procedures.[2] Regulations implementing the BSA appear at 31 CFR chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.[3]

31 U.S.C. 5318(j) prohibits covered financial institutions[4] from maintaining correspondent accounts in the United States for, or on behalf of, foreign banks that do not have a physical presence in any country. In addition, under 31 U.S.C. 5318(k), a covered financial institution maintaining a correspondent account in the United States for a foreign bank, must retain records identifying (i) the owners of record and the beneficial owners of the foreign bank, and (ii) the name and address of a person residing in the United States who is authorized to accept service of legal process for the foreign bank. The regulations implementing 31 U.S.C. 5318(j) and 31 U.S.C. 5318(k) appear at 31 CFR 1010.630.

31 CFR 1010.630(a)(1) prohibits covered financial institutions[5] from establishing, maintaining, administering, or managing correspondent accounts[6] in the United States for, or on behalf of, foreign shell banks.[7] Covered financial institutions must take reasonable steps to ensure that any correspondent account managed by a covered financial institution in the United States is not being used by a foreign bank[8] to indirectly provide banking services to a foreign shell bank.[9]

31 CFR 1010.630(a)(2) implements 31 U.S.C. 5318(k) and requires covered financial institutions that maintain correspondent accounts in the United States for foreign banks to retain records in the United States identifying: (i) The owners of each such foreign bank whose shares are not publicly traded,[10] with one exception; [11] and (ii) the name and street address of a person who resides in the United States and is authorized, and has agreed, to be an agent to accept service of legal process for records regarding each such account.

31 CFR 1010.630(b) clarifies that a covered financial institution will be deemed to be in compliance with the requirements of 31 CFR 1010.630(a) with respect to a foreign bank if the covered financial institution obtains, at least once every three years, a certification or recertification from the foreign bank. FinCEN has developed an optional certification form[12] that includes a request to the foreign bank for the information required under 31 CFR 1010.630(a). Covered financial

[1] The AML Act was enacted as Division F, §§ 6001–6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat 3388 (2021).

[2] Section 358 of the USA PATRIOT Act added language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism. Section 6101 of the AML Act added language further expanding the scope of the BSA but did not amend these longstanding purposes.

[3] Treasury Order 180–01 (re-affirmed Jan. 14, 2020).

[4] A covered financial institution is any financial institution described in subparagraphs (A) through (G) of 31 U.S.C. 5312(a)(2), including an insured bank, as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)); a commercial bank or trust company; a private banker; an agency or branch of a foreign bank in the United States; any credit union; a thrift institution; and a broker or dealer registered with the Securities and Exchange Commission (SEC) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). 31 U.S.C. 5318(j)(1).

[5] *See* 31 CFR 1010.605(e)(2) for the definition of a covered financial institution for purposes of 31 CFR 1010.630: (i) An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))); (ii) a commercial bank or trust company; (iii) a private banker; (iv) an agency or branch of a foreign bank in the United States; (v) a credit union; (vi) a savings association; (vii) a corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*); and (viii) a broker or dealer in securities registered, or required to be registered, with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*), except persons who register pursuant to section 15(b)(11) of the Securities Exchange Act of 1934.

[6] 31 CFR 1010.605(c). For purposes of 31 CFR 1010.630, a correspondent account is defined as an account established for a foreign bank to receive deposits from, or to make payments or other disbursements on behalf of, the foreign bank, or to handle other financial transactions related to such foreign bank.

[7] 31 CFR 1010.605(g). Foreign shell bank means a foreign bank without a physical presence in any country.

[8] 31 CFR 1010.100(u). A foreign bank is defined as a bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law.

[9] 31 CFR 1010.630(a)(1)(iii) clarifies that covered financial institutions are not prohibited from providing correspondent account or banking services to a regulated affiliate.

[10] According to 31 CFR 1010.630(a)(2)(iii), publicly traded refers to shares that are traded on an exchange or on an organized over-the-counter market that is regulated by a ''foreign securities authority'' as defined in section 3(a)(50) of the Securities Exchange Act of 1934 (15 U.S.C. 78C(a)(50)).

[11] According to 31 CFR 1010.630(2)(ii), a covered financial institution is not required to maintain records of the owner of a non-publicly traded foreign bank if the foreign bank is required to file with the Federal Reserve Board a Form FR–Y that identifies the current owners of the foreign bank.

[12] Available at *https://www.fincen.gov/sites/default/files/shared/Certification%20Regarding%20Correspondent%20Accounts%20for%20Foreign%20Banks.pdf.*

institutions may use the certification form to obtain the necessary information for an initial certification and a recertification.

31 CFR 1010.630(c) requires a covered financial institution to request that a foreign bank verify or correct the information provided in such bank's certification or recertification, if the covered financial institution knows, suspects, or has reason to suspect that such information is incorrect or no longer accurate. Additionally, the covered financial institution may take other appropriate measures to ascertain the accuracy of the information or obtain the correct information.

If a covered financial institution has not obtained a certification, recertification, or information needed for a certification or recertification within 30 calendar days after the date the account is established, and at least once every three years thereafter, the covered financial institution must close all such foreign bank's correspondent accounts within a commercially reasonable time, and must restrict the foreign bank's ability to execute any new transactions other than those necessary to close the account.[13] Furthermore, if a covered financial institution conducting an interim verification pursuant to 31 CFR 1010.630(c), has not obtained verification of the information or corrected information within 90 calendar days after the date of undertaking the interim verification, the covered financial institution must follow the same account closure procedures set out above.[14]

31 CFR 1010.630(d)(4) prohibits covered financial institutions from: (i) Re-establishing any account closed pursuant to 31 CFR 1010.630(d); and (ii) establishing any other correspondent account with the foreign bank whose account was closed, unless the foreign bank provides the appropriate certification or recertification. 31 CFR 1010.630(d)(5) states that a covered financial institution will not be held liable for terminating a correspondent account in accordance with 31 CFR 1010.630(d).

31 CFR 1010.630(e) requires covered financial institutions to retain any original document provided by a foreign bank, and the original or a copy of any document otherwise relied upon by a covered financial institution for purposes of complying with 31 CFR 1010.630, for at least five years after the date that a covered financial institution no longer maintains any correspondent account for such foreign bank.

[13] 31 CFR 1010.630(d)(2).

[14] 31 CFR 1010.630(d)(3).

## II. Paperwork Reduction Act of 1995 (PRA)[15]

*Title:* Prohibition on correspondent accounts for foreign shell banks; records concerning owners of foreign banks and agents for service of legal process (31 CFR 1010.630).

*OMB Control Number:* 1506–0043.

*Report Number:* Optional form—certification regarding correspondent accounts for foreign banks.

*Abstract:* FinCEN is issuing this notice to renew the OMB control number for regulations prohibiting covered financial institutions from maintaining correspondent accounts for foreign shell banks; and requiring covered financial institutions to maintain records concerning the owners of certain foreign banks, and agents based in the United States who have agreed to accept service of legal process for records regarding the foreign bank's correspondent accounts.

*Affected Public:* Businesses or other for-profit institutions.

*Type of Review:*

- Renewal without change of a currently approved information collection.
- Propose for review and comment a renewal of the portion of the PRA burden that has been subject to notice and comment in the past (the ''traditional annual PRA burden'').
- Propose for review and comment a future expansion of the scope of the PRA burden (the ''supplemental annual PRA burden'').

*Frequency:* As required.

*Estimated Number of Respondents:* 8,696 covered financial institutions maintain correspondent accounts with foreign banks.[16] [17]

*Estimated Recordkeeping Burden:* In Part 1, FinCEN proposes for review and comment a renewal of the estimate of the traditional annual PRA hourly burden, which includes a scope and methodology similar to that used in the past, with the incorporation of a more robust cost estimate. The scope and methodology used in the past was limited to estimating the time necessary for a covered financial institution to: (i) Obtain a certification form from a foreign bank; (ii) obtain a recertification form from a foreign bank; and (iii) maintain records provided by a foreign bank for the certification or recertification. In Part 2, FinCEN proposes for review and comment a methodology to estimate the hourly burden and the cost of a future estimate of a supplemental annual PRA burden that includes the burden and cost of (i) conducting due diligence on correspondent accounts to determine if an interim verification is warranted; (ii) conducting an interim verification; and (iii) determining if closing a correspondent account is warranted. Finally, in Part 3, FinCEN solicits input from the public about: (a) The accuracy of the estimate of the traditional annual PRA burden; (b) the additional steps proposed to be included in the future supplemental annual PRA burden; (c) the criteria, metrics, and most appropriate questions FinCEN should consider when researching the information to estimate the future traditional and supplemental annual PRA burden, according to the methodology proposed; and (d) any other comments about the regulations and the current and proposed future hourly burden and cost estimates of these requirements.

### *Part 1. Traditional Annual PRA Burden and Cost*

There are practical challenges to determining the total number of covered financial institutions that maintain correspondent accounts for foreign banks, as well as estimating the total number of correspondent accounts for foreign banks that each of those covered financial institutions maintains. In addition, there are practical challenges in estimating how many covered financial institutions need to obtain certification or recertification forms from foreign banks annually, along with estimating how often covered financial

[15] Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

[16] Data are from the Federal Reserve's Structured Data for U.S. Banking Offices (*see* FRB: Structure Data for U.S. Banking Offices of Foreign Entities (*federalreserve.gov*)) and quarterly call report bank data (specifically, Schedule RC–E: Deposit liabilities, line 5: liabilities of banks in foreign countries) from the Financial Institution Retrieval Data System (FINDRS). Using these two sources, FinCEN determines that as of Q3 2021, approximately 5,164 banking organizations (national and state banks, trusts, thrifts and savings and loans, branches and agencies of foreign banking organizations, representative offices, Edge Act corporations, and agreement corporations) will be affected by this rule on any given year. Specifically, we determine that there are approximately: 190 Branches and agencies of foreign banks; 115 representative offices, Edge Act corporations, and agreement corporations; and 4,859 U.S. banks (national and state chartered, trusts, savings and loans, thrifts) that report values for deposit liabilities of banks in foreign countries. Deposit liabilities in a foreign country is an indication that a bank maintains at least one correspondent account with a foreign financial institution.

[17] According to the Securities and Exchange Commission (SEC), as of March 31, 2021, there were 3,532 brokers or dealers in securities registered with the SEC. FinCEN conservatively estimates that each of these brokers or dealers in securities maintain at least one correspondent account with a foreign financial institution.

institutions need to conduct interim verifications for foreign banks for which they suspect the current information is no longer correct. Further, FinCEN cannot estimate how frequently covered financial institutions need to determine if correspondent account closure is necessary. Because of these challenges, in the past FinCEN has generally estimated the number of covered financial institutions that maintain correspondent accounts for foreign banks, and limited the burden estimate to the annual burden on covered financial institutions to obtain certification forms and recertification forms, and maintain records of the forms and any supporting documentation provided by foreign banks.[18]

FinCEN estimates that the annual hourly burden for a covered financial institution to obtain and maintain an initial certification form from a foreign bank for which it maintains a correspondent account is 15 hours. This estimate covers the burden to a covered financial institution to: (i) Obtain assurances from the foreign bank that it is not providing banking services, directly or indirectly, to a foreign shell bank; (ii) obtain ownership information from the foreign bank, if necessary; (iii) obtain the name of an agent based in the United States who has agreed to accept service of legal process for records regarding such correspondent account; (iv) review all documentation submitted by the foreign bank; and (v) maintain records of all documentation associated with the certification process for the foreign bank.[19] As noted above, FinCEN maintains an optional certification form that a covered financial institution can send to a foreign bank to obtain all of the information noted directly above, as required under 31 CFR 1010.630(a).

FinCEN estimates the annual hourly burden for a covered financial institution to obtain and maintain a recertification form from a foreign bank for which it maintains a correspondent account is also 15 hours. FinCEN believes the hourly burden estimate for a recertification is the same as for a certification because the covered financial institution can use the same certification form to reconfirm all of the information required in the initial certification.[20]

As noted above, a covered financial intuition is required to obtain an initial certification and recertification every three years from each foreign bank for which it maintains a correspondent account. FinCEN estimates that there are approximately 8,696 covered financial institutions that maintain at least one correspondent account for a foreign bank. FinCEN is using this number to approximate the number of certifications and recertifications covered financial institutions need to conduct annually.

FinCEN does not have a way to determine the total number of correspondent accounts each covered financial institution maintains for foreign banks. In addition, there are practical challenges in estimating how often a covered financial institution needs to obtain certification or recertification forms from foreign banks annually, because certifications are only required when a new correspondent account is opened and recertifications are only required every three years. For those reasons, FinCEN estimates that each covered financial institution will conduct one certification and one recertification annually, for two of the foreign banks for which it maintains correspondent accounts. FinCEN recognizes that some covered financial institutions may only maintain a few correspondent accounts for foreign banks, while other covered financial institutions may maintain multiple correspondent accounts for foreign banks.

FinCEN's estimate of the traditional annual PRA burden, therefore, is 260,880 hours, as detailed in Table 1 below:

TABLE 1—HOURLY BURDEN FOR EACH COVERED FINANCIAL INSTITUTION TO OBTAIN ONE CERTIFICATION AND ONE RECERTIFICATION ANNUALLY, ALONG WITH THE CORRESPONDING RECORDKEEPING BURDEN

| Estimated number of covered financial institutions with one or more correspondent accounts for foreign banks | Hourly burden to obtain and record a certification or recertification per foreign bank | | Total burden hours for covered financial institutions to obtain and record certification and recertification annually | | Grand total annual burden hours for covered financial institutions to comply with 31 CFR 1010.630 |
|---|---|---|---|---|---|
| | Certification and recordkeeping (in hours) | Recertification and recordkeeping (in hours) | Certification and recordkeeping | Recertification and recordkeeping | |
| 8,696 | 15 | 15 | 130,440 | 130,440 | 260,880 |

To calculate the hourly costs of the burden estimate, FinCEN identified six roles and corresponding staff positions involved in obtaining, reviewing, and maintaining certification and recertification forms from foreign banks: (i) General oversight (providing institution-level process approval); (ii) general supervision (providing process oversight); (iii) direct supervision (reviewing operational-level work and cross-checking all or a sample of the work product against supporting documentation); (iv) clerical work (engaging in research and administrative review, and recordkeeping); (v) legal compliance (ensuring the certification/recertification documents are in legal compliance); and (vi) computer support (ensuring certification/recertification documents can be properly stored and retrieved electronically if desired).

FinCEN calculated the fully-loaded hourly wage for each of these six roles by using the mean wage estimated by the U.S. Bureau of Labor Statistics

[18] When FinCEN renewed OMB control number 1506–0043 in 2018 it estimated that there were 2,000 coved financial institutions with correspondent accounts for 9,000 foreign banks. *See* 83 FR 42555, Aug. 22, 2018.

[19] The estimated annual recordkeeping burden associated with certification and recertification, which requires that a covered financial institution maintain such records for five years after a foreign bank's correspondent account is closed, is incorporated within the estimates for both certification and recertification.

[20] When FinCEN renewed OMB control number 1506–0043 in 2018 the estimate included an annual estimate of the following three items: (i) 20 hours to complete a certification for a foreign bank; (ii) 5 hours to complete a recertification for a foreign bank; and (iii) 9 hours to maintain records on the foreign bank's certification/recertification. In this notice, FinCEN has revised its estimate to incorporate the recordkeeping component of the burden estimate within the certification and recertification process. FinCEN also has revised its assessment of the time necessary to conduct a recertification, as the process is identical to a certification. For those reasons, FinCEN is estimating the burden for a certification and corresponding recordkeeping is 15 hours; and the burden for a recertification and corresponding recordkeeping is also 15 hours.

(BLS),[21] and computing an additional benefits cost as follows:

TABLE 2—FULLY-LOADED HOURLY WAGE BY ROLE AND BLS JOB POSITION FOR ALL FINANCIAL INSTITUTIONS COVERED BY THIS NOTICE

| Role | BLS—code | BLS—name | Mean hourly wage[22] | Benefit factor | Fully-loaded hourly wage |
|---|---|---|---|---|---|
| General oversight[23] | 11–1010 | Chief Executive[24] | $107.12 | 1.42 | $152.11 |
| General supervision | 11–3031 | Financial Manager | 74.59 | 1.42 | 105.92 |
| Direct supervision | 13–1041 | Compliance Officer | 35.81 | 1.42 | 50.85 |
| Clerical work (research, review, and recordkeeping). | 43–3099 | Financial Clerk | 23.27 | 1.42 | 33.04 |
| Legal compliance | 23–1010 | Lawyers and Judicial Law Clerks | 85.66 | 1.42 | 121.64 |
| Computer support | 11–3021 | Computer and Information Systems Managers. | 77.77 | 1.42 | 110.43 |

FinCEN estimates that, *in general and on average,*[25] each role would spend different amounts of time on each portion of the traditional annual PRA burden, as follows:

TABLE 3—WEIGHTED AVERAGE HOURLY COST OF FOREIGN BANK CERTIFICATIONS/RECERTIFICATIONS AND RECORDKEEEPING

| Role | % Time | Hourly cost |
|---|---|---|
| General Oversight | 16.67 | $25.35 |
| General Supervision | 16.67 | 17.65 |
| Direct Supervision | 16.67 | 8.48 |
| Clerical Work | 16.67 | 5.51 |
| Legal Compliance | 16.67 | 20.27 |
| Computer Support | 16.67 | 18.41 |
| Equal Weighted Average Hourly Cost | ..... | *95.67 |

*$95.67 rounded to $96.00.

The total estimated cost of the traditional annual PRA burden is $25,044,480, as reflected in Table 4 below:

TABLE 4—TOTAL COST OF TRADITIONAL ANNUAL PRA BURDEN

| Steps | Hourly burden | Hourly cost | Total cost |
|---|---|---|---|
| Time taken for covered financial institutions to obtain certification requirements from foreign banks, including recordkeeping. (divided between the roles listed in Table 2) | [26] 130,440 | [27] $96.00 | $12,522,240 |
| Time taken for covered financial institutions to obtain recertification requirements from foreign banks, including recordkeeping. (divided between the roles listed in Table 2) | [28] 130,440 | [29] 96.00 | 12,522,240 |
| Total cost | ..... | ..... | 25,044,480 |

*Part 2. Supplemental Annual PRA Burden*

[21] The U.S. Bureau of Labor Statistics, May 2020 OEWS National Industry-Specific Occupational Employment and Wage Estimates (*bls.gov*). The most recent data from the BLS corresponds to May 2021. For the benefits component of total compensation, see U.S. Bureau of Labor Statistics, ''Table 9. Private industry workers, by major occupational group: employer costs per hour worked for employee compensation and costs as a percentage of total compensation'', available at Employer Costs for Employee Compensation Historical Tables—June 2021 (*bls.gov*). The ratio between benefits and wages for private industry workers is $10.83 (hourly benefits)/$25.80 (hourly wages) = 0.42, as of March 2021. The benefit factor is 1 plus the benefit/wages ratio, or 1.42. Multiplying each hourly wage by the benefit factor produces the fully-loaded hourly wage per position.

[22] For each occupation, FinCEN took the average of reported mean hourly wage across 9 affected financial industries (as measured at the most granular NAICS code available, whether at the 2, 3, 4 or 5 digit NAICS code; *see* the BLS May 2020 OEWS National Industry-Specific Occupational Employment and Wage Estimates (*bls.gov*)).

[23] General oversight may include board of directors/trustees approval.

[24] Chief executive officer is the highest paid category in the BLS Occupational Employment Statistics. For that reason, FinCEN is conservatively estimating the highest wage rate available for its cost analysis.

[25] By ''in general,'' FinCEN means without regard to outliers (*e.g.,* financial institutions that maintain correspondent accounts for foreign banks with complexities that are uncommonly higher or lower than those of the population at large). By ''on average,'' FinCEN means the mean of the distribution of each subset of the population.

In the future, FinCEN intends to add a supplemental annual PRA burden calculation that will include the estimated hourly burden and cost to a covered financial institution to: (i) Conduct due diligence over correspondent accounts maintained for foreign banks to determine if an interim verification is warranted; (ii) conduct an interim verification; and (iii) determine if closing a correspondent account is warranted.

As noted in Section I above, if a covered financial institution knows, suspects, or has reason to suspect that any information provided by a foreign bank in its certification or recertification is incorrect or no longer accurate, the covered financial institution must request that the foreign bank verify or correct the information. Additionally, the covered financial institution may take other appropriate measures to ascertain the accuracy of the information or obtain the correct information.

As also noted in Section I above, if a covered financial institution has not obtained a certification, recertification, or documentation of the information necessary for the certification or recertification within 30 calendar days after the date the account is established, and at least once every three years thereafter, the covered financial institution must close all correspondent accounts with such foreign bank within a commercially reasonable time, and restrict the foreign bank from engaging in transactions, other than transactions necessary to close the account. Additionally, if a covered financial institution needs to conduct an interim verification and has not obtained, from the foreign bank or otherwise, verification of the information or corrected information within 90 calendar days after the date of undertaking the interim verification, the covered financial institution must follow the same account closure procedures.

On September 29, 2020, FinCEN issued a notice and request for comment on the proposed renewal without change of the due diligence programs for correspondent accounts for foreign financial institutions and for private bank accounts.[30] That notice included renewing the OMB control number associated with 31 CFR 1010.610 (due diligence programs for foreign financial institutions),[31] and outlined a future supplemental annual PRA burden calculation to include the estimated hourly burden and cost to maintain records and document compliance with the due diligence procedures and enhanced due diligence (EDD) procedures for foreign correspondent accounts.

Under 31 CFR 1010.610(a), covered financial institutions are required to establish due diligence policies, procedures, and controls that include each of the following for any correspondent account established, maintained, administered, or managed: (i) Determining whether any such foreign correspondent account is subject to EDD; (ii) assessing the money laundering risks presented by each such foreign correspondent account; and (iii) applying risk-based procedures and controls to each such foreign correspondent account reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of the correspondent account activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account.

FinCEN believes that in the process of complying with 31 CFR 1010.610(a), covered financial institutions would identify instances in which an interim verification is warranted, as a result of receiving identifying information about a foreign bank for which the covered financial institution maintains a correspondent account that is no longer correct or accurate. Further FinCEN believes that the due diligence being conducted to comply with 31 CFR 1010.610(a) would be coordinated with the identification of foreign banks that have not provided the required certification, recertification, or interim verification within the required timeframes, resulting in the closure of correspondent accounts with such foreign banks consistent with 31 CFR 1010.610(d).

FinCEN assesses that the provisions of 31 CFR 1010.630 are in large part conducted in connection with the due diligence and EDD covered financial institutions conduct on foreign correspondent accounts as required by 31 CFR 1010.610. In future supplemental annual PRA burden estimates for 31 CFR 1010.610 and 31 CFR 1010.630, FinCEN will consider whether the burden estimates for these two regulatory requirements should be linked and estimated together.

FinCEN does not have the necessary information to provide a tentative estimate for these supplemental PRA hourly burdens and costs within the current notice. In addition, FinCEN does not have all the necessary information to precisely estimate the traditional annual PRA burden. For that reason, FinCEN is relying to some extent on estimates used in prior renewals of this OMB control number and the applicable regulations. FinCEN further recognizes that after receiving public comments as a result of this notice, future traditional annual PRA hourly burden and cost estimates may vary significantly. FinCEN intends to conduct more granular studies of the actions included in the proposed scope of the supplemental annual PRA burden in the near future, to arrive at more precise estimates of net BSA hourly burden and cost.[32] The data obtained in these studies also may result in a significant variation of the estimated traditional annual PRA burden.

*Estimated Recordkeeping Burden:* The average estimated annual PRA burden, measured in hours per correspondent account maintained by a covered financial institution for a foreign bank, is 15 hours per account for the purpose of fulfilling the covered financial institution's initial certification and corresponding recordkeeping obligations, and 15 hours per account for the purpose of fulfilling the covered financial institution's recertification and recordkeeping requirements every three years.

*Estimated Number of Respondents/ Responses:* 8,696 covered financial institutions maintain correspondent accounts for foreign banks.

*Estimated Total Annual Recordkeeping Burden:* The estimated

[26] See Table 1.

[27] See Table 3.

[28] See Table 1.

[29] See Table 3.

[30] *See* 85 FR 61104, Sept. 29, 2020.

[31] OMB control number 1506–0046.

[32] Net hourly burden and cost are the burden and cost a financial institution incurs to comply with requirements that are unique to the BSA, and that do not support any other business purpose or regulatory obligation of the financial institution. Burden for purposes of the PRA does not include the time and financial resources needed to comply with an information collection, if the time and resources are for things a business (or other person) does in the ordinary course of its activities if the agency demonstrates that the reporting activities needed to comply are usual and customary. 5 CFR 1320.3(b)(2). For example, depending on the nature of the correspondent account, a covered financial institution may be collecting and maintaining some of the same information on the foreign bank correspondent account holder as is required by 31 CFR 1010.630, in order to satisfy other obligations including: (i) Protecting the financial institution from fraud against itself or its customers; (ii) complying with other non-BSA regulatory requirements such as those imposed by the specific Federal functional regulator; or (iii) improving the financial institution's marketing efforts, or the credit analysis of any lending facilities granted to the foreign bank.

total annual PRA burden is 260,880 hours, as set out in Table 1.

*Estimated Total Annual Recordkeeping Cost:* The estimated total annual PRA cost is $25,044,480, as set out in Table 4.

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. Records required to be retained under the BSA must be retained for five years.

*Part 3—Request for Comments*

*(a) Specific request for comments on the traditional annual PRA hourly burden and cost.*

FinCEN invites comments on any aspect of the traditional annual PRA burden, as set out in Part 1 of this notice. In particular, FinCEN seeks comments on the adequacy of: (i) FinCEN's assumptions underlying its estimate of the burden; (ii) the estimated number of hours required by each portion of the burden; and (iii) the organizational levels of the covered financial institution engaged in each portion of the burden, their estimated hourly remuneration, and the estimated proportion of participation by each role. FinCEN encourages commenters to include any publicly available sources for alternative estimates or methodologies.

*(b) Specific request for comments on the proposed criteria for determining the scope of a supplemental annual PRA hourly burden and cost estimate.*

FinCEN invites comments on any aspect of the criteria for a future estimate of the supplemental annual PRA burden, as set out in Part 2 of this notice.

*(c) Specific request for comments on the appropriate criteria and methodology required to obtain information to more precisely estimate the supplemental annual PRA hourly burden and cost.*

FinCEN invites comments on the most appropriate and comprehensive way to ask covered financial institutions about the annual hourly burden and cost attributable solely to: (i) Conducting due diligence over correspondent accounts maintained for foreign banks to determine if an interim verification is warranted; (ii) conducting an interim verification; and (iii) determining if closing a correspondent account is warranted.

The supplemental annual PRA hourly burden and cost estimate of the recordkeeping necessary to comply with identifying and conducting interim verifications, and identifying and closing correspondent accounts, as appropriate, must take into consideration only the effort involved in obtaining those data elements that are used exclusively for complying with requirements under 31 CFR 1010.630. Given the complexity of determining what portion of the effort to include in the estimate, FinCEN seeks comments from the public regarding any questions we should consider posing in future notices, in addition to the specific questions for comment outlined directly below. Also, due to the evident difficulty involved in estimating: (i) The total number of covered financial institutions that maintain correspondent accounts for foreign banks; (ii) the number of such correspondent accounts per covered financial institution; and (iii) the frequency of certifications, recertifications, interim verifications, and account closures per covered financial institution, FinCEN welcomes any suggestions as to how to derive these estimates by using publicly available information.

*(d) Specific questions for comment associated with certification and recertification of foreign banks' records:*

- *Correspondent Accounts for Foreign Banks*

- On average, how many correspondent accounts does your financial institution maintain for foreign banks?
- Is compliance with 31 CFR 1010.630 conducted in conjunction with your financial institution's overall due diligence over correspondent accounts for foreign financial institutions, as required by 31 CFR 1010.610?
- On average, of the correspondent accounts maintained by your financial institution for foreign banks, how many are not publicly traded or do not file a Form FR–Y7 with the Federal Reserve?
- What steps does your financial institution take to ascertain whether a foreign bank is publicly traded or has filed a Form FR–7?
- Does your financial institution have a process to track correspondent accounts for foreign banks for reasons other than to comply with the BSA requirements?

- *Certification and Recertification Procedures*

- Does your financial institution obtain an initial certification during customer onboarding of a foreign bank?
- Does your financial institution open a correspondent account for a foreign bank, if it fails to provide the information required as part of the initial certification form at the time of onboarding?
- Does your financial institution track when foreign banks are required to recertify?
- Does your financial institution require foreign banks to certify or recertify as part of the periodic review or EDD process, as required under 31 CFR 1010.610?
- At what point prior to the due date of the recertification does your financial institution request recertification from a foreign bank?
- Does your financial institution obtain recertification more often than every three years?
- Does your financial institution use the sample certification form provided by FinCEN, or does your financial institution use a bespoke form or other method to obtain a statement of certification?
- On average, how long does it take your financial institution to obtain certification or recertification from a foreign bank for which you maintain a correspondent account?
- On average, how long does it take your financial institution to review the information provided by a foreign bank as part of its certification or recertification?
- Does senior management play a role in reviewing the information that your financial institution obtains from foreign bank(s) as part of certification or recertification?

- *Interim Verification*

- If your financial institution has reason to suspect that the information provided by a foreign bank in its certification or recertification is incorrect, what steps are taken by your financial institution to obtain the correct information?
- If it is determined by your financial institution that the information obtained for a foreign bank during the certification or recertification is incorrect, is senior management notified?
- What steps are taken by the financial institution with respect to the foreign bank's correspondent account if the correct information cannot be obtained?
- On average, on an annual basis, how many interim verifications does your financial institution need to conduct, because it suspects a foreign bank's current certification information is no longer correct? How long does the process take?

- *Account Closure*

- Are there instances where a foreign bank wishes to reestablish a correspondent banking relationship with your financial institution after the foreign bank's account was closed due to a failure to certify or recertify?

• Does your financial institution have a review and approval process involving senior management to close a foreign bank's correspondent account if it fails to certify or recertify?

*(e) General 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: (i) 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; (ii) the accuracy of the agency's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv) 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 (v) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

**Himamauli Das,**

*Acting Director, Financial Crimes Enforcement Network.*

[FR Doc. 2022–02885 Filed 2–9–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF THE TREASURY

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employer's Annual Employment Tax Return

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

**DATES:** Comments must be received on or before March 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:** Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

**SUPPLEMENTARY INFORMATION:**

**Internal Revenue Service (IRS)**

*Title:* Employer's Annual Employment Tax Return.

*OMB Control Number:* 1545–2007.

*Type of Review:* Revision of a currently approved collection.

*Description:* The information on Form 944 will be collected to ensure the smallest nonagricultural and non-household employers are paying the correct amount of social security tax, Medicare tax, and withheld federal income tax. Information on line 13 will be used to determine if employers made any required deposits of these taxes. Form 944 (SP) is the Spanish version of the Form 944. Form 944–X and Form 944–X(SP) are used to correct errors made on Form 944.

*Current Actions:* Changes to the existing collection include: Lines added to Form 944–X and Form 944–X (SP) to match the changes made in the last revision of Form 944 and Form 944 (SP). The new lines are for reporting corrections of the credits allowed by provisions of the American Rescue Plan Act of 2021, Public Law 117–2, claimed on Form 944 and Form 944 (SP).

*Form Numbers:* IRS Form 944, IRS Form 944 (SP), IRS Form 944–X, and IRS Form 944–X (SP).

*Affected Public:* Individuals or households; Businesses or other for-profit institutions; Not-for-profit institutions; and State, Local and Tribal governments.

*Estimated Number of Respondents:* 135,884.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 135,884.

*Estimated Time per Response:* 23 hours 36 minutes.

*Estimated Total Annual Burden Hours:* 3,207,532 hours.

*Authority:* 44 U.S.C. 3501 *et seq.*

Dated: February 7, 2022.

**Molly Stasko,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2022–02861 Filed 2–9–22; 8:45 am]

**BILLING CODE 4830–01–P**

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**Federal Register**

Vol. 87, No. 28

Thursday, February 10, 2022

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| | |
|---|---|
| **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** |

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## FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5389–5654 ..... 1
5655–6016 ..... 2
6017–6402 ..... 3
6403–6758 ..... 4
6759–7024 ..... 7
7025–7356 ..... 8
7357–7678 ..... 9
7679–7926 ..... 10

## CFR PARTS AFFECTED DURING FEBRUARY

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:**
10336 ..... 6395
10337 ..... 6397
10338 ..... 6401
10339 ..... 7357
**Executive Orders:**
13502 (revoked by 14063) ..... 7363
14063 ..... 7363
**Administrative Orders:**
Presidential Determinations:
Presidential Determination No. 2022–09 of Feb. 1, 2022 ..... 6759
Notices:
Notice of February 7, 2022 ..... 7677

### 5 CFR

**Proposed Rules:**
Ch. III ..... 5409

### 6 CFR

5 ..... 6403

### 7 CFR

210 ..... 6984
215 ..... 6984
220 ..... 6984
226 ..... 6984
3550 ..... 6761
3555 ..... 6773
5001 ..... 7367
**Proposed Rules:**
205 ..... 5424

### 8 CFR

214 ..... 6017
274a ..... 6017

### 10 CFR

**Proposed Rules:**
50 ..... 6434
429 ..... 5560, 6436, 6948, 7048
430 ..... 5742, 6786, 7396, 7758
431 ..... 5560, 6436, 6948, 7048

### 12 CFR

**Proposed Rules:**
701 ..... 6078

### 14 CFR

25 ..... 6017
39 ..... 5389, 5391, 6404, 6777, 7025, 7027, 7029, 7033, 7368, 7679, 7681, 7683, 7685, 7687, 7690, 7692, 7695, 7698, 7701, 7703, 7705, 7708, 7710, 7713
71 ..... 6406, 6408, 6409, 6410, 6412, 6413, 7715
97 ..... 6019, 6021
399 ..... 5655
**Proposed Rules:**
27 ..... 6437
39 ..... 5428, 6082, 6087, 6089, 6091, 6795, 6798, 6802, 7056, 7059, 7062, 7065, 7397, 7765, 7768, 7770, 7774
71 ..... 5747, 6439, 6804, 7400, 7776
183 ..... 7068

### 15 CFR

734 ..... 6022
736 ..... 6022
744 ..... 6022, 7037
774 ..... 6022
**Proposed Rules:**
30 ..... 6440
Ch. VII ..... 7777

### 16 CFR

**Proposed Rules:**
1112 ..... 6246
1261 ..... 6246

### 17 CFR

**Proposed Rules:**
229 ..... 5751
240 ..... 5751, 6652
249 ..... 5751
270 ..... 7248
274 ..... 7248

### 18 CFR

381 ..... 5659

### 20 CFR

655 ..... 6017
**Proposed Rules:**
220 ..... 6094

### 21 CFR

1 ..... 5660
866 ..... 6415
870 ..... 6417
878 ..... 6419
880 ..... 6422
**Proposed Rules:**
10 ..... 6708
12 ..... 6708
16 ..... 6708
203 ..... 6443, 6449
205 ..... 6708

### 22 CFR

**Proposed Rules:**
120 ..... 5759

## 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 February 4, 2022**

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