FEDERAL REGISTER

Vol. 87 Tuesday

No. 70 April 12, 2022

Pages 21547–21738

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0014; Project Identifier AD–2021–00114–A; Amendment 39–22006; AD 2022–08–03]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. (Type Certificate Previously Held by Cessna Aircraft Company) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company) (Textron) Model 120 and 140 airplanes and all Model 140A airplanes. This AD was prompted by reports of seat belt center bracket failures from overstress. This AD requires determining if the seat belt center bracket is made of steel and replacing any non-steel brackets. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 17, 2022.

ADDRESSES: For service information identified in this final rule, contact Textron Aviation Inc., One Cessna Blvd., Wichita, KS 67215; phone: (316) 517–5800; email: *customercare@txtav.com*; website: *https://support.cessna.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–2022–0014; 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: Bobbie Kroetch, Aviation Safety Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4155; email: *bobbie.kroetch@faa.gov* or *Wichita-COS@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered Textron (type certificate previously held by Cessna Aircraft Company) Model 120 and 140 airplanes and all Model 140A airplanes. The NPRM published in the **Federal Register** on January 27, 2022 (87 FR 4168). The NPRM was prompted by reports of seat belt center bracket failures. Analysis of the failures determined the original aluminum seat belt center bracket does not have sufficient strength and can fail due to overstress during incidents and accidents. In the NPRM, the FAA proposed to require determining if the seat belt center bracket is made of steel and replacing any non-steel brackets. The FAA is issuing this AD to prevent failure of the seat belt center bracket, which could lead to failure of the seat belt restraint system and injury to occupants.

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. This AD is adopted as proposed in the NPRM.

Related Service Information

The FAA reviewed Cessna Single Engine Service Bulletin SEB–25–03, dated February 17, 2015. This service information specifies the location of the affected seat belt center bracket. This service information also contains a figure depicting the location of the seatbelt center bracket.

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 2,033 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per airplane	Cost on U.S. operators
Determine material of the seat belt center bracket.	0.25 work-hour × $85 per hour = $21.25	Not applicable	$21.25	$43,201.25

The FAA estimates the following costs to do any necessary replacements that may be required. The agency has no way of determining the number of airplanes that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per airplane
Replace any non-steel seat belt center bracket	0.75 work-hour × $85 per hour = $63.75	$79	$142.75

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, 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:

2022–08–03 Textron Aviation Inc. (Type Certificate previously held by Cessna Aircraft Company): Amendment 39–22006; Docket No. FAA–2022–0014; Project Identifier AD–2021–00114–A.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Textron Aviation Inc. (Type Certificate previously held by Cessna Aircraft Company) Model 120 and 140 airplanes, serial numbers (S/Ns) 10070 through 15075, and Model 140A airplanes, all serial numbers, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of seat belt center bracket failures from overstress. The FAA is issuing this AD to prevent failure of the seat belt center brackets. The unsafe condition, if not addressed, could result in failure of the seat belt center bracket, which could lead to failure of the seat belt restraint system and injury to occupants.

(f) Compliance

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

(g) Required Actions

(1) Within 12 months after the effective date of this AD, determine if the seatbelt center bracket located between the two seats is made of steel by placing a magnet on the center of the bracket. This action 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. This authority is not applicable to aircraft being operated under 14 CFR part 119.

(i) If the seat belt center bracket is made of steel, no additional action is required.

(ii) If the seat belt center bracket is not made of steel, within 12 months after the effective date of this AD, replace with a steel part number (P/N) 0425132 seat belt center bracket.

(2) As of the effective date of this AD, do not install a seat belt center bracket P/N 0425132 that is not made of steel on any airplane.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita 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 (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 Bobbie Kroetch, Aviation Safety Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4155; email: *bobbie.kroetch@faa.gov* or *Wichita-COS@faa.gov*.

(j) Material Incorporated by Reference

None.

Issued on April 6, 2022.

Derek Morgan,

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

[FR Doc. 2022–07749 Filed 4–11–22; 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; Amendment 39–22005; AD 2022–08–02]

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 EC 155B and EC155B1 helicopters. 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 on the number of passengers on board. This AD requires revising the existing RFM for your helicopter, 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 May 17, 2022.

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

ADDRESSES: For EASA material incorporated by reference (IBR) in this final rule, 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–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 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 2021–0225, dated October 8, 2021 (EASA AD 2021–0225), to correct an unsafe condition for all Airbus Helicopters (formerly Eurocopter, Eurocopter France) Model EC 155 B and EC 155 B1 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 EC 155B and EC155B1 helicopters. The NPRM published in the **Federal Register** on February 10, 2022 (87 FR 7768). The NPRM was prompted by a report of a discrepancy in the 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. The NPRM proposed to require revising the existing RFM for your helicopter, as specified in EASA AD 2021–0225.

The FAA is issuing this AD to address a discrepancy in the 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, 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.

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 2021–0225 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.

Differences Between This AD and the EASA AD

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 AD does 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 AD allows 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 AD requires 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 affects 18 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 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

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:

2022–08–02 Airbus Helicopters: Amendment 39–22005; Docket No. FAA–2022–0097; Project Identifier MCAI–2021–01115–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 17, 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) 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 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*.

(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 2021–0225, dated October 8, 2021.

(ii) [Reserved]

(3) For the EASA AD 2021–0225, contact 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–2022–0097.

(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 April 4, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07709 Filed 4–11–22; 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; Amendment 39–22004; AD 2022–08–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–22–01 which applied to all Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. AD 2020–22–01 required inspecting the affected parts and associated frame bores for discrepancies, applicable corrective actions, and reporting certain information if necessary. This AD was prompted by reports of corrosion on attachment screws and fittings fastening the main gearbox (MGB) suspension bars to the fuselage. This AD retains the requirements of AD 2020–22–01, adds recurring inspections, and updates the applicable service information. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 17, 2022.

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

ADDRESSES: For service information identified in this final rule, 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 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–2022–0096.

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 final rule, the European Union Aviation Safety Agency (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; telephone (516) 228–7330; email *andrea.jimenez@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–22–01, Amendment 39–21297 (85 FR 69126, November 2, 2020) (AD 2020–22–01). AD 2020–22–01 applied to all Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. The NPRM published in the **Federal Register** on February 10, 2022 (87 FR 7770). In the NPRM, the FAA proposed to retain all the requirements of AD 2020–22–01, and proposed to require adding repetitive inspections and updating the applicable service information.

The NPRM was prompted by EASA AD 2021–0222, dated October 6, 2021 (EASA AD 2021–0222), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters (AH), formerly Eurocopter, Eurocopter France, Aerospatiale, Model AS 332 C, AS 332 C1, AS 332 L, and AS 332 L1 helicopters, all serial numbers. EASA advises a significant number of reports were received about corrosion being detected on the attachment screws and fittings fastening the rear MGB suspension bars, right-hand and left-hand side, to the fuselage, and the attachment screws and fitting fastening the front MGB suspension bar to the fuselage. 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, dated December 5, 2019, which prompted AD 2020–22–01, 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 AD.

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

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.

Costs of Compliance

The FAA estimates that this AD affects 10 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.

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 takes 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 are 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 takes a minimal amount of time with a minimal cost.

If required, replacing an affected MGB attachment fitting takes about 8 work-hours and parts cost about $7,000 for an estimated cost of $7,680 per replacement.

If required, reporting any discrepancies to Airbus Helicopters takes 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 take 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

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 2020–22–01, Amendment 39–21297 (85 FR 69126, November 2, 2020); and

■ b. Adding the following new airworthiness directive:

2022–08–01 Airbus Helicopters: Amendment 39–22004; Docket No. FAA–2022–0096; Project Identifier MCAI–2021–01092–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 17, 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 Service 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 (j)(5): An example for the exception specified in paragraph (j)(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 paragraph (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 Permits

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) Service information identified in this AD is available at the contact information specified in paragraphs (p)(3) and (4) of this AD.

(3) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2021–0222, dated October 6, 2021. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2022–0096.

(p) 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) Airbus Helicopters Alert Service Bulletin No. AS332–53.02.05, Revision 2, dated August 19, 2021.

(ii) Airbus Helicopters Alert Service Bulletin No. AS332–53.02.07, Revision 1, dated August 19, 2021.

(3) For Airbus Helicopters 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*.

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

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

Issued on April 5, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07705 Filed 4–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 746

[Docket No. 220406–0085]

RIN 0694–AI81

Additions to the List of Countries Excluded From Certain License Requirements Under the Export Administration Regulations (EAR)

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

ACTION: Final rule.

SUMMARY: In response to the Russian Federation's (Russia's) further invasion of Ukraine and to protect U.S. national security and foreign policy interests, the Department of Commerce established highly restrictive license requirements and policies for certain transactions involving Russia and Belarus under the Export Administration Regulations (EAR). To recognize partner countries implementing substantially similar export controls on Russia and Belarus, the Department of Commerce published a list of countries excluded from certain U.S. export controls related to foreign-produced items. In this rule, the Department of Commerce adds Iceland, Liechtenstein, Norway, and Switzerland to the list of excluded countries.

DATES: This rule is effective April 8, 2022.

FOR FURTHER INFORMATION CONTACT: For questions on this final rule, contact Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–0092, Fax: (202) 482–482–3355, Email: *rpd2@bis.doc.gov.* For emails, include ''Russia'' in the subject line.

SUPPLEMENTARY INFORMATION:

Background

In response to Russia's February 2022 invasion of Ukraine and Belarus's substantial enabling of Russia's invasion, the Bureau of Industry and Security (BIS) imposed extensive export controls on Russia and Belarus under the Export Administration Regulations (15 CFR parts 730–774) (EAR) by implementing the final rule, *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR),* effective February 24, 2022 (''Russia rule''),[1] and four subsequent final rules published in March 2022: *Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR),* effective March 2, 2022 (''Belarus rule'');[2] *Expansion of Sanctions Against the Russian Industry Sector Under the Export Administration Regulations (EAR)* (''Industry Sector rule'');[3] *Further Imposition of Sanctions Against Russia with the Addition of Certain Entities to the Entity List* (''Russia Entity List rule'');[4] and *Imposition of Sanctions on 'Luxury Goods' Destined for Russia and Belarus and for Russian and Belarusian Oligarchs and Malign Actors Under the Export Administration Regulations* (''Luxury Goods rule'').[5] As described in the Russia rule's preamble, as well as in the other March 2022 rules, Russia's invasion of Ukraine and Belarus's enabling of such invasion flagrantly violate international law, are contrary to U.S. national security and foreign policy interests, and undermine global order, peace, and security. Accordingly, BIS has imposed stringent export controls on Russia and Belarus.

Also in March 2022, BIS published *Addition to the List of Countries Excluded from Certain License Requirements under the Export Administration Regulations* (''South Korea exclusion rule''),[6] which added South Korea to the list of countries in supplement no. 3 to part 746 of the EAR that are excluded from certain § 746.8 license requirements that pertain to items destined for Russia or Belarus. The countries listed in supplement no. 3 to part 746 have committed to implementing substantially similar export controls on Belarus and Russia under their domestic laws. Pursuant to § 746.8(a)(5) of the EAR, countries that have made such a commitment receive full or partial exclusions, as appropriate, from the FDP rules' license requirements set forth under § 746.8(a)(2) and (3). Similarly, the license requirements in § 746.8(a)(1) are not used to determine controlled U.S.-content under the EAR's *de minimis* rules, as set forth in supplement no. 2 to part 734 of the EAR, provided the

[1] 87 FR 12226 (March 3, 2022).
[2] 87 FR 13048 (March 8, 2022).
[3] 87 FR 12856 (March 8, 2022).
[4] 87 FR 13141 (March 9, 2022).
[5] 87 FR 14785 (March 16, 2022).
[6] 87 FR 13627 (March 10, 2022).

criteria in § 746.8(a)(5)(i) and (ii) are met.

Iceland, Liechtenstein, Norway, and Switzerland have adopted and implemented substantially similar measures to those imposed by BIS through U.S. export controls on Russia and Belarus. In recognition of their substantial alignment with U.S. controls, BIS adds the four countries to supplement no. 3 to part 746 in this rule with the designation of ''full.''

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. This final rule is not a ''significant regulatory action'' because it ''pertain[s]'' to a ''military or foreign affairs function of the United States'' under sec. 3(d)(2) of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves the following OMB-approved collections of information subject to the PRA: 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 29.6 minutes for a manual or electronic submission; 0694–0096 ''Five Year Records Retention Period,'' which carries a burden hour estimate of less than 1 minute; and 0607–0152 ''Automated Export System (AES) Program,'' which carries a burden hour estimate of 3 minutes per electronic submission. BIS anticipates this rule will result in a slight decrease in the number of estimated license applications because this rule provides relief from the burden of the new Russia rule and Belarus rule requirements that would otherwise pertain to items produced in, exported or reexported from Iceland, Liechtenstein, Norway, or Switzerland, or transferred (in-country) in either country. Thus, this rule does not create a substantive change to OMB Control Numbers 0694–0088, 0694–0096, or 0607–0152.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821) (ECRA), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5. U.S.C. 553(a)(1)).

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

List of Subjects in 15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, part 746 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

PART 746—EMBARGOES AND OTHER SPECIAL CONTROLS

■ 1. The authority citation for 15 CFR part 746 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007–7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 6, 2021, 86 FR 26793 (May 10, 2021).

■ 2. Supplement no. 3 to part 746 is amended by adding entries for ''Iceland,'' ''Liechtenstein,'' ''Norway,'' and ''Switzerland'' to the table in alphabetical order to read as follows:

Supplement No. 3 to Part 746—Countries Excluded From Certain License Requirements of § 746.8

* * * * *

Country	Scope	**Federal Register** citation
* *	* *	* * *
Iceland	Full	87 FR [INSERT FR PAGE NUMBER AND April 12, 2022].
* *	* *	* * *
Liechtenstein	Full	87 FR [INSERT FR PAGE NUMBER AND April 12, 2022].
* *	* *	* * *
Norway	Full	87 FR [INSERT FR PAGE NUMBER AND April 12, 2022].
* *	* *	* * *
Switzerland	Full	87 FR [INSERT FR PAGE NUMBER AND April 12, 2022].
* *	* *	* * *

Matthew S. Borman,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 2022–07836 Filed 4–8–22; 8:45 am]
BILLING CODE 3510–33–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–900]

Schedules of Controlled Substances: Temporary Placement of Butonitazene, Etodesnitazene, Flunitazene, Metodesnitazene, Metonitazene, *N*-Pyrrolidino etonitazene, and Protonitazene in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary amendment; temporary scheduling order.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this temporary order to schedule seven synthetic benzimidazole-opioid substances, as identified in this order, in schedule I of the Controlled Substances Act. This action is based on a finding by the Administrator that the placement of these seven substances in schedule I is necessary to avoid imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle these seven specified controlled substances.

DATES: This temporary scheduling order is effective April 12, 2022, until April 12, 2024. If this order is extended or made permanent, DEA will publish a document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Ph.D., Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: The Drug Enforcement Administration (DEA) issues a temporary scheduling order [1] (in the form of a temporary amendment) to add the following seven substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible, to schedule I under the Controlled Substances Act (CSA):

- 2-(2-(4-butoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)-*N*,*N*-diethylethan-1-amine (butonitazene),
- 2-(2-(4-ethoxybenzyl)-1*H*-benzimidazol-1-yl)-*N*,*N*-diethylethan-1-amine (etodesnitazene; etazene),
- *N*,*N*-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine (flunitazene),
- *N*,*N*-diethyl-2-(2-(4-methoxybenzyl)-1*H*-benzimidazol-1-yl)ethan-1-amine (metodesnitazene),
- *N*,*N*-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine (metonitazene),
- 2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1*H*-benzimidazole (*N*-pyrrolidino etonitazene; etonitazepyne), and
- *N*,*N*-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1*H*-benzimidazol-1-yl)ethan-1-amine (protonitazene).

Legal Authority

The CSA provides the Attorney General (as delegated to the Administrator of DEA (Administrator) pursuant to 28 CFR 0.100) with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b), if the Administrator finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1) while the substance is temporarily controlled under section 811(h), the Administrator may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under 21 U.S.C. 812, and if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355. 21 U.S.C. 811(h)(1); 21 CFR part 1308.

Background

The CSA requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of an intent to place a substance in schedule I of the CSA temporarily (*i.e.,* to issue a temporary scheduling order). 21 U.S.C. 811(h)(4). The then-Acting Administrator transmitted the required notice to the Assistant Secretary for Health of HHS (Assistant Secretary),[2] by letter dated June 16, 2021, regarding butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, and protonitazene. In a subsequent letter dated August 25, 2021, the Administrator transmitted the required notice to the Assistant Secretary regarding *N*-pyrrolidino etonitazene. The Assistant Secretary responded to these notices by letters dated July 7 and September 10, 2021, and advised that, based on a review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications (INDs) or approved new drug applications (NDAs) for butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene. The Assistant Secretary also stated that HHS had no objection to the temporary placement of these substances in schedule I of the CSA.

DEA has taken into consideration the Assistant Secretary's comments as required by subsection 811(h)(4). Butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene currently are not listed in any schedule under the CSA, and no exemptions or approvals under 21 U.S.C. 355 are in effect for these seven benzimidazole-opioids. DEA has found that the control of these seven benzimidazole-opioids in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety.

As required by 21 U.S.C. 811(h)(1)(A), DEA published a notice of intent (NoI) to temporarily schedule butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene on December 7, 2021. 86 FR 69182. That NoI discussed findings from DEA's three-factor analysis dated November 2021, which DEA made available on *www.regulations.gov*.

To find that temporarily placing a substance in schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator must consider three of the eight factors set forth in 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any,

[1] Though DEA has used the term ''final order'' with respect to temporary scheduling orders in the past, this order adheres to the statutory language of 21 U.S.C. 811(h), which refers to a ''temporary scheduling order.'' No substantive change is intended.

[2] The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

risk there is to the public health. 21 U.S.C. 811(h)(3). This consideration includes any information indicating actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution of these substances. 21 U.S.C. 811(h)(3).

Substances meeting the statutory requirements for temporary scheduling may only be placed in schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I have high potential for abuse, no currently accepted medical use in treatment in the United States, and no accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1). DEA's November 2021 three-factor analysis and the Assistant Secretary's July 7 and September 10, 2021, letters are available in their entirety under the tab ''Supporting Documents'' of the public docket of this action at *www.regulations.gov*.

Since the publication of the NoI, DEA discovered that the NoI inadvertently assigned duplicate drug codes to butonitazene, etodesnitazene, flunitazene, and protonitazene. Accordingly, with this temporary scheduling order, DEA hereby corrects those errors by assigning new drug codes to all seven substances: butonitazene (9751), etodesnitazene (9765), flunitazene (9756), metodesnitazene (9764), metonitazene (9757), *N*-pyrrolidino etonitazene (9758), and protonitazene (9759).

Seven Benzimidazole-Opioids: Butonitazene, Etodesnitazene, Flunitazene, Metodesnitazene, Metonitazene, *N*-Pyrrolidino Etonitazene, and Protonitazene

The United States currently is experiencing an opioid overdose epidemic, and the presence of synthetic opioids on the illicit drug market threatens to exacerbate this. The trafficking, continued evolution, and abuse of new synthetic opioids are deadly trends posing imminent hazards to public safety. Adverse health effects associated with abuse of synthetic opioids and increased popularity of these substances have been serious concerns in recent years. Butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene are synthetic opioids recently identified on the illicit drug market in the United States.

Data obtained from preclinical pharmacology studies show that butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene have pharmacological profiles similar to those of the potent benzimidazole-opioids etonitazene and isotonitazene, both schedule I controlled substances. Because of their pharmacological similarities, use of these seven benzimidazole-opioid substances presents a high risk of abuse and may negatively affect users and communities. They have been identified in at least 44 toxicology and post-mortem cases in the United States between November 2020 and July 2021. Specifically, butonitazene has been identified in one case, etodesnitazene in five cases, flunitazene in four cases, metodesnitazene in one case, metonitazene in 20 cases, *N*-pyrrolidino etonitazene in eight cases, and protonitazene in five cases, which together create serious public safety concerns.

Available data and information for butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene, summarized below, indicate that these substances have high potential for abuse, no currently accepted medical use in treatment in the United States, and lack of accepted safety for use under medical supervision. DEA's three-factor analysis is available in its entirety under ''Supporting and Related Material'' of the public docket for this action at *www.regulations.gov* under Docket Number DEA–900.

Factor 4. History and Current Pattern of Abuse

In the late 1950s, pharmaceutical research laboratories of the Swiss chemical company CIBA Aktiengesellschaft synthesized a group of benzimidazole derivatives with analgesic properties; however, the research did not lead to any medically approved analgesic products. These benzimidazole derivatives include schedule I substances such as synthetic opioids clonitazene, etonitazene, and isotonitazene. In 2019, isotonitazene emerged on the illicit drug market and was involved in numerous fatal overdose events. In August 2020, DEA temporarily controlled it as a schedule I substance under the CSA (85 FR 51342).

Subsequently, the benzimidazole-opioids at issue here have emerged on the illicit drug market. Law enforcement agencies have encountered etodesnitazene, flunitazene, metonitazene, and protonitazene in several solid (*e.g.,* powder and rock) and liquid forms. These substances are not approved for medical use anywhere in the world. The Assistant Secretary, by letters dated July 7 and September 10, 2021, informed DEA that there are no FDA-approved NDAs or INDs for them in the United States. Hence, there are no legitimate channels for these substances as marketed drug products. Their appearance on the illicit drug market is similar to other synthetic opioids trafficked for their psychoactive effects. These seven opioid substances are likely to be abused in the same manner as schedule I opioids such as etonitazene, isotonitazene, and heroin. They have been identified as white to beige powders or in liquid forms, typically of unknown purity or concentration.

In 2020 and 2021, butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, and protonitazene emerged on the illicit synthetic drug market as evidenced by their identification in forensic drug seizures or biological samples. In July 2020, metonitazene was first seized as a white powdery substance in a North Carolina case. Based on data from the National Forensic Laboratory Information System (NFLIS),[3] law enforcement often encounters etodesnitazene, flunitazene, metonitazene, and protonitazene in mixtures. Substances found in combination with some of these benzimidazole-opioids include cutting agents (caffeine, xylazine, etc.) or other substances of abuse such as heroin, fentanyl (schedule II), fentanyl analogs, and tramadol (schedule IV).

In the United States, butonitazene, etodesnitazene, flunitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene have been identified alone or in combination with other substances such as designer benzodiazepines and fentanyl (see Factors 5 and 6). Evidence suggests that individuals are using these substances as a replacement for other opioids, either knowingly or unknowingly. Information gathered from case histories and autopsy findings show that deaths involving metonitazene were similar to those of opioid-related deaths. Identified material or paraphernalia from death-scene investigations also were consistent with opioid use. These seven substances are likely to be abused in the same manner as schedule I

[3] NFLIS represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS is a comprehensive information system that includes data from forensic laboratories that handle more than 96% of an estimated 1.0 million distinct annual state and local drug analysis cases. NFLIS includes drug chemistry results from completed analyses only. While NFLIS data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. *See* 76 FR 77330, 77332, Dec. 12, 2011.

opioids such as isotonitazene and heroin.

Factor 5. Scope, Duration, and Significance of Abuse

Butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene are synthetic opioids, and evidence suggests they are abused for their opioidergic effects (see Factor 6). Their abuse has resulted in their identification in toxicology and post-mortem cases. Between January and February 2021, metonitazene has been positively identified in 20 forensic post-mortem cases from seven different states: Tennessee (10), Illinois (5), Florida (1), Iowa (1), Ohio (1), South Carolina (1), and Wisconsin (1). Most (18) of the decedents were male, with ages ranging from 19 to 63 years and an average age of 41 years. Metonitazene was identified as the sole drug detected in only three cases, and the only opioid in six cases.

Detection of *N*-pyrrolidino etonitazene in a toxicology case first was reported [4] in May 2021. It has been identified in a total of eight post-mortem cases from five different states (Colorado (1), Florida (1), New York (1), Pennsylvania (1), and West Virginia (4)) between January and April 2021. The decedents' ages spanned their 20s to 50s. *N*-Pyrrolidino etonitazene was the only drug of interest in one of these cases. In the other cases, it was co-identified with designer benzodiazepines (7), fentanyl (4), and methamphetamine (4).

Data from law enforcement encounters suggests that etodesnitazene, flunitazene, metonitazene, butonitazene, *N*-pyrrolidino etonitazene, and protonitazene are abused [5] in the United States as recreational drugs. Law enforcement encounters of etodesnitazene, flunitazene, metonitazene, butonitazene, *N*-pyrrolidino etonitazene, and protonitazene as reported to NFLIS (Federal, State, and local laboratories) include 417 exhibits since 2020 (queried 11/23/2021). NFLIS registered two encounters of etodesnitazene from two states, five encounters of flunitazene from four states, 399 encounters of metonitazene from eighteen states, three encounters of butonitazene from one state, five encounters of *N*-pyrrolidino etonitazene from three states, and three encounters of protonitazene from three states. Data from NFLIS show that at least 561.55 grams of metonitazene has been encountered by law enforcement since 2020, and it was often suspected as heroin or fentanyl. This suggests that metonitazene might be presented as a substitute for heroin or fentanyl and likely abused in the same manner as either of these substances. The lack of identification of metodesnitazene in law enforcement reports might be due to the rapid appearance of these benzimidazole-opioids and under-reporting as forensic laboratories try to secure reference standards for these substances. However, metodesnitazene has been identified in toxicology cases.

The population likely to abuse these seven benzimidazole-opioids appears to be the same as those abusing other opioid substances such as heroin, tramadol, fentanyl, and other synthetic opioids. This is evidenced by the types of other drugs co-identified in biological samples and law enforcement encounters. Because abusers are likely to obtain these substances through unregulated sources, their identity, purity, and quantity are uncertain and likely to be inconsistent, thus posing significant adverse health risks to the end user. The misuse and abuse of opioids have been demonstrated and are well- characterized. According to the most recent data from the National Survey on Drug Use and Health (NSDUH),[6] as of 2019, an estimated 10.1 million people aged 12 years or older misused opioids in the past year, including 9.7 million prescription pain reliever misusers and 745,000 heroin users. In 2019, an estimated 1.6 million people had an opioid use disorder, including 1.4 million people with a prescription pain reliever use disorder and 438,000 people with heroin use disorder. This population likely is at risk of abusing butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene. Individuals who initiate (*i.e.,* use a drug for the first time) use of these benzimidazole-opioids are likely to be at risk of developing substance use disorder, overdose, and death similar to that of other opioid analgesics (*e.g.,* fentanyl, morphine, etc.). Law enforcement or toxicology reports demonstrate that the seven substances at issue are being distributed illicitly and abused.

Factor 6. What, if Any, Risk There Is to the Public Health

The increase in opioid overdose deaths in the United States has been exacerbated recently by the availability of potent synthetic opioids on the illicit drug market. Data obtained from pre-clinical studies demonstrate that butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene exhibit pharmacological profiles similar to that of schedule I substances such as etonitazene, isotonitazene, and other mu-opioid receptor agonists. These seven benzimidazole-opioids bind to and act as agonists at the mu-opioid receptors. It is well established that substances that act as mu-opioid receptor agonists have a high potential for abuse and addiction and can induce dose-dependent respiratory depression.

As with any mu-opioid receptor agonist, the potential health and safety risks for users of butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene are high. Consistently, these substances have been identified in toxicology cases. The public health risks attendant to the abuse of mu-opioid receptor agonists are well established. These risks include large numbers of drug treatment admissions, emergency department visits, and fatal overdoses. According to the Centers for Disease Control and Prevention (CDC), opioids, mainly synthetic opioids other than methadone, are predominantly responsible for drug overdose deaths in recent years. According to CDC data, synthetic opioid-related overdose deaths in the United States increased from 36,359 in 2019, to 56,688 in 2020 (CDC, 2021).[7] Of the drug overdose death data (70,630) for 2019, synthetic opioids were involved in about 51.4 percent

[4] Center for Forensic Science Research and Education. Public Alert: New High Potency Synthetic Opioid *N*-Pyrrolidino Etonitazene (Etonitazepyne) Linked to Overdoses across United States. June 17, 2021.

[5] While law enforcement data are not direct evidence of abuse, they can lead to an inference that drugs have been diverted and abused. *See* 76 FR 77330, 77332, Dec. 12, 2011.

[6] NSDUH, formerly known as the National Household Survey on Drug Abuse (NHSDA), is conducted annually by the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA). It is the primary source of estimates of the prevalence and incidence of non-medical use of pharmaceutical drugs, illicit drugs, alcohol, and tobacco use in the United States. The survey is based on a nationally representative sample of the civilian, non-institutionalized population 12 years of age and older. The survey excludes homeless people who do not use shelters, active military personnel, and residents of institutional group quarters such as jails and hospitals. The NSDUH provides yearly national and state level estimates of drug abuse, and includes prevalence estimates by lifetime (*i.e.,* ever used), past year, and past month abuse or dependence. The 2019 NSDUH Annual Report. (Last accessed July 26, 2021).

[7] 12 Month-ending (April, 2021) Provisional Number of Drug Overdose Deaths. Reported provisional data as of November 7, 2021. *https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm.*

(36,359) of all drug-involved overdose deaths.

According to a recent publication, since November 2020, there has been an increase in metonitazene-related adverse events, including deaths.[8] Metonitazene has been co-identified with other substances in biological samples from 20 post-mortem cases from seven different states: Florida (1), Illinois (5), Iowa (1), Ohio (1), South Carolina (1), Tennessee (10), and Wisconsin (1). Information gathered from case histories and autopsy findings show that deaths involving metonitazene were similar to those of opioid-related deaths. Identified material or paraphernalia from death-scene investigations were consistent with opioid use. Reports obtained from autopsy findings showed that deaths involving metonitazene presented pulmonary and cerebral edema, as well as distended bladder and signs of intravenous drug use. Of the cases for which death certificate data were available, metonitazene was reported as a cause of death in four cases, of which three cases listed metonitazene as the only cause.

According to recent reports, butonitazene (1 instance), etodesnitazene (11), flunitazene (4), metodesnitazene (1), metonitazene (43), protonitazene (10), and *N*-pyrrolidino etonitazene (16) have been identified in toxicology cases in the United States.[9] For some cases involving *N*-pyrrolidino etonitazene, it was co-identified with fentanyl in four cases and with novel benzodiazepines (*e.g.,* flualprazolam, etizolam, and clonazolam) in six others.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene pose an imminent hazard to the public safety. DEA is not aware of any currently accepted medical uses for these substances in the United States. A substance meeting the statutory requirements for temporary scheduling, found in 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I must have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene indicate that these substances meet the three statutory criteria. As required by 21 U.S.C. 811(h)(4), the then-Acting Administrator transmitted to the Assistant Secretary for Health, via letter dated June 16, 2021, notice of his intent to temporarily place butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, and protonitazene in schedule I. In a letter to the Assistant Secretary for Health dated August 25, 2021, the Administrator transmitted notice of her intent to temporarily place *N*-pyrrolidino etonitazene in schedule I. DEA subsequently published a NoI on December 7, 2021. 86 FR 69182.

Conclusion

In accordance with 21 U.S.C. 811(h)(1) and (3), the Administrator considered available data and information, herein set forth the grounds for her determination that it is necessary to temporarily place butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene in schedule I of the CSA and finds that such placement is necessary to avoid an imminent hazard to the public safety.

This temporary order scheduling these substances will be effective on the date the order is published in the **Federal Register** and remain in effect for two years, with a possible extension of one year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h)(1) and (2).

The CSA sets forth specific criteria for scheduling drugs or other substances. Regular scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures ''on the record after opportunity for a hearing'' conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The regular scheduling process of formal rulemaking affords interested parties appropriate process and the government any additional relevant information needed to make determinations. Final decisions that conclude the regular scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Requirements for Handling

Upon the effective date of this temporary order, butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, and possession of, and engagement in research and conduct of instructional activities or chemical analysis with, schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (possesses, manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with) or desires to handle, butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene must be registered with DEA to conduct such activities, pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312, as of April 12, 2022. Any person who currently handles butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene and is not registered with DEA must submit an application for registration and may not continue to handle butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene as of April 12, 2022, unless DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of these substances in a manner not authorized by the CSA on or after April 12, 2022 is unlawful, and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is unable to obtain a schedule I registration to handle butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene must

[8] Krotulski A.J, Papsun D.M, Walton S.E, Logan B.K. Metonitazene in the United States-Forensic toxicology assessment of a potent new synthetic opioid using liquid chromatography mass spectrometry. Drug Test Anal. 2021 Jun 16.

[9] Center for Forensic Science Research and Education. NPS Opioids in the United States—Trend Report Q1, Q2, and Q3, 2021.

surrender all currently held quantities of these seven substances.

3. *Security.* Butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene are subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, and 871(b), and in accordance with 21 CFR 1301.71–1301.76, as of April 12, 2022. Non-practitioners handling these seven substances must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene must comply with 21 U.S.C. 825 and 958(e) and 21 CFR part 1302. Current DEA registrants will have 30 calendar days from April 12, 2022 to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene on the effective date of this order must take an inventory of all stocks of these substances on hand pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants will have 30 calendar days from the effective date of this order to comply with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene) on hand on a biennial basis pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR parts 1304, 1312, and 1317, and section 1307.11. Current DEA registrants authorized to handle these seven substances shall have 30 calendar days from the effective date of this order to comply with all recordkeeping requirements.

7. *Reports.* All DEA registrants must submit reports with respect to butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304, 1312, and 1317, and sections 1301.74(c) and 1301.76(b), as of April 12, 2022. Manufacturers and distributors must also submit reports regarding these seven substances to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

8. *Order Forms.* All DEA registrants who distribute butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of April 12, 2022.

9. *Importation and Exportation.* All importation and exportation of butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312 as of April 12, 2022.

10. *Quota.* Only DEA-registered manufacturers may manufacture butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303, as of April 12, 2022.

11. *Liability.* Any activity involving butonitazene, etodesnitazene, flunitazene, metodesnitazene, metonitazene, *N*-pyrrolidino etonitazene, and protonitazene not authorized by or in violation of the CSA, occurring as of April 12, 2022, is unlawful and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Matters

The CSA provides for expedited temporary scheduling actions where necessary to avoid imminent hazards to the public safety. Under 21 U.S.C. 811(h), the Administrator, as delegated by the Attorney General, may, by order, temporarily place substances in schedule I. Such orders may not be issued before the expiration of 30 days from: (1) The publication of a notice in the **Federal Register** of the intent to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary for Health of HHS, as delegated by the Secretary of HHS. 21 U.S.C. 811(h)(1).

Inasmuch as section 811(h) directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, including the requirement to publish in the **Federal Register** a Notice of Intent, the notice-and-comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this temporary scheduling order. The APA expressly differentiates between orders and rules, as it defines an ''order'' to mean a ''final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency *in a matter other than rule making.*'' 5 U.S.C. 551(6) (emphasis added). The specific language chosen by Congress indicates its intent that DEA issue *orders* instead of proceeding by rulemaking when temporarily scheduling substances. Given that Congress specifically requires the Administrator (as delegated by the Attorney General) to follow rulemaking procedures for *other* kinds of scheduling actions, *see* 21 U.S.C. 811(a), it is noteworthy that, in section 811(h), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

Alternatively, even if this action was subject to section 553 of the APA, the Administrator finds that there is good cause to forgo its notice-and-comment requirements, as any further delays in the process for issuing temporary scheduling orders would be impracticable and contrary to the public interest given the manifest urgency to avoid imminent hazards to public safety.

Although DEA believes this temporary scheduling order is not subject to the notice-and-comment requirements of section 553 of the APA, DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Administrator took into consideration comments submitted by the Assistant Secretary in response to the notices that DEA transmitted to the Assistant Secretary pursuant to such subsection.

Further, DEA believes that this temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act. The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

In accordance with the principles of Executive Orders (E.O.) 12866 and 13563, this action is not a significant regulatory action. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866 classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. Because this is not a rulemaking action, this is not a significant regulatory action as defined in Section 3(f) of E.O. 12866.

This action 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. Therefore, in accordance with E.O. 13132 (Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraphs (h)(50) through (h)(56) to read as follows:

§ 1308.11 Schedule I

* * * * *

(h) * * *

Anne Milgram,

Administrator.

[FR Doc. 2022–07640 Filed 4–11–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[SATS No. PA–161–FOR; Docket ID: OSM–2012–0009; S1D1S SS08011000 SX064A000 221S180110; S2D2S SS08011000 SX064A000 22XS501520]

Pennsylvania Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the approved Pennsylvania regulatory program (the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment we are approving consists of revisions and additions to Pennsylvania's regulations related to beneficial use of coal ash at active surface coal mining sites.

DATES: The effective date is May 12, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Owens, Acting Field Office Director, Pittsburgh Field Office, Telephone: (412) 937–2857; email: *bowens@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program and Federal Regulation of Coal Combustion Residues

The Pennsylvania Program

Section 503(a) of the SMCRA permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program effective July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Pennsylvania program in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later actions

concerning the Pennsylvania program and program amendments at 30 CFR 938.11, 938.12, 938.13, 938.15, and 938.16.

Federal Regulation of Coal Combustion Residue

SMCRA does not directly address the placement of Coal Combustion Byproducts (CCBs), also known as Coal Combustion Residues (CCRs), in active or abandoned coal mines and only two of OSMRE's implementing regulations reference CCBs: 30 CFR 816.41(i)(2)(iii) and 30 CFR 817.41(h)(2)(iii) and (v). 72 FR 12026, 12029 (March 14, 2007). Nonetheless, as stated in our 2007 advanced notice of proposed rulemaking, ''any material placed in mine pits or otherwise used to reclaim a permitted mine site must comply with SMCRA permitting requirements and performance standards, regardless of whether the material originates within the permit area or whether it is imported from outside the permit area.'' *Id.*

The United States Environmental Protection Agency (U.S. EPA) published a final rule regulating the disposal of CCRs in the April 17, 2015, **Federal Register** (80 FR 21301). The 2015 U.S. EPA rule does not apply to CCRs placed in active or abandoned underground or surface coal mines. Since the 2015 U.S. EPA rule, U.S. EPA has amended its CCR regulations. Background on the U.S. EPA's CCR regulations are found at: *https://www.epa.gov/coalash/coal-ash-rule.* In 2019, U.S. EPA proposed revising its definition of beneficial use, then deferred the rulemaking until 2021, when U.S. EPA reopened its public comment period until May 11, 2021, on the beneficial use definition and provisions for CCR or coal ash accumulations. If, as a result of changes in Federal law or regulations, the approved Pennsylvania regulatory program no longer meets the requirements of SMCRA or its implementing regulations, we may require a state program amendment under 30 CFR 732.17(e)(1).

II. Submission of the Amendment

By letter dated March 13, 2012 (Administrative Record No. PA 894.00), Pennsylvania sent us a request to approve regulations related to the beneficial use of coal ash at active coal mine sites. Key provisions of the amendment include operating requirements for beneficial use, including certification guidelines for chemical and physical properties of coal ash beneficially used and water quality monitoring requirements.

We announced receipt of the program amendment in the July 11, 2012, **Federal Register** (77 FR 40836) (Administrative Record No. PA 894.05), with a deadline for public comment of August 10, 2012. We received requests to extend the public comment period, and announced an extension in the September 25, 2012, **Federal Register** (77 FR 58975) (Administrative Record No. PA 894.11). In that announcement, we issued a new deadline of October 19, 2012, for public comments, and announced public hearings for October 17, 2012, in Pittsburgh, Pennsylvania and Pottsville, Pennsylvania.

After receiving written public comments and oral testimony at the public hearings, we reviewed the amendment to determine whether it was in accordance with SMCRA and consistent with the regulations implementing SMCRA found at Title 30 of the Code of Federal Regulations (the SMCRA regulations or implementing regulations). We identified concerns and notified Pennsylvania of our concerns by letter dated March 3, 2014 (Administrative Record No. PA 894.45). Pennsylvania responded in a letter dated May 30, 2014 (Administrative Record No. PA 894.46). We identified additional concerns and notified Pennsylvania of these by letter dated August 3, 2015 (Administrative Record No. PA 894.47). Pennsylvania responded in a letter dated November 25, 2015 (Administrative Record No. PA 894.48). In both of its response letters, Pennsylvania elaborated on details of its proposed regulations.

In the proposed rule published in the **Federal Register** on July 11, 2012, we described the proposed program amendment to include sections of the Pennsylvania Code that, after further consultation with Pennsylvania, we learned are not part of the program amendment. Specifically, in the March 3, 2014, issue letter, we requested clarification of which regulations are pertinent to administering the approved Pennsylvania program. In a May 30, 2014, letter to us (Administrative Record No. PA 894.46), Pennsylvania clarified that it is requesting approval of regulations found at 25 Pa. Code sections 287.1 (definition of ''coal ash''), 290.1, 290.101, 290.103, 290.104, 290.107, Subchapter C—Coal Ash Certification (sections 290.201, 290.202 and 290.203), and Subchapter D—(sections 290.301, 290.302, 290.303, 290.304, 290.305, 290.306 and 290.307). Thus, 25 Pa. Code sections 290.2, 290.102, 290.105, and 290.106 are not part of the Pennsylvania amendment.

III. OSMRE's Findings

We are approving the amendment request under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. In this final rule, we are approving the changes to Pennsylvania's regulatory program as noted below. The full text of the program amendment is available for review at *https://www.regulations.gov.*

287.1 Definitions

The definition of ''coal ash'' has been added to Pennsylvania's regulatory program. Coal ash is defined for the purposes of Chapters 287 and 290 to include: Fly ash, bottom ash, or boiler slag that resulted from the combustion of coal and is or has been beneficially used, reused, or reclaimed for a commercial, industrial, or governmental purpose. The definition includes materials that are stored, processed, transported, or sold for beneficial use, reuse, or reclamation. The definition also states that for the purposes of Chapter 288 of the Pennsylvania Code, which regulates residual waste landfills, coal ash is defined as fly ash, bottom ash, or boiler slag that resulted from the combustion of coal and that has not been beneficially reused.

OSMRE Finding: Neither SMCRA nor its implementing regulations define coal ash. However, Pennsylvania's definition of coal ash as types of coal ash, such as fly ash, that are products of coal combustion, and its list of possible uses is reasonable. We have determined the addition of the definition of coal ash is not inconsistent with SMCRA and its implementing regulations. We have also determined that the last sentence of the definition, pertaining to Chapter 288 of the Pennsylvania Code that relates to residual waste landfills, does not pertain to surface coal mining. Therefore, we approve the first two sentences of the definition of ''coal ash'' at 25 Pa. Code 287.1. Because the last sentence of the definition does not pertain to surface coal mining, it is not included in the approval.

290.1 Definitions

The definition of ''Temporary coal ash storage pile'' has been added and is defined as a pile in which coal ash is stored for not more than two weeks. The definition of ''Water table'' is the top of the saturated zone including regional groundwater table, perched water tables, seasonal water tables, and mine pools.

OSMRE Finding: Neither SMCRA nor its implementing regulations define ''temporary coal ash storage pile.'' Storage of not more than two weeks is a reasonable interpretation of the term

''temporary.'' Accordingly, we have determined that the definition of temporary coal ash storage pile is not inconsistent with SMCRA or its implementing regulations and we approve the definition of temporary coal ash storage pile at 25 Pa. Code 290.1.

We have determined that the definition of water table is no less effective than the Federal definition of ''water table'' at 30 CFR 701.5. The definition proposed for Chapter 290 of the Pennsylvania Code is ''the top of the saturated zone,'' and the Federal definition is the ''upper surface of a zone of saturation where the ground water is not confined by an overlying impermeable zone.'' These definitions are identical in effect because they both retain the same fundamental concept that the water is not confined by an overlying impermeable zone. Pennsylvania's definition also provides examples of these types of water tables. Therefore, we approve the definition of water table at 25 Pa. Code 290.1.

290.101 General Requirements for Beneficial Use

Pennsylvania added this section, which provides that, if operators comply with Chapter 290, then no solid waste disposal permit is required for beneficial use of coal ash. To be considered a beneficial use, chemical analysis must indicate that the coal ash does not exceed any of the maximum acceptable leachate levels discussed in section 290.201(a) and meets the physical characteristics of section 290.201. This section also provides that the chemical characteristics from section 290.201(a) apply to other beneficial uses of coal ash, such as structural fill, that are not part of this amendment.

A water quality monitoring plan is required for any structural fill that is used at a coal mining activity site or abandoned surface coal mine site where more than 10,000 tons of coal ash per acre or more than 100,000 tons in total per site is used. Additionally, the Pennsylvania Department of Environmental Protection (PADEP), at its discretion, may implement a water quality monitoring plan involving lesser quantities of coal ash. Coal ash may not be placed within eight feet of the water table unless used for mine subsidence control, mine fire control, or mine sealing. Coal ash may not be used in a way that causes water pollution.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts. The Federal regulations implementing SMCRA do not specifically address beneficial use of coal ash. However, Pennsylvania's proposed coal ash regulations are consistent with the performance standards described at 30 CFR 816.41 and 816.42 and the monitoring and planning regulations at 30 CFR 780.21. The Federal regulation at section 816.41(b) of Title 30 requires that groundwater quality must be protected by minimizing toxic infiltration and approximating pre-mining recharge capacity. The incorporation of maximum acceptable leachate levels from section 290.201(a) of the Pennsylvania Code and the restriction on placement within eight feet of the water table minimize toxic infiltration to the most feasible extent. Furthermore, the requirement for a water quality monitoring plan and the minimum standards for that plan, as described in section 290.301 of the Pennsylvania Code, are consistent with 30 CFR 780.21(i) and 816.41(c), because section 290.301, as well as the SMCRA regulations, require a monitoring frequency of every three months, sampling of pH, total iron, and total manganese. Also, Pennsylvania requires monitoring protocols that incorporate the US EPA's *Handbook for Analytical Quality Control in Water and Wastewater Laboratories.*

Finally, to the extent that section 290.101 requires other chemical analysis in sections of the Pennsylvania Code that were not submitted as a program amendment, namely sections 290.102, 290.105 and 290.106, these other beneficial uses of coal ash are outside of the scope of this amendment, and we will not issue a finding on them here. Therefore, we approve 25 Pa. Code 290.101 as it applies to coal mining activities.

290.103 Use as a Soil Substitute

Pennsylvania added section 290.103, which provides that coal ash may be used as a soil substitute if, 60 days prior to such use, a written proposal is submitted to the PADEP. According to the additional section, the proposal must contain:

- A description of the project, including a topographic and soils map of the projected area and an explanation of how the coal ash will be stored prior to use, how the soil will be prepared for application, how the coal ash will be spread and, when necessary, how the coal ash will be incorporated into the soil;
- Commencement and conclusion dates of the project;
- Proposed volume of coal ash to be used, the proposed application rate and a justification for the rate;
- A total chemical and leaching analysis and pH analysis no older than one year old;
- A chemical analysis of coal ash for eleven constituents listed in subsection (e);
- An analysis indicating the coal ash will be beneficial to the use of the soil. This must be prepared and signed by an expert in soil science; and
- Landowner consent to use of coal ash as a soil substitute or additive.

The PADEP will respond in writing to the person proposing the use of coal ash as a soil substitute or additive indicating if it is consistent with this section.

To be considered a beneficial use as a soil substitute or additive the following must be met:

- pH must range between 6.5 to 8.0 when mixed together as required by the project;
- Chemical analysis demonstrates calcium carbonate equivalency requirements;
- Surface runoff is controlled;
- Coal ash must be incorporated into the soil within 48 hours of application, unless the PADEP approves a deviation. The coal ash must be incorporated into the first layer of surface soil, or if such is not present, the coal ash and substitute material must equal one foot. Coal ash is to enhance soil properties or plant growth;
- Coal ash must be applied at a rate per acre that protects public health, public safety, and the environment; and
- Fugitive dust must be minimized.

Coal ash may not be applied to soil being used for agriculture when the soil pH is less than 5.5 or if resultant chemical or physical soil conditions would be detrimental to biota.

Coal ash as a soil substitute or additive may not be placed within:

- 100 feet of an intermittent or perennial stream;
- 300 feet of an exceptional value wetland or exceptional value or high-quality waters;
- 300 feet of a water supply unless the water supply owner consents to a variance;
- 100 feet of a sinkhole or area draining to a sinkhole; and
- 300 feet from an occupied dwelling unless a landowner consents to a variance.

Maximum cumulative loading rates may not be exceeded in relationship to the following eleven constituents: Arsenic, boron, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc.

Records of chemical and physical analyses, quantity of coal ash used, location of placement, and sources of the coal ash must be maintained for a

minimum of three years and must be made available upon request by the PADEP.

Any deviation from the approved physical or chemical standards must be reported to the PADEP within 72 hours.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts but are consistent with SMCRA and the Federal regulations found at 30 CFR 779.21(b), 816.22, 816.41, and 816.111. SMCRA and its implementing regulations do not specifically address the use of coal ash as a soil substitute in reclamation applications, but do include requirements for the use and distribution of soil substitutes in general, for protection of the hydrologic balance, and for revegetation during reclamation.

The provisions in this section, including those related to a chemical leachate analysis, mandatory pH range, calcium carbonate equivalency requirements, and a limit on use of coal ash to the amount necessary to enhance soil properties, are sufficient to ensure that the application of coal ash as a soil substitute are consistent with the Federal regulations at 30 CFR 816.22(b) that provide that overburden may supplement or substitute soil if the operator demonstrates that the resulting medium is at least as suitable for sustaining vegetation as the original soil. The provisions in this section therefore also ensure that the application of coal ash as a soil substitute can support the revegetation requirements found at 30 CFR 816.111.

Other provisions in this section ensure that the application of coal ash as a soil substitute are not inconsistent with the Federal regulation at 30 CFR 816.41, which requires the protection of the hydrologic balance. The Federal regulation at 30 CFR 816.41(b) requires that groundwater quality must be protected by minimizing toxic infiltration and approximating pre-mining recharge capacity. The incorporation of maximum acceptable leachate levels from section 290.201(a) of the Pennsylvania Code and the restriction on placement within eight feet of the water table minimize toxic infiltration to the most feasible extent. Section 816.41(d) of Title 30 of the Federal regulations requires operators to prevent acid or toxic drainage, runoff of suspended solids and general water pollution. This proposed section of the Pennsylvania Code contains significant buffers around streams and wetlands within which use of coal ash is not permitted, and includes a requirement to control surface runoff. These, in combination with the monitoring requirements described at 25 Pa. Code 290.301, are consistent with the Federal regulation at 30 CFR 816.41.

In total, the provisions in this section are consistent with the requirements in the Federal regulations implementing SMCRA. Therefore, we approve 25 Pa. Code 290.103.

290.104 Beneficial Use at Coal Mining Activity Sites

Pennsylvania added section 290.104, which provides that approval for the beneficial use of coal ash at coal mining activity sites must, at a minimum, be:

- In compliance with the Pennsylvania's Clean Streams Law, its Surface Mining Conservation and Reclamation Act, its Coal Refuse Disposal Control Act, the applicable provisions of Chapters 86–90 and other applicable environmental statutes, and regulations promulgated thereunder;
- Certified under section 290.201; and
- Approved by the PADEP based on a request that is filed for approval. Each person wishing to use certified coal ash for a beneficial use at a coal mining activity site as part of a reclamation plan must submit a request with an appropriate filing fee and include the following:
  - A description of the project, including an estimate in cubic yards of the amount of coal ash to be used and how it will be stored prior to placement;
  - Documentation that the coal ash has been certified for its intended use, including the identity of the generator and the PADEP-assigned certification identifier;
  - A consent from the landowner properly recorded in the county deeds office; and
  - An appropriate water quality monitoring plan.

When beneficial coal ash is used at a coal mining activity site, a nonrefundable permit filing fee is to be paid annually in the amount of $2,000 for each year it is used until the year following final placement and then $1,000 for each year until final bond release is achieved. This fee will be used to administer compliance programs. This fee will be reviewed and adjusted as necessary. Public notice must be given if coal ash is used at a coal mining activity site. Overall improvement in water quality or prevention of degradation of water quality is a requirement for using coal ash for reclamation purposes at coal mining activity sites. Coal ash may be allowed for beneficial use only for reclamation purposes at the following locations: Pit area, abandoned mine lands within the surface coal mining permit, coal refuse disposal and reprocessing sites, and areas where other beneficial uses included in the reclamation plan are being conducted.

To be placed at active coal mining sites, the following additional operational requirements must be met including:

- The volume of the coal ash placed at the site may not exceed the volume of the coal, coal refuse, culm, or silt removed, unless approved by the PADEP. A greater volume will be allowed when it is demonstrated that reclamation will be enhanced or water quality improved or for certain exceptions at coal refuse reprocessing sites;
- Placement occurs by mixing with spoil or spreading it in horizontal layers no greater than 2 feet thick unless otherwise approved by the PADEP;
- Spreading and compaction must occur within 24 hours of delivery unless stored in accordance with the requirements of 25 Pa. Code Chapter 290, Subchapter E;
- Requirements of the Modified or Standard Proctor Test must be met when coal ash placement is not accomplished by mixing with spoil;
- Maintenance of the sources and volume of coal ash used;
- An approved water quality monitoring plan; and
- Minimization of fugitive dust.

Additional requirements are necessary for sites using coal ash as a soil substitute, soil additive, or when used at a coal refuse disposal site. Quarterly water sampling must be completed and submitted to the PADEP for review, unless less frequent monitoring is approved by the PADEP. Annual reporting of coal ash placed on a coal mining activity site must be submitted to the PADEP. Any deviation from the approved physical or chemical standards must be reported to the PADEP within 72 hours.

OSMRE Finding: We have determined that the provisions in this section have no direct counterpart in SMCRA or Federal regulations implementing SMCRA, because they do not address the use of coal ash. This section establishes standards for use of coal ash on permitted mining sites, and, as stated in this section, beneficial use of coal ash at coal mining sites is also subject to applicable provisions of Chapters 86–90 of the Pennsylvania Code that includes compliance with Pennsylvania's equivalent to the performance standards of 30 CFR part 816, such as the protection and storage of topsoil and subsoil, hydrologic balance protection, impoundments, postmining land use, contemporaneous reclamation,

backfilling and grading, revegetation, and others.

This section includes provisions relating to permit fees, and those provisions are in accordance with section 507(a) of SMCRA, which prohibits permit fees from exceeding the actual or anticipated cost to review, administer, and enforce the permit. Pennsylvania explained in its letter dated May 30, 2014, that it based the permit fee on estimates of program costs to monitor the beneficial use of coal ash, including labor costs and sample analysis costs and then only to cover a portion of those costs. Pennsylvania further clarified in its November 25, 2015, letter that the fees were based on a workload analysis of how much time it takes to inspect a coal mine site where coal ash is being used and the sampling costs. The fees were then based on half of the total cost to account for the portion covered by the Title V grant and then further reduced to ''provide a more reasonable fee amount.''

This section also describes operating requirements for various applications of coal ash, including general placement location, use at coal surface mining activity sites, use as a soil additive or substitute, use at coal refuse disposal sites, additional sampling protocols, and reporting and notification requirements. These provisions have no direct SMCRA counterparts. However, the restrictions on placement of coal ash and the requirement that use of coal ash be designed to improve or prevent degradation of water quality are consistent with the Federal requirement at 30 CFR 816.41(d) to prevent acid or toxic drainage, runoff of suspended solids, and general water pollution.

The provisions concerning placement of coal ash at surface mining activity sites contain limits on the volume and thickness of coal ash and minimum requirements for compaction. These provisions are consistent with the Federal regulations at 30 CFR 816.102, which require backfilling and grading to minimize erosion and ensure that spoil and waste materials are compacted to ensure stability.

The provisions concerning use of coal ash as a soil additive or substitute are not inconsistent with SMCRA or its implementing regulations as explained in our *Finding* for 290.103.

The provisions concerning use of coal ash at coal refuse disposal sites have no direct SMCRA counterparts. However, since the provisions apply to sites already permitted under Chapters 86–90 of the Pa. Code, and because the coal ash must improve compaction and stability, reduce water infiltration, and improve the coal refuse leachate, the provisions are consistent with the Federal regulations at 30 CFR 816.81 and 816.83, which require general coal mine waste to minimize water infiltration, minimize surface erosion, and minimize adverse effects of leachate.

The provisions concerning coal ash sampling require compliance with the certification provisions proposed at 290.201, which are being approved; see *our Finding* for section 290.201 for rationale. This subsection provides for approval of less frequent monitoring only if the coal ash will be used on or contiguous to the generation site. Under these conditions, the coal ash will be monitored quarterly at the generation facility and placed on a contiguous site without any changes to the constituents of the coal ash. Therefore, the quarterly monitoring at the facility may substitute for a portion of the sampling at the adjacent placement site, while still maintaining an overall sampling regimen that will protect groundwater and surface waters consistent with Federal regulations at 30 CFR 816.41.

The provisions concerning reporting and notification do not have direct SMCRA counterparts. However, the requirement to submit an annual report to the PADEP with volume and weight of coal ash, and the requirement to notify the PADEP if the coal ash does not meet its certification requirements, will allow the PADEP to monitor and react to changes in the quantity and quality of coal ash used under this chapter, and ensure compliance with the Federal regulations discussed herein.

This section is not inconsistent with the Federal regulations implementing SMCRA. Therefore, we approve 25 Pa. Code 290.104.

290.107 Requests for Information

Pennsylvania has added this section that provides that the PADEP has the right to request information documenting compliance with this subchapter and that failure to have documentation of compliance may result in a presumption of that person disposing of residual waste without a permit.

OSMRE Finding: There is no direct Federal counterpart in either SMCRA or its implementing regulations. We have determined that Pennsylvania has the discretion to require additional information in order to ensure compliance with the Pennsylvania program. We have determined that this section is not inconsistent with SMCRA or its implementing regulations. Therefore, we approve 25 Pa. Code 290.107.

290.201 Coal Ash Certification

Pennsylvania has added this section, which provides that, in order to obtain coal ash certification, the following must be met:

- Maximum acceptable leachate levels must be met. Specifically, for metals and other cations (other than selenium) the criterion is 25 times the waste classification standard for a contaminant. For selenium and sulfate, the criterion is 10 times the waste classification standard. For non-metals and anions (other than sulfate and fluoride) the criterion is equal to the waste classification standard for a contaminant;
- pH must be greater than 7.0;
- When coal ash is used as an alkaline additive, the calcium carbonate equivalency must be a minimum of 100 parts per thousand. The Neutralization Potential Test is the standard unless another is approved by the PADEP; and
- When coal ash is used as a low permeability material the hydraulic conductivity must be 1.0×10 to the negative sixth power or less. This is evaluated using approved PADEP standards. The testing must use compaction and other preparation techniques to simulate conditions at the mine site.

To reach the parameters established above, lime or cement may be added to the coal ash contingent upon request to and approval by the PADEP.

Requests to the PADEP for certification by a generator must include:

- Name and location of the generator;
- Designation of the beneficial use or uses requested;
- A specific description of the generation process. This should include details on the combustion and pollution control processes, the impact of these processes on the coal ash, fuel sources used, and the expected percentages of coal ash that will be derived and ultimately delivered to the beneficial use site;
- Description of any material mixed with the coal ash;
- A detailed chemical analysis, from a documented environmental laboratory, on at least four samples, taken throughout a 2 to 6-month sampling period within a year that fully characterizes the composition of the coal ash. This analysis must include:
  - Total concentrations for heavy metal using methods found in US EPA's ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'' (US EPA Publication No. SW–846) or comparable methods approved by the PADEP.

○ Leachable concentration for heavy metals using methods found in EPA's ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'' (US EPA Publication No. SW–846) or comparable methods approved by the PADEP. Leachate concentrations must be determined using EPA Method 1312, the synthetic precipitation leaching procedure, unless another leaching procedure is required by the PADEP.

○ pH using the soil and waste pH method found in EPA's ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'' (US EPA Publication No. SW–846) or comparable methods approved by the PADEP.

○ Information that shows that the laboratory making a chemical analysis for the application is in compliance with 27 Pa.C.S. Chapter 41 (relating to environmental laboratory accreditation)

- A laboratory analysis for optimum moisture content and dry density;
- Analysis of hydraulic conductivity;
- Determination of neutralization potential;
- A detailed description of the sampling methodology used; and
- Other necessary testing if required for a specific beneficial use proposed.

PADEP will review requests and notify the generator in writing of the assigned certification identifier or rationale as to why the source was not certified. If the coal ash is certified, the generator must submit regular monitoring information demonstrating continued compliance. The monitoring information must include at least one representative sample, taken quarterly. Further, a representative sample is required whenever there is a change in operation that could result in a change to any chemical or physical component of the coal ash. Annually a report must be produced that includes the weight, in dry tons, of coal ash produced for beneficial use in the previous calendar year, an estimate of the volume and the locations of where the coal ash is delivered.

A coal ash generator must notify the PADEP of any changes to the information found in the application or evidence that the coal ash is not meeting certification requirements.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts. We have determined that the request by a generator for certification of the coal ash is an integral component of the process to allow the beneficial use of coal ash for reclamation, as an alkaline additive, as a low permeability material, or as a soil additive or soil substitute. The Federal regulation at 30 CFR 780.18(b)(4) provides that a reclamation plan must demonstrate the suitability of topsoil substitutes or supplements under 30 CFR 816.22(b) and that the regulatory authority may require other analyses to demonstrate the suitability of those substitutes and supplements. Section 816.22 of Title 30 of the Federal regulations requires that overburden used as a soil substitute or supplement allow the resulting soil mixture to achieve equivalent vegetative capacity as the original soil. This section of the amendment places strict limits on chemical constituents, mandates a specific pH range, and requires analysis of hydraulic conductivity, moisture content, and dry density. The combination of chemical and physical requirements is consistent with the requirements of Federal regulations at 30 CFR 780.18 (b)(4) and 816.22 (b) of a demonstration for topsoil substitutes and supplements.

Federal regulations at 30 CFR 816.41 require protection of groundwater and surface water by preventing acid formation and minimizing discharge of pollutants. This proposed section allows for the prevention of acid formation through the use of coal ash by requiring minimum levels of calcium carbonate equivalency in neutralization and by allowing the use of coal ash as a low permeability substance to minimize infiltration of water at coal refuse disposal sites. This section also minimizes discharge of pollutants by setting strict limits on the presence of various chemical components in the coal ash. This section therefore is consistent with the performance standards described at 30 CFR 816.41.

Therefore, we approve 25 Pa. Code 290.201.

290.202 Revocation of Certification

Pennsylvania has added this section, which provides that certification for a source of coal ash will be revoked if any of the following occur:

- Monitoring requirements are not met;
- Coal ash exceeds certification standards and exceedance certification requirements, as described in section 290.203; or
- Physical or chemical characteristics make the coal ash unsuitable for beneficial use.

If certification is revoked, the coal ash cannot be used at a coal mining activity site or an abandoned mine land site in the Commonwealth, unless recertification is approved by the PADEP as outlined in subsection (c).

Recertification is possible if the generator can demonstrate, via detailed chemical analysis on the three recent monthly representative samples, that the coal ash meets the certification requirements, and there are no physical or chemical characteristics that make the coal ash unsuitable for beneficial use.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts. The Federal regulation at 30 CFR 780.2 provides that the regulatory authority, in this case the PADEP, should be provided comprehensive and reliable information and that activities are only allowed if they are in compliance with SMCRA, the regulations, and the regulatory program. The criteria for revoking coal ash certification are necessary to ensure that coal ash is suitable as a beneficial use and in compliance with Pennsylvania's coal ash regulations. We have determined that this regulation is not inconsistent with the Federal regulations implementing SMCRA. Therefore, we approve 25 Pa. Code 290.202.

290.203 Exceedance of Certification Requirements

Pennsylvania has added this section, which provides that, if the coal ash sample results exceed any certification standard, the generator must—within 30 days of receiving the results—submit to the PADEP the following, as applicable:

- In the event of a laboratory error, documentation and an explanation of the error from the laboratory, along with a corrected analysis demonstrating the coal ash certification standards are met; and
- Demonstration of an anomaly. This must be documented by a comparison of the anomalous sample with prior samples, additional samples demonstrating criteria are being met, a plan for temporary increases in monitoring, and an explanation of the cause of the exceedance and how further exceedances will be avoided.

By providing this information, if the generator demonstrates to the PADEP's satisfaction that the exceedance is an anomaly, use of the coal ash as a beneficial use may resume. Failure to provide this information will result in a revocation of beneficial use certification for the source.

OSMRE Finding: We have determined that the provisions in this section have no direct SMCRA counterparts. As stated in the above *Finding,* the Federal regulation at 30 CFR 780.2 provides that the regulatory authority should be provided with comprehensive and reliable information and that activities are allowed only if they are in compliance with SMCRA, the regulations, and the regulatory program. The establishment of procedures for the

enforcement of the exceedance of certification requirements will ensure that no adverse effects will result from those sources of coal ash that exceed any certification standard. This section is not inconsistent with the Federal regulations implementing SMCRA. Therefore, we approve 25 Pa. Code 290.203.

290.301 Water Quality Monitoring

Pennsylvania has added this section, which requires the submittal to the PADEP of a water quality monitoring plan before placement or storage of coal ash. At a minimum, the plan must include:

- The location and design of down gradient and up-gradient monitoring points;
- A minimum of 12 background samples from each monitoring point taken at monthly intervals prior to placement of coal ash; and
- After each monitoring point is approved, samples are to be taken quarterly unless Pennsylvania requires more frequent sampling.

The person taking the samples and the laboratory performing the analysis must employ the quality assurance/quality control procedures outlined in the US EPA's *Handbook for Analytical Quality Control in Water and Wastewater Laboratories or Test Methods for Evaluating Solid Waste.* The analytical methodologies used to meet the requirements of this section must follow established US EPA protocol. The laboratory performing water quality analysis must be in conformity with PADEP mandated environmental laboratory accreditation.

Samples are to be analyzed for pH, temperature, specific conductance, alkalinity, acidity, sulfate, chloride, fluoride, nitrate, nitrite, ammonia, and total suspended solids without filtration.

Samples must be analyzed for heavy metals, total and dissolved concentrations. Also, static water elevation for monitoring wells and for springs, seeps, and mine discharges must be measured. Additional parameters may be required at the PADEP's discretion.

Quarterly water quality monitoring will continue and be submitted to the PADEP for a minimum of five years after final placement or storage of coal ash and annually thereafter from the end of year five through 10 years after final placement or storage, unless a longer period is required by the PADEP.

A demonstration of attainment of applicable groundwater or surface water remediation standards must be made and must be in conformity with an assessment plan under section 290.304 and an abatement plan under section 290.305.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts. These provisions do establish a framework for monitoring and responding to water quality readings at sites with beneficial use of coal ash. The section provides that the water quality analysis must follow the methodologies in the most recent US EPA guidelines along with the Standard Methods for Examination of Water and Wastewater, which is also a requirement of the Federal regulation at 30 CFR 780.21(a). The Federal regulation at 30 CFR 780.21(j)(2) requires that the surface water monitoring plan include the quantity and quality parameters, sampling frequency, and site locations. The section includes all of these requirements. Additionally, the section requires water quality monitoring of the same parameters as required by 30 CFR 780.21, as well as additional parameters not required by that section.

Paragraph (h) of section 290.301 of the Pennsylvania Code requires groundwater monitoring for a period of 10 years after final placement of coal ash. The Federal regulations at 30 CFR 816.41 require that both surface water and groundwater monitoring must occur until bond release. Final bond release occurs once the five-year period of responsibility for revegetation, described at 30 CFR 816.116, has elapsed and all the reclamation requirements are met. The amendment does not include a reference to revegetation in its water monitoring requirements. However, Pennsylvania has stated in its May 30, 2014, letter to us (Administrative Record Number PA 849.46) that its revised Technical Guidance Document will clarify that ''Stage 3 reclamation bonds will be held for 10 years following the completion of vegetative planting on the site to correspond with the groundwater monitoring required in [section] 290.301(h). If pollution of groundwater is not observed at the end of this 10-year period, bonds may be released.''

Therefore, we approve 25 Pa. Code 290.301, to the extent that water monitoring will continue until final bond release as specified in 25 Pa. Code 86.151(a). If we determine in the future that Pennsylvania is implementing this provision differently, we may require Pennsylvania to submit a program amendment to revise its program.

290.302 Number, Location, and Depth of Monitoring Points

Pennsylvania added this regulation that provides the water quality monitoring system must accurately characterize groundwater and surface water flow and chemistry and flow systems on the site and adjacent areas. To achieve this, the following must be met:

- The monitoring system must have at least one point that is upgradient of the coal ash placement in order to provide representative data of groundwater not affected by the coal ash placement. The exception to this is in the event the placement is the up-gradient point; in such instances down gradient monitoring points will be used;
- The monitoring system must have at least three groundwater monitoring points down gradient of the coal ash placement, unless a request or need for only two is approved by the PADEP. Furthermore, at the PADEP's discretion, springs, seeps, and mine discharges may serve as substitutes if they are down gradient and will be as effective in monitoring the coal ash placement. Downgradient monitoring points must be hydrologically connected to the area of coal ash placement and constructed in a manner to detect chemical influence of the coal ash placement area throughout the longevity of the placement of coal ash. These points must be developed and protected as approved by the PADEP; and
- Surface water monitoring points are necessary where such monitoring may indicate any chemical influence on the hydrologic regime from coal ash placement.

Upgradient and downgradient points should be sufficient in number, location, and depth to be representative of water quality. These points must not interfere with routine operations at the site and in most cases should be within 200 feet of the coal ash placement area.

Upgradient points must be located so as not to be affected by effects on groundwater or surface water from the coal ash placement area. Downgradient monitoring points must be placed to provide early detection.

All wells drilled must be in compliance with the Water Well Drillers License Act and all well materials must be decontaminated prior to installation.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts. We have determined that the standards for monitoring points described in this section will characterize water quality to allow for corrective actions if necessary. This section is not

inconsistent with the provisions of 30 CFR 780.21 that require surface water and groundwater monitoring plans to identify the water quantity and quality parameters to be monitored and site locations of the monitoring points. Accordingly, we have determined that these provisions are consistent with the Federal requirements at 30 CFR 780.21. Therefore, we approve 25 Pa. Code 290.302.

290.303 Standards for Wells and Casing of Wells

Pennsylvania added a regulation that provides that for monitoring wells:

- Wells must be cased to maintain the integrity of the borehole and be constructed of material that will not react with the groundwater that is being monitored.
- The minimum casing diameter must be four inches.
- The well must be constructed with a screen that is factory-made, will not react with the groundwater, and the screen must maximize open area to minimize entrance velocities and allow rapid sample recovery.
- The well must be filter-packed with chemically inert clean quartz sand, silica or glass bead. The material chosen must be well-rounded and dimensionally stable.
- The casing must extend at least one foot above ground, unless the PADEP allows for flush mount wells.
- The annular space above the sampling depth must be sealed to prevent contamination and the casing must be designed and constructed to prevent cross contamination. The PADEP has discretion to approve alternative casing designs for wells in stable formations.
- The protective monitoring well casings must be enclosed in a protective casing that protects the well from damage, be installed for at least the upper 10 feet of the monitoring well and must stick up no more than three feet, and be grouted and placed with a concrete collar at least three feet deep.
- The casing must be numbered, strong enough to protect the well from damage by heavy equipment or vandalism, protrude above the monitoring well casing, have a locked cap and must be made of steel or other material of equivalent strength.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts. However, these provisions are consistent with 30 CFR 816.13, which provides that any exposed underground opening must be managed and approved by the regulatory authority to minimize disturbance to the hydrologic balance and must be safe. The monitoring well casing standards described in this section will protect groundwater quality, allow for accurate and frequent water monitoring, and are protective. Accordingly, we have determined that these provisions are consistent with the Federal requirements at 30 CFR 816.13. Therefore, we approve 25 Pa. Code 290.303.

290.304 Assessment Plan

Pennsylvania has added a regulation providing that an assessment plan must be prepared within 60 days should any of the following occur:

- Degradation is indicated from water monitoring data. Statistical methods set forth in the US EPA's regulations at 40 CFR 258.53 will be used to assess the data; or
- Laboratory analysis of public or private water supplies indicate contamination of ground or surface water that could reasonably be attributable to coal ash placement.

Assessment must consist of chemical data and a supporting narrative should one of the following apply:

- Within ten working days following receipt of the degraded sample, re-sampling indicates degradation has not occurred. Determination that degradation is not present must be approved by the PADEP; or
- Within twenty working days following receipt of the degraded sample, demonstration is made that the degradation is caused by seasonal variations or activities unrelated to coal ash placement.

The assessment plan must specifically address the existence of the quality, quantity, area, extent, and depth of degradation and the rate and direction of migration of contaminants. It must be prepared by and under seal of a licensed professional geologist.

For assessment plans involving wells, lysimeters, borings, pits, piezometers, springs, seeps, mine discharges, and other assessment structures or devices, the number, location, size, casing type, and depth must be included. If the assessment points are wells, they must be constructed in accordance with this subchapter.

All assessment plans must include:

- Sampling and analytical methods for parameters to be evaluated;
- Evaluation procedures, including the previously gathered groundwater or surface water quality and quantity information, which is to be included to determine the concentration, rate, and extent of groundwater or surface water degradation from the facility;
- A biological assessment of surface water, if required;
- An implementation schedule; and
- Identification of the abatement standard that will be met.

The assessment plan must be implemented upon approval by the PADEP within a reasonable time not to exceed six months. Should the PADEP determine the proposed plan is inadequate, it may modify the plan and approve it as modified.

If the groundwater or surface water assessment indicates that contamination is leaving the coal ash placement site, the person subject to the requirements of Title 25 of the Pa Code, Chapter 290 must notify, in writing, each water supply owner within one-half mile down gradient of the coal ash placement area that an assessment has been initiated.

Within 45 days after the completion of the assessment plan, the person subject to the requirements of Title 25 of the Pa Code, Chapter 290 must submit a report containing the new data collected, analysis of the data, and recommendations on the necessity for abatement.

If the PADEP determines after review of the assessment report that implementation of an abatement plan is not required—pursuant to this subchapter—a revised water quality monitoring plan must be submitted for approval to the PADEP. This revised water quality plan must outline any necessary changes and include an application for permit modification if applicable. The modifications to the plan must be implemented within 30 days of approval.

Nothing in this section prevents the concurrent abatement or water supply replacement with or prior to implementation of the assessment.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts. The Federal regulations at 30 CFR 816.41 requires groundwater and surface water monitoring, and that the operator must promptly notify the regulatory authority when sampling indicates non-compliance and take actions provided in 30 CFR 773.17(e), which requires the permittee minimize any adverse impacts, and 30 CFR 780.21(h), which requires the permittee to take remedial measures. In response to our inquiry about how assessment plans and abatement plans will be incorporated into the coal mining permits and how they will be monitored for compliance, Pennsylvania, in its May 30, 2014, response stated that ''[p]ermit amendments, permit special conditions or consent orders would be incorporated into the permit should an assessment/abatement plan be required.'' We also

stated that operators should immediately notify the PADEP of contamination leaving the coal ash placement site. Pennsylvania, in its May 30, 2014, response stated that the requirements of Chapter 290 of the Pennsylvania Code are in addition to the requirements of the Clean Streams Law and its implementing regulations, the Surface Mining Conservation and Reclamation Act, the Coal Refuse Disposal Control Act, and the regulatory provisions of Chapters 86 through 90 of the Title 25 of the Pa. Code. In addition to those statutes and regulations, Pennsylvania clearly states at 290.304(g) that this provision does not prevent the PADEP from requiring abatement or water supply replacement prior to or concurrently with the assessment. Accordingly, we have determined that these provisions are consistent with 30 CFR 816.41. Therefore, we approve 25 Pa. Code 290.304.

290.305 Abatement Plan

Pennsylvania added this regulation requiring the submission of an abatement plan to the PADEP when any of the following occur:

- The aforementioned assessment plan demonstrates the presence of groundwater or surface water degradation and analysis indicates an abatement standard will not be met at the compliance points;
- Departmental monitoring indicates the exceedance of an abatement standard even in a situation where an assessment plan has not been completed.

The following are exceptions to this standard and an abatement plan will not be required to be implemented:

- Within ten days after receipt of the results re-sampling of the affected monitoring points indicates exceedance of an abatement standard has not occurred and the PADEP concurs.

After a biological assessment of surface water indicates a detrimental effect to biota, abatement plans must be prepared and sealed by a professional geologist licensed to practice in Pennsylvania. The plan must include specific abatement of groundwater or surface water degradation, techniques to prevent further degradation and a schedule for implementation.

If abatement procedures are required, compliance must be demonstrated with at least one of the following standards at the identified compliance points:

- In situations where Statewide health standards are applicable, compliance with the Statewide health standard is required for that constituent at and beyond 500 feet of the perimeter of coal ash placement area or at and beyond the property boundary, whichever is closer;
- For all constituents, compliance with the background standard for constituents at and beyond 500 feet of the perimeter of the coal ash placement area or at and beyond the property boundary, whichever is closer. Load-based standards at groundwater discharge points are acceptable under certain circumstances where approval was otherwise granted by the PADEP;
- For constituents for which no primary maximum contaminant levels exist, the risk-based standard applies at and beyond 500 feet of the perimeter of the placement area or the property boundary, whichever is closer, if the following conditions are met:
  - The risk assessment used to establish the standard assumes human receptors are present at the property boundary;
  - The level is derived in a manner consistent with the PADEP's Land Recycling Program Technical Guidance Manual or other standard procedures used in health risk assessments;
  - The level is based on scientifically valid studies conducted in accordance with good laboratory practice standards or other scientifically valid studies approved by the PADEP; and
  - If the constituent is a carcinogen, the level represents a concentration associated with an excess lifetime cancer risk level of 1×10 to the negative fifth power at the property boundary.

When measuring compliance with secondary contaminants with Statewide health standards or those with no primary maximum contaminant level, the PADEP may approve a compliance point beyond 500 feet on land owned by the owner of the coal ash placement area.

The abatement plan must be completed and submitted to the PADEP for approval within 90 days, unless the deadline is modified in writing.

In the event the plan is deemed inadequate it may be modified and approved, or the submission of a sufficient modification may be required by the PADEP.

The abatement plan must be implemented within 60 days of approval.

Should the PADEP determine that the plan is incapable of achieving the groundwater or surface water protection contemplated in the approval, the PADEP may issue an order outlining one or more of the following: Requiring a proposed modification to the abatement plan, requiring implementation of an abatement plan modified by the PADEP, or another order the PADEP deems effective for enforcement.

OSMRE Finding: We have determined that the provisions in this section do not have direct SMCRA counterparts. The Federal regulations at 30 CFR 773.17(e) require the permittee to minimize any adverse impacts and 30 CFR 780.21(h) requires the permittee to take remedial measures. The requirement to prepare and execute an abatement plan will mitigate adverse conditions that may arise. Accordingly, we have determined that these provisions are consistent with the Federal requirements at 30 CFR 773.17(e) and 780.21(h). Therefore, we approve 25 Pa. Code 290.305.

290.306 Recordkeeping

Pennsylvania added this regulation that provides that records, analyses, and evaluations of monitoring data and groundwater elevations must be maintained for a minimum of three years after water quality monitoring ceases. This documentation must be made available to the PADEP upon request.

OSMRE Finding: The Federal regulation at 30 CFR 840.14 requires that records provided to the State must be available to the public for at least five years after expiration of the period during which the operation is active or covered by a reclamation bond. In 25 Pa. Code 290.301, Pennsylvania provides that quarterly water quality monitoring will continue and be submitted to the PADEP for a minimum of five years after final placement or storage of coal ash and annually thereafter from the end of year five through 10 years after final placement or storage, unless a longer period is required by the PADEP. Also, Pennsylvania's regulations require retention of water monitoring data for a minimum of three years after monitoring ceases, coupled with the provision that quarterly monitoring will continue for five years after final placement or storage of coal ash and annually for ten years after placement. Pennsylvania, in its May 30, 2014, response to us, stated this it ''holds the monitoring records from the operators indefinitely'' and it holds ''records for greater than 5 years.'' Accordingly, we have determined that the provisions in this section do not have direct SMCRA counterparts but are consistent with 30 CFR 840.14. Therefore, we approve 25 Pa. Code 290.306.

290.307 Interim Water Quality Monitoring Requirements

Pennsylvania added this section, which is applicable to coal mine sites where coal ash has been stored or placed for beneficial use prior to

December 11, 2010, and will continue after that date.

Sites not previously subject to water quality monitoring requirements must submit a water quality monitoring plan whereby the location and design of down-gradient and up-gradient monitoring points are identified, and samples are taken quarterly. This plan must be implemented within one year of the PADEP's approval of the plan.

Sites previously subject to water quality monitoring must ensure new monitoring points and replacement wells constructed after December 11, 2010, comply with the provisions of this subchapter including number, location, and depth of monitoring wells and ensure the wells are properly cased as set forth in this subchapter.

All water quality monitoring after March 11, 2011, must include analysis of pH, temperature, specific conductance, alkalinity, acidity, sulfates, chlorides, fluoride, nitrate, nitrite, ammonia, and total suspended solids as well as analysis of a variety of heavy metals, static water elevation for monitoring wells, and measured flow of springs, seeps, and mine discharges.

OSMRE Finding: These water quality provisions, which apply to coal ash disposal sites in existence prior to December 11, 2010, and continue to be used for beneficial use after December 11, 2010, cross-reference water quality provisions at section 290.301(b)(1) (b)(3), (e) through (g), as well as sections 290.302(b)–(f) and 290.303 of the Pennsylvania Code. As we stated above, we are approving in this rulemaking those provisions that apply to newly permitted sites. Through these provisions, Pennsylvania is ensuring that existing disposal sites are monitored in the same way as newly permitted sites. As we noted above, these monitoring provisions are consistent with the hydrologic information requirements at 30 CFR 780.21. Therefore, we approve 25 Pa. Code 290.307.

IV. Summary and Disposition of Comments

We asked for public comments and requests for public hearings or meetings regarding the amendment. We received comments directly from five individuals and the following entities: The Anthracite Region Independent Power Producers Association (ARIPPA); CREDO Action (CREDO) (along with 3,424 individual comments); the Environmental Integrity Project (EIP), including Citizens Coal Council (CCC), Mountain Watershed Association, Earthjustice, and the Center for Coalfield Justice; the Electric Power Generation Association (EPGA); and the National Mining Association (NMA).

We also received oral testimony from several individuals at the two public hearings, some in their individual capacity and some in their representative capacity. At the public hearing in Pottsville, Pennsylvania, we received testimony from ten individuals. At the public hearing in Pittsburgh, Pennsylvania, we received testimony from twelve individuals.

NMA commented that certain citizens' groups wanted us to delay approval of any State program amendments proposing the placement of coal ash on surface coal mining operations until after we and the US EPA promulgated Federal regulations on the placement of coal ash. NMA opposed this position and stated that there is no good reason to delay approval of State program amendments, that SMCRA creates a system of ''primacy'' for States, and our task is to evaluate proposed State program amendments on whether or not the amendment meets the minimum requirements of SMCRA. The NMA stated it was not taking a position on the substance of the Pennsylvania amendment, but wanted the State's primacy respected, and its amendments appropriately considered.

OSMRE Response: We agree with the NMA that we should not delay our decision making on program amendments proposing the placement of coal ash on surface coal mining operations.

ARIPPA and EPGA commented that they support the Pennsylvania rules and that we should approve the program amendment.

OSMRE Response: We are approving the program amendment.

Individual 1 requested that we establish Federal standards for the disposal of coal ash and to follow the 2006 National Academy of Sciences recommendations. Additionally, the commenter expressed environmental concerns regarding a specific mine site in Pennsylvania and that Pennsylvania needs Federal oversight when it comes to regulating coal ash. The commenter stated that she was greatly relieved when we intervened at the mine site.

OSMRE Response: The commenter is correct that SMCRA provides for enforcement oversight by OSMRE of a State program. Section 503(a) of SMCRA (30 U.S.C. 1253(a)) permits a State to assume primacy for the regulation of surface coal mining and reclamation operations within the State upon approval by us of the State's program; however, this primacy is subject to OSMRE's oversight and enforcement authority, which is primarily set forth in section 521 of SMCRA (30 U.S.C. 1271). SMCRA does not require that there must be Federal regulations in place before a State program amendment can be submitted to us for review and decision making. Section 505(b) of SMCRA (30 U.S.C. 1255(b)) and 30 CFR 730.11(a) provide that ''[a]ny provision of any State law or regulation . . . which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this Act [SMCRA] shall not be construed to be inconsistent with this Act.'' As stated above in this rulemaking, except for two performance standard references, there is no direct SMCRA counterpart to Pennsylvania's regulations on the placement of coal ash on surface coal mining operations. Furthermore, pursuant to 30 CFR 730.11(a), the Pennsylvania regulations are not inconsistent with nor do they preclude the implementation of SMCRA and its regulations.

Individual 2 commented regarding a specific fly ash impoundment located in Beaver County, Pennsylvania, that the impoundment's fly ash blows in the wind and that it has no liner. Also, she is concerned about the health of individuals.

OSMRE Response: We believe that the Pennsylvania regulations protect individuals living near surface coal mining operations using coal ash. The regulations include a chemical and physical certification program to ensure compliance with beneficial use requirements, standards for the location and type of coal ash that is permitted, and water quality monitoring to ensure that any unforeseen impacts on water quality are addressed promptly and thoroughly. Furthermore, the ash impoundment referenced in this comment is not located on a coal mining site and, therefore, is outside the scope of this amendment review.

CREDO provided 3,424 individual comments. All of the comments wanted strong Federal rules on the disposal and management of coal ash and did not want us to approve the Pennsylvania regulations because of concerns that the amendment would put drinking water supplies at risk. Some individuals had additional comments such as: A request to not allow abandoned coal mines to hold coal ash because these abandoned mines were not designed to hold coal ash; concerns related to hydrofracking activities; a request to delay our approval of the Pennsylvania amendments until after US EPA regulations go into effect; concerns with the fact that some coal ash contains heavy metals—including arsenic,

mercury, and selenium—that cause serious health problems; a suggestion to contain coal ash in specially designed pits to keep it out of groundwater; a request to test each site to prevent leakage into water sources; a suggestion that coal ash should be encased in sealed abandoned mines that will hold the ash; a proposal that coal ash should be contained and methods of detecting leakage employed at each site; general statements that Pennsylvania should move away from fossil fuels to reduce its carbon emissions; a request that coal ash be vitrified instead of placed at mining sites; and a statement that the proposed amendments interferes with the Pennsylvania constitution, which gives people the right to clean air and water.

OSMRE Response: The Pennsylvania regulations for abandoned coal mines were not submitted as a program amendment, so they are outside the scope of this amendment and require no further response. Hydrofracking activities are also outside the scope of this amendment and requires no further response. We disagree that we should wait until after the US EPA regulations are in place because SMCRA does not require that there must be Federal regulations in place before a State program amendment can be submitted to us for review and decision making. In fact, section 505(b) of SMCRA specifically provides for those situations where there are no SMCRA counterparts. On April 17, 2015, US EPA published a final rule regarding the disposal of CCR from electric utilities. (80 FR 21302CCR) In US EPA's preamble to the April 17, 2015, final rule, US EPA stated that its ''rule does not apply to CCR placed in active or abandoned underground or surface coal mines.'' (80 FR 21341) Pennsylvania's program amendments require a chemical analysis for heavy metals such as arsenic, mercury, and selenium and has established maximum acceptable leachate levels for metals. We disagree that coal ash must be placed into specially designed pits to prevent groundwater infiltration. We have determined that incorporation into the soil or placement in the coal pit, in combination with the coal ash certification described in section 290.201 of the Pennsylvania Code, the restrictions on placement described in sections 290.103 and 290.104 of the Pennsylvania Code, and the water monitoring protocols described in sections 290.301 through 290.305 of the Pennsylvania Code are sufficient to prevent groundwater infiltration. We agree that sites should be tested to prevent contamination of water sources, and we have determined that the water monitoring protocols described in sections 290.301 through 290.305 of the Pennsylvania Code are sufficient. Additionally, section 290.101(e) of the Pennsylvania Code prohibits, except in limited circumstances, the placement of coal ash within eight feet of a water table and prohibits the use of coal ash that will cause water pollution. Encasement of coal ash in abandoned mines is outside the scope of this amendment and requires no further response. The carbon emissions produced by coal combustion are outside the scope of this amendment and requires no further response. Vitrification of coal ash as a possible means for disposing of coal ash is outside the scope of this amendment and requires no further response. Finally, we disagree that the amendment would interfere with the Pennsylvania constitution's requirements for clean air and water. Pennsylvania has added requirements and restrictions described above that protect air and water quality.

Individual 3 commented on two specific sites that the proposed rule does not adequately protect residents from fugitive dust emissions emanating from coal ash. She also commented that we should establish SMCRA regulations for coal ash use instead of allowing Pennsylvania to establish a State rule.

OSMRE Response: We disagree that the proposed rule does not adequately address fugitive dust. The proposed rule specifically requires that operators must control fugitive dust to the highest possible extent, as described at sections 290.103(c)(8) and 290.104(f)(8) of the Pennsylvania Code. Further, the specific ash impoundments mentioned by the commenter are not located on coal mining sites and are therefore outside of the scope of this amendment. In addition, please see our above responses to comments about promulgating Federal rules implementing SMCRA before a State program amendment can be submitted to us for decision making.

EIP commented that Federal standards for coal combustion waste should be established before we approve a State program amendment; thus, they noted that we must let US EPA rulemaking conclude before approving this amendment. EIP also opined that SMCRA requires that the Secretary not approve a State program until US EPA has disclosed its views on the State program. Other EIP comments include suggestions that: Water monitoring should occur for 30 years beyond the closure of a coal mine site that accepts coal ash; water monitoring should occur when there are 10,000 tons of coal ash placed on a mine site instead of 100,000 tons as currently proposed by Pennsylvania; coal mine sites at the uppermost point of a water gradient should still use an up-gradient monitoring well during post-closure monitoring; property deeds should note that coal ash was used as structural fill; the public should be notified of all projects that propose the use of coal ash for structural fill or placed on abandoned mine sites; the State should require a specific standard for the control of fugitive dust such as the one US EPA proposed; there should be public notice and comment when coal ash is used as a soil amendment and should also require a monitoring plan; there should be stricter requirements for the ''other beneficial uses'' described in section 290.106 of the Pennsylvania Code; and there should be upfront bonding requirements that are sufficient to cover long-term monitoring and potential remediation projects.

OSMRE Response: Please see our above responses to the comments requesting that Federal regulations by both us and US EPA be finalized before we issue a decision on a State program amendment. As discussed below, we did solicit US EPA's comments and concurrence that are discussed in this final rule. We disagree that water monitoring should occur for 30 years beyond closure of a coal mine site that uses coal ash. The monitoring requirements in the proposed rule do not replace the monitoring requirements provided for in Pennsylvania's existing approved program and described in our regulations, and the coal ash will be certified as safe for use in advance, as described at 25 Pa. Code 290.201. Further, any indications of water quality degradation in the initial ten-year monitoring period will necessitate abatement measures as required by section 290.305 of the Pennsylvania Code.

We disagree that water monitoring should be required for applications of more than 10,000 total tons of coal ash on the coal mining activity site. The certification program incorporated into Pennsylvania's proposed rule prohibits the usage of ash that includes certain amounts of contaminants. Using ash certified in this manner eliminates the need for monitoring under the proposed thresholds of 10,000 tons of coal ash per acre or 100,000 total tons at the site, as described at 25 Pa. Code 290.101(d). Additionally, Pennsylvania may require water quality monitoring for lesser quantities of coal ash if the site conditions warrant.

We disagree that sites occupying the uppermost portion of a water gradient should require at least one upgradient monitoring well. Such sites have no upgradient monitoring points available, and the amendment requires the use of a representative downgradient monitoring well that will detect any adverse effects, as described at 25 Pa. Code 290.301.

EIP's comments regarding deed notations for structural fills and that the public should be notified of all projects that propose use of coal ash for structural fill or placed on abandoned mine sites are outside the scope of this amendment. Because Pennsylvania has not submitted its regulations at sections 290.102 (structural fill) or 290.105 (abandoned mine sites) of the Pennsylvania Code to us for review, these comments address regulations that are outside the scope of our decision making, and they require no further response at this time.

We disagree that the proposed rules for fugitive dust are too vague, and that a specific standard should be added to the proposed rule. Pennsylvania's proposed regulations at sections 290.103(c)(8) and 290.104(f)(8) of the Pennsylvania Code require that offsite dispersion of dust from coal ash must be minimized. Pennsylvania, in its May 30, 2014, letter clarified that coal ash is ''subject to the existing regulations relating to air resources protection. Sections 87.137, 88.114, 88.205, 88.317, 89.64 and 90.149 provide for the required protections.'' The Federal regulations at 30 CFR 816.95 require that exposed surface areas must be protected and stabilized to effectively control air pollution attendant to erosion. Thus, Pennsylvania's proposed regulations are not inconsistent with the SMCRA regulation.

The proposed Pennsylvania regulation at section 290.104(d) of the Pennsylvania Code requires that a coal operator who uses coal ash on a coal mining site must provide public notice pursuant to sections 86.31 and 86.54 and that coal ash used as a soil substitute or soil additive will be part of the approved reclamation plan. Pennsylvania has proposed a water monitoring plan that is not inconsistent with the Federal regulations implementing SMCRA. There is no SMCRA regulation requiring monitoring of soil placement or soil additive.

EIP's comment that there should be stricter requirements for ''other beneficial uses'' in section 290.106 is outside the scope of our review because Pennsylvania has not submitted its regulations at 290.106 (other beneficial uses) to us for approval. Thus, this comment requires no further response.

We disagree that additional financial assurance should be required for projects using coal ash. Pennsylvania clarified in its May 30, 2014, letter to us that the beneficial uses of coal ash at coal mining sites are subjected to bonding regulations described at 25 Pa. Code Chapter 86, Subchapter F, which are part of the approved Pennsylvania program. The only SMCRA regulations requiring financial assurance are the bonding requirements of 30 CFR part 800. Because the amendment includes several measures, such as the coal ash certification described at 25 Pa. Code 290.201, the restrictions on placement near the water table and surface water throughout the amendment, and the water quality monitoring protocols described at sections 290.301 through 290.305, we have determined those measures protect water quality and allow revegetation, and the existing Pennsylvania bonding regulations are sufficient to ensure funding for reclamation if bond forfeiture occurs.

Individual 4 commented that the proposed rule at section 290.303 of the Pennsylvania Code does not require background water quality sampling down-gradient of the coal mining site; that the monitoring does not include measurements of radioactivity; that comparing water quality data from residential wells and monitoring wells is inaccurate because the monitoring wells filter out the contaminants while the residential well does not filter the contaminants before the residents drink the water; that monitoring does not include secondary contaminants, including iron and manganese; that use of coal ash in reclamation produces off-gassing of carbon dioxide; and that the waiver for water quality monitoring for less than 100,000 tons of coal ash is too broad.

OSMRE Response: We disagree that the proposed rule does not require background water quality sampling down-gradient of the use site. Section 290.302 of the Pennsylvania Code explicitly requires three down-gradient groundwater monitoring points. Additionally, Section 290.301 of the Pennsylvania Code explicitly requires that each water quality monitoring plan will include a minimum of 12 background samples from each monitoring point, taken at monthly intervals before the placement of coal ash.

SMCRA and its implementing regulations do not require monitoring for radioactivity. State regulatory programs must be as effective as the SMCRA implementing regulations but do not have to exceed them. See also, 30 CFR 730.11.

We disagree that the proposed rule intends to compare residential wells with monitoring wells. The background water quality sampling required in section 290.301 of the Pennsylvania Code calls for a minimum of 12 background samples that conform to monitoring protocols written by the US EPA. Further, the use of filters in the monitoring wells does not reduce the accuracy of the readings, notwithstanding the lack of filters in many residential wells. The readings from the monitoring wells are intended to indicate changes in chemical constituent concentrations over time, not to compare directly with residential water. Readings from monitoring wells are also compared to national and State water quality standards. Those water quality standards are meant to be compared to samples acquired through US EPA monitoring standards, including properly filtered monitoring wells.

SMCRA and its implementing regulations do not require monitoring for secondary contaminants. As noted previously, state regulatory programs must be as effective as the SMCRA implementing regulations but do not have to exceed them.

SMCRA and its implementing regulations do not address off-gassing, so we cannot require Pennsylvania to require regulation of off-gassing from reuse of coal ash.

We disagree that the proposed amendment must include water quality monitoring for projects using less than 100,000 total tons of coal ash, or 10,000 tons per acre. The certification program described at section 290.201 prohibits the usage of ash that contains certain amounts of contaminants. Using ash certified in this manner is not inconsistent with the SMCRA regulations and Pennsylvania requirements at sites using less than 100,000 total tons of coal ash, or less than 10,000 tons per acre, as described at section 290.101(d). Additionally, the Pennsylvania Code at section 290.101(d), provides that the PADEP may require water quality monitoring for lesser tonnage if warranted by site conditions.

Individual 5 commented that the PADEP in general does not adequately measure background levels of contamination before allowing waste deposition; that a Centers for Disease Control and Prevention (CDC) study of Polycythemia Vera cancer clusters in northeastern Pennsylvania indicated coal ash disposal as a correlated factor; and that the CDC study methodology

underestimated the potential correlation by not appropriately calculating fugitive emissions and by not including a specific ash disposal site. Individual 5 cited section 2.3 of the Betty Kester Alliance for a Healthy Future's letter to the Agency for Toxic Substances and Disease Registry for the fugitive emissions claim, and section 4.2 of that letter for the ash disposal site claim.

OSMRE Response: The Pennsylvania approved program contains monitoring protocols that are consistent with the Federal standards at 30 CFR 780.21.

The CDC study indicates that although coal ash disposal does occur in the study area, it is not indicated as a causal agent. See CDC's fact sheets entitled, *Exposure assessment of groundwater for the polycythemia vera cluster in northeast Pennsylvania,* page 2 *https://www.atsdr.cdc.gov/sites/polycythemia_vera/docs/fact_sheet_exposure_assessment_of_groundwater_for_the_polycythemia_vera_cluster_in_northeast_pennsylvania.pdf*), and *Environmental exposure assessment of air pollutants for the polycythemia vera cluster in northeastern Pennsylvania,* page 3 (*https://www.atsdr.cdc.gov/sites/polycythemia_vera/docs/fact_sheet_environmental_exposure_assessment_of_air_pollutants_for_the_polycythemia_vera_cluster_in_northeast_pennsylvania.pdf*).

Public Hearings

Pottsville

Individual 4 commented that the use of coal ash in mine reclamation cannot improve water quality; that coal ash is an industrial waste; that the proposed regulations do not include a requirement for background testing on residential wells; that the monitoring wells will not protect drinking water supplies because they use filter packs that residential wells lack; that the monitoring protocols and specifications are ineffective; that the proposed rule at section 290.303 of the Pennsylvania Code does not require background water quality sampling down-gradient of the coal mining site; that the monitoring does not include measurements of radioactivity; that monitoring does not include secondary contaminants, including iron and manganese; and that use of coal combustion ash in reclamation produces off-gassing of carbon dioxide.

OSMRE Response: Regarding the comment that coal ash is an industrial waste, we disagree that coal ash meets the common understanding of the term ''industrial waste'' when used as structural fill or as an alkaline agent at surface mining sites. Industrial waste is commonly understood to include substances with no potential for reuse and that are landfilled or otherwise contained. The use of coal combustion byproducts described in the proposed regulations would preclude the byproduct from being considered waste.

The rest of the individual's testimony was the same as his written comments. For our response to the rest of the testimony, please see our response above to the Individual 4 written comments.

Individual 6 commented that he was concerned about the impacts of the amendment on local well drinking water; that if the use is beneficial, no permit is required; there was inadequate public notice on a particular permit because the coal mine site borders two counties and the permit was only noticed in one paper; PADEP does not sufficiently deliberate before approving coal ash impoundments; and that Federal oversight of the State program is necessary.

OSMRE Response: We have determined that the amendment includes coal ash certification at 25 Pa. Code 290.201 and water quality monitoring at sections 290.301 through 290.305, and that these provisions protect water quality and are consistent with the Federal regulations at 30 CFR 780.21, 816.41, and 816.42. Please see our *Findings* for more explanation. Individual 6 is correct that a solid waste disposal permit is not required because it is not considered a solid waste if there is a beneficial use of coal ash. The particular permit referred to by the commenter has a Chapter 290 beneficial use permit. Regarding the public advertisement of that operation's proposed permit, section 290.104(d) requires public notice pursuant to sections 86.31 or 86.54 of the Pennsylvania Code. Those two sections, sections 86.31 and 86.54, are already part of Pennsylvania's approved program and not part of the program amendment that we are considering; thus, no further response is required. Coal ash impoundments are no longer authorized under Pennsylvania's coal mining program, as these are not approved beneficial uses. We agree that there is Federal oversight of State programs. We already inspect State regulatory programs and enforce SMCRA and its implementing regulations, when necessary.

Individual 7 read the commentary of a soil scientist, who wrote that section 290.201 of the Pennsylvania Code erroneously labels several contaminants, including arsenic, selenium, and manganese, as metals and cations, and as a result allows too high a concentration in the certified coal ash. Individual 7 also stated that Pennsylvania accepts industry science on coal ash without verification, and that Federal oversight on the State program is needed.

OSMRE Response: The certification standards at section 290.201 of the Pennsylvania Code do not classify arsenic and manganese as metals and provide a separate maximum leachate amount for selenium. Our regulations do not have a maximum acceptable leachate level. Also, Pennsylvania, in its May 30, 2014, letter to us, clarified that the basis of its list is Table 3.2 in Managing Coal Combustion Residues in Mines produced by the National Research Council (NRC) in 2006. Pennsylvania went on to say that it added parameters to the NRC list such as nitrate, nitrite, ammonia, the major cations and anions, and fluoride. Fluoride was added in response to a comment during Pennsylvania's own comment period. Please see our above response to the comment on Federal oversight of the Pennsylvania program.

A representative of the Electropower Generation Association commented that the use of coal ash reduces landfill dumping on undisturbed sites, that coal ash can mitigate acid mine drainage, and that because of the large volume of coal ash produced in the State they worked with the State environmental regulators to come up with a beneficial program.

OSMRE Response: We acknowledge the group's support of the proposed amendment and no further response is required.

Individual 8 commented that a coal ash impoundment called the Hazleton Project presents a danger to several streams in the Susquehanna River watershed; that dust emissions from fly ash impoundments have caused air quality problems; that the placement of coal ash puts well drinking water at risk; and that coal ash needs to be regulated at the Federal level.

OSMRE Response: Please see our above responses to comments regarding coal ash impoundments; the safeguards in the amendment that protect water quality, air quality and drinking water supplies; and why the Pennsylvania program amendment can be approved without a SMCRA counterpart specifically relating to coal ash.

A representative of the CCC commented that some elements of the amendment were important improvements, such as the prohibition on placement of coal ash within eight feet of water tables; monitoring and testing for more trace metals and other parameters in the leachate; collection of

a minimum of 12 months baseline of water monitoring data prior to the placement of coal ash; quarterly monitoring after coal ash placement; and ten years of monitoring after the cessation of ash placement. The CCC also commented that significant improvements are still needed, including requiring use of liners in landfills and surface impoundments for coal ash placement. The CCC also commented that Federal oversight of coal ash placement is needed, and that SMCRA framers did not envision coal mining sites as major ash disposal sites.

OSMRE Response: Landfills and surface impoundments are outside of the scope of this amendment, so no further response is required. Please see our above responses to comments regarding Federal oversight of the Pennsylvania program and provisions that are not included within SMCRA or its implementing regulations.

Individual 9 commented that the high incidence of polycythemia vera in the eastern Pennsylvania region may be a result of unlined coal ash impoundments, fugitive dust emissions, and the many Superfund sites and illegal dumping practices prevalent in the area.

OSMRE Response: Please see our above responses to comments on the incidence of polycythemia vera in the eastern Pennsylvania region and on fugitive dust emissions. The comments regarding impoundments, Superfund sites, and illegal dumping are outside the scope of this amendment and require no additional response.

Individual 10 commented that Federal rules on coal ash placement are needed because individual States are too receptive to industry influence to ensure adequate environmental protection.

OSMRE Response: Please see our response above to comments concerning approval of Pennsylvania's proposed coal ash beneficial use amendment before the promulgation of SMCRA regulations for coal ash.

Pittsburgh

A representative of the Center for Coalfield Justice read testimony on behalf of Individual 10 that nationwide Federal regulations should be used to regulate use of coal ash so that the ash is not shipped to the State with the weakest regulations; that several components of the West Virginia coal ash use program are deficient; and that coal ash studies have shown poor potential for neutralization of acid mine drainage.

OSMRE Response: Please see our response to comments above regarding the absence of SMCRA regulations for coal ash. The West Virginia coal ash use program is outside the scope of this amendment and requires no additional response. We disagree that the amendment will not improve acid mine drainage. The coal ash certification described at 25 Pa. Code 290.201 includes a Neutralization Potential Test, and the rules concerning use of coal ash as a soil substitute at section 290.103 require a minimum of 100 parts per thousand of calcium carbonate equivalency.

Individual 11 commented that the PADEP dismisses the health concerns of citizens regarding impoundments of coal ash, and that Federal regulations are needed to ensure proper protection of public health.

OSMRE Response: Please see our responses to comments above regarding coal ash impoundments and regarding the approval of the amendment in the absence of SMCRA regulations for coal ash.

Individual 12, the legal director at the Center for Coalfield Justice, commented that Federal regulations on use of coal ash are necessary for adequate environmental protection; that the monitoring threshold in section 290.101(d) of the amendment is too high; and that the amendment does not afford sufficient public participation from communities near proposed coal ash reuse sites.

OSMRE Response: Please see our responses to the comments above concerning the approval of the amendment in the absence of SMCRA coal ash regulations and the water quality monitoring thresholds in section 290.101 of the amendment. We disagree that public notice is not afforded in coal ash beneficial use projects. Section 290.104 of the amendment requires that public notice must be given for any coal ash utilization at a coal mining site. Furthermore, all documents related to coal ash use will be retained by the PADEP and available to interested parties upon request.

A representative of Earthjustice commented, on behalf of Individual 13, that fugitive dust from transportation of coal ash is causing serious health problems; that Federal regulations are required to ensure adequate protection of public health; and that the PADEP does not adequately enforce its existing regulations.

OSMRE Response: Please see our responses to comments above regarding fugitive dust and approval of the amendment in the absence of Federal regulations. The PADEP's enforcement of its regulations is outside the scope of this notice, which concerns the amendment and its adherence to SMCRA, and no further response is required, except to note that, under 30 CFR 733.12, we annually evaluate the administration of the State program to ensure compliance with SMCRA and its regulations.

Individual 14 commented that Federal regulations should be published before the proposed Pennsylvania amendment is approved; that the US EPA's proposed rules on coal ash disposal should be the source for developing other regulations; that we must seek US EPA comments and provide those comments to the public; that we should restrict material damage to the hydrologic balance outside of the permit area; that the amendment is too vague in its regulation of fugitive dust emissions, and that it should use a specific limit of 35 micrograms instead of requiring 'minimization' of fugitive dust emissions; and that the amendment does not require adequate groundwater monitoring, because sites without an upgradient monitoring point available should use a representative sampling site instead.

OSMRE Response: Please see our responses to comments above concerning approval of the amendment in the absence of Federal regulations and the US EPA's regulations on coal ash use. Moreover, we have received concurrence from the US EPA concerning this amendment; please see below the *Federal Agency Comments* subsection. The amendment at section 290.104 requires compliance with Pennsylvania's approved program. Pennsylvania's approved program restricts material damage to the hydrologic balance outside of the permit area (see 25 Pa. Code 87.101(a)). The water quality monitoring protocols of this amendment, at sections 290.301 through 290.305, require operators to monitor water quality downgradient from the placement site and abate any increases in contaminants. The requirement to minimize emissions, in combination with the time limits on coal ash storage before application, as described in sections 290.103 and 290.104, are consistent with the SMCRA implementing regulations. The Federal regulation at 816.95(a) requires all exposed surface areas to be protected and stabilized to control air pollution. The Federal regulations implementing SMCRA do not have specific dust limitations, so there is no requirement under the SMCRA regulations for a 35-microgram limit, instead of the requirement to minimize fugitive dust emissions described in sections 290.103 and 290.104 of this amendment. We disagree that that the amendment does not require a representative sample of

baseline groundwater quality for sites at the most upgradient location. Section 290.302(a)(1) requires that for sites occupying the most upgradient position, representative samples must be taken from downgradient locations sufficient to determine the extent of any adverse effects.

A representative of the Pennsylvania Coal Alliance (PCA) commented that PCA supports Pennsylvania's amendment, that it recycles a product that protects public health and the environment; and that the process of writing the regulations has been open and transparent.

OSMRE Response: We acknowledge this group's support of the proposed amendment and no further response is required.

Individual 15 commented that Federal rules and Federal oversight are needed because Pennsylvania cannot adequately regulate the storage and use of coal ash, using his experience as a former mayor of a town near an ash impoundment as evidence.

OSMRE Response: Please see our responses to comments above regarding approval of the amendment in the absence of Federal regulations and our oversight of the Pennsylvania program.

A representative of the Center for Coalfield Justice commented, on behalf of Individual 16, that fugitive dust from coal ash disposal sites has caused serious health issues; that the PADEP does not enforce its existing regulations; and that Federal rules should be in place before the amendment is passed.

OSMRE Response: Please see our responses to comments above regarding fugitive dust emissions and coal ash impoundments, Pennsylvania's enforcement of its existing regulations, and approval of the amendment in the absence of Federal regulations.

A representative of the Mountain Watershed Association commented, on behalf of Individual 17, that fugitive dust from coal ash disposal sites has caused serious health issues; that the PADEP does not enforce its existing regulations, especially concerning the transport of coal ash on windy days; and that we should pass Federal rules on use of coal ash before allowing State rules to come into effect.

OSMRE Response: Please see our responses to comments above regarding fugitive dust emissions and coal ash impoundments, Pennsylvania's enforcement of its existing regulations, and approval of the amendment in the absence of Federal regulations.

A representative of the Mountain Watershed Association commented that the use of coal ash for treatment of acid mine drainage necessarily entails that no liners will be used, and that this creates an unacceptable environmental risk; and that Federal rules need to be in place before State programs are approved, that if there are not Federal standards then people in Pennsylvania will be affected by West Virginia because it will not have the same standards as Pennsylvania as States will ship coal ash to the location with the weakest regulations.

OSMRE Response: Please see our responses to the comments above regarding the use of liners in coal ash use and approval of the amendment in the absence of Federal regulations.

A representative of the Center for Coalfield Justice commented, on behalf of Individual 18, that coal ash impoundments have harmed water quality near LaBelle, Pennsylvania; that fugitive dust emissions from coal ash impoundments are causing public health problems; that coal ash impoundments are causing harm to local groundwater supplies; concerns about structural failures of impoundments like the Tennessee Valley Authority facility in Kingston, Tennessee; and that Federal rules are required because States cannot adequately protect the environment and public health.

OSMRE Response: Please see our responses to comments above regarding coal ash impoundments, fugitive dust emissions, and approval of the amendment in the absence of Federal regulations.

Individual 19 commented that Federal regulations on the use of coal ash are necessary in order for state regulatory programs to be effective; and that there is strong evidentiary basis to enact policy grounded in science for Federal rulemaking.

OSMRE Response: Please see our response to the comment above regarding approval of the amendment in the absence of SMCRA regulations for coal ash.

Federal Agency Comments

U.S. Environmental Protection Agency (US EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from the US EPA for those provisions of a program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). This amendment relates to air and water quality standards, so on June 7, 2012, we requested comments and concurrence from the US EPA (Administrative Record No. PA 894.04). OSMRE received a letter from the US EPA dated October 18, 2012 (Administrative Record No. PA 894.23), that granted concurrence and submitted the following comments.

1. The implementation of the amendment must comply with the Clean Water Act (CWA), Safe Drinking Water Act (SDWA), Clean Air Act (CAA), and the Solid Waste Disposal Act;

2. The lifetime cancer risk indicated at 290.305(c)(3)(iv) is at 1×10^{-5} while Pennsylvania's water quality standards at 25 Pa. Code 93.8 are at 1×10^{-6}.

3. The use of the term ''water supply'' should be clarified in section 290.102(g)(2).

4. Pennsylvania should clarify what are public and private water supplies in section 290.304, while previous sections of Chapter 290 do not make a distinction and uses the term ''water supply.''

5. Pennsylvania should consider restricting use of coal ash within 300 feet of occupied dwellings for structural fills allowed under section 290.102.

6. The coal ash certification and monitoring should include any constituent that has been identified as an issue or potential issue such as bromide.

7. US EPA would like clarification on whether the 100-foot buffer around sinkholes described in section 290.102(g)(4) was related to runoff controls for conduits to groundwater.

8. The assessment and abatement plans described in sections 290.304 and 290.305 should use the criteria from Pennsylvania's water quality standards at 25 Pa. Code Chapter 93.

9. If placement of coal ash in abandoned coal mines may constitute injection subject to the Underground Injection Control Federal requirements at 40 CFR part 144, then authorization from the US EPA would be required.

OSMRE Response: In our response, any reference to a Pennsylvania response refers to the May 30, 2014, letter from Pennsylvania to us.

With regard to other Federal environmental laws, Pennsylvania's response stated that ''there is nothing in Chapter 290 that supersedes the requirements of the CWA, CAA, SDWA, SMCRA or the National Pollution Discharge Elimination System permitting program under the CWA. Implementation of Chapter 290 is in the context of the existing statutory and regulatory framework.''

In that same response, Pennsylvania addressed the different cancer risk levels stating that ''the risk level used in section 290.305 is based upon the [regulations for Administration of Land

Recycling Program found at 25 Pa. Code 250]. The Medium Specific Concentrations (MSCs) relating to remediation of soil and groundwater under the Statewide health standard must be calculated with a lifetime cancer risk between 10^{-4} and 10^{-6} (pursuant to section [250.304 and 250.305]). The promulgated MSCs are calculated based on the median risk level of 10^{-5}. Under the [regulations for the Administration of] Land Recycling Act Program, any regulated discharge into surface water must comply with applicable laws and regulations relating to surface water discharges (pursuant to section [250.309]), so if there is a discharge to surface water the remediation must meet water quality standards.''

US EPA's two comments regarding section 290.102 and the term ''water supply'' and restricting coal ash use near dwellings will not be addressed because section 290.102 is not part of the program amendment and thus outside the scope of our review.

Regarding US EPA's comment on clarifying the difference between public and private water supplies, the Federal regulations implementing SMCRA do not define public or private water supplies, so Pennsylvania's terminology regarding water supplies is not inconsistent with the SMCRA regulations. Pennsylvania responded to US EPA's comment that ''water supply'' is defined in Chapters 87 and 88, that public water supplies are those systems providing water for human consumption to at least 15 service connections or serves an average of at least 25 individuals daily for at least 60 days per year. Pennsylvania also said that a private water supply is one that has less than 15 connections and is not regulated by either the PADEP or US EPA. Additionally, US EPA's comment that coal ash certification and monitoring should include any constituent that has been identified as an issue or potential issue such as bromide was addressed by Pennsylvania. Pennsylvania stated that ''[i]f other parameters would be identified as ''of concern,'' section 290.201(b)(10) provides for other physical and chemical testing if needed. The beneficial use of coal ash program operates under applicable mining regulations, which include language and flexibility for additional testing, such as at section 87.116 . . . and section 87.117. . . which state 'The Department may require the operator to . . . monitor additional parameters beyond the minimum specified in this section.' All mines must comply with section 86.37 including the provision that the applicant demonstrate 'that there is no presumptive evidence of potential pollution of the waters of the Commonwealth.'''

US EPA's comment on whether the 100-foot buffer around sinkholes described in section 290.102(g)(4) was related to runoff controls for conduits to groundwater. As noted above, section 290.102 is not part of the amendment and we are not addressing comments outside the scope of the amendment.

Regarding US EPA's comment that sections 290.304 and 290.305 should use the water quality criteria standards found at 25 Pa. Code Chapter 93, Pennsylvania responded that the ''Chapter 93 criteria are applicable to some aspects of an assessment plan, they are not the only standard to be used for comparison. Many remining sites where coal ash is beneficially used for reclamation are in watersheds that are impaired, so the criteria in Chapter 93 are applicable to surface waters. The assessment plan is likely to include an evaluation of ground water. Typically, the assessment plan will rely on background water quality data in order to evaluate compliance.''

Last, US EPA's comment on the placement of coal ash in abandoned mine lands that may be considered an injection will need to comply with US EPA injection regulations is outside the scope of this program amendment. The regulations for use at abandoned coal mine lands are not part of the program amendment and we are not responding to this comment.

Pennsylvania's response to the US EPA comments provides more information regarding its approved program. We have determined that Pennsylvania's proposed regulations are in accordance with SMCRA and not inconsistent with the Federal regulations implementing SMCRA. Based on our *Findings* and that the amendment received concurrence from the US EPA, we are approving the amendment.

V. OSMRE's Decision

Based on the above findings, we are approving Pennsylvania's amendment that was submitted March 13, 2012.

To implement this decision, we are amending the Federal regulations at 30 CFR part 938, which codify decisions concerning the Pennsylvania program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of state program amendments is exempt from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior (DOI) has reviewed this rule as required by Section 3 of Executive Order 12988. DOI has determined that this **Federal Register** notice meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, DOI limited its review under this Executive Order to the quality of this **Federal Register** notice and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the state regulatory program or to the program amendment that the Commonwealth of Pennsylvania drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications as defined under Section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to ''grant the States the maximum administrative discretion possible'' with respect to Federal statutes and regulations administered by the States. Pennsylvania, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the state level. This rule approves an amendment to the Pennsylvania program submitted and drafted by the State, and thus is consistent with the direction to provide maximum administrative direction to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under DOI's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under DOI's tribal consultation policy is not required. The basis for this determination is that our decision is on the Pennsylvania program that does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the DOI Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

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.*). The State submittal, which is the subject of this rule, is based upon Federal regulations that set performance standards for hydrologic-balance protection during surface coal mining and reclamation operations, for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, DOI relied upon the data and assumptions for the related Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based upon an analysis of Federal regulations that set performance standards for hydrologic-balance protection during surface coal mining and reclamation operations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,

Regional Director, North Atlantic-Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 938 is amended as set forth below:

PART 938—PENNSYLVANIA

■ 1. The authority citation for Part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. In § 938.15 amend the table by adding an entry for ''March 13, 2012'' in chronological order by ''Date of final publication'' to read as follows:

938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	*	* * * * *
March 13, 2012	4/12/2022	25 Pa. Code 287.1 (Residual Waste Management-General Provisions), 290.1, 290.101, 290.103, 290.104, 290.107, 290.201, 290.202, 290.203, 290.301, 290.302, 290.303, 290.304, 290.305, 290.306, 290.307 (Beneficial Use of Coal Ash).

[FR Doc. 2022–07660 Filed 4–11–22; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2021–0678; FRL–9299–02–R8]

Air Plan Approval; Montana; 2015 Ozone NAAQS Interstate Transport Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision submitted by the State of Montana as meeting the Clean Air Act (CAA) requirement that each State Implementation Plan (SIP) contain adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone National Ambient Air Quality Standards (NAAQS) in any other state. EPA is taking this action pursuant to the CAA.

DATES: This rule is effective on May 12, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2021–0678. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* 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 *http://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, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6728, email address: *schmitt.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means EPA.

I. Background

On February 3, 2022 (87 FR 6095), EPA published a document in the **Federal Register** proposing approval of the interstate transport portion of the State of Montana's October 1, 2018 SIP revision. EPA's proposed approval addressed the CAA requirement prohibiting air emissions from the State that significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in other states. *See* CAA section 110(a)(2)(D)(i)(I) (the ''good neighbor provision''). The rationale for EPA's proposed action is given in the February 3, 2022 proposal and will not be repeated here. EPA received no public comments on the proposal for this rulemaking.

II. Final Action

EPA is approving the good neighbor portion of the State's October 1, 2018 SIP revision into the Montana SIP. This revision is approved as meeting CAA section 110(a)(2)(D)(i)(I) requirements that Montana's SIP includes adequate provisions prohibiting any source or other type of emissions activity within the state from emitting any air pollutant in amounts that will contribute significantly to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 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 June 13, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 2, 2022.

KC Becker,

Regional Administrator, Region 8.

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

■ 2. In § 52.1370, the table in paragraph (e) is amended under ''Statewide'' by adding the entry ''Interstate Transport Requirements of the CAA, section 110(a)(2)(D)(i)(I), for the 2015 Ozone NAAQS'' after the entry for ''Montana regional haze 5-year progress report'' to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(e) * * *

Title/subject	State effective date	Notice of final rule date	NFR citation
(1) Statewide			
* * * * * * *			
Interstate Transport Requirements of the CAA, section 110(a)(2)(D)(i)(I), for the 2015 Ozone NAAQS.	N/A	April 12, 2022	[insert **Federal Register** citation]
* * * * * * *			

[FR Doc. 2022–07406 Filed 4–11–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 20–382: FCC 21–72; FR ID 80780]

Allowing Earlier Equipment Marketing and Importation Opportunities

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the new information collection associated with the Commission's *Allowing Earlier Equipment Marketing and Importation Opportunities,* Report and Order. This document is consistent with the *Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the rules related to the information collection. The Commission also corrects a cross reference in the regulatory text.

DATES: The amendments to 47 CFR 2.803(c)(2)(i) and 2.1204(a)(11) published at 86 FR 52088, September 20, 2021, are effective April 12, 2022. The amendment to 47 CFR 2.803(c)(2)(i)(D) in this document is effective April 12, 2022.

FOR FURTHER INFORMATION CONTACT: Jamie Coleman, Office of Engineering and Technology Bureau, at (202) 418–2705, or email: *Jamie.Coleman@fcc.gov.*

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

SUPPLEMENTARY INFORMATION: This document announces that, on March 10, 2022, OMB approved, for a period of three years, the information collection requirements relating to the marketing of radio frequency devices prior to equipment authorization and import conditions rules contained in the Commission's *Allowing Earlier Equipment Marketing and Importation Opportunities,* Report and Order, FCC 21–72 (86 FR 52088, September 20, 2021). The OMB Control Number is 3060–0773. The Commission publishes this document as an announcement of the effective date of the information collection requirements provided at 47 CFR 2.803(c)(2)(i) and 2.1204(a)(11).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on March 10, 2022, for the information collection requirements contained in the Commission's rules in 47 CFR part 2.

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

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0773.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

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

OMB Control Number: 3060–0773.

OMB Approval Date: March 10, 2022.

OMB Expiration Date: March 31, 2025.

Title: Sections 2.803, 2.803(c)(2) and 2.1204(a)(11), Marketing and Importing of RF Devices Prior to Equipment Authorization.

Form Number: N/A. Respondents: Business or other for-profit.

Number of Respondents and Responses: 10,000 respondents; 10,000 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping requirement, third-party disclosure requirement and on occasion and one-time requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 47 U.S.C. 154(i), 301, 302a, 303(c), 303(f), and 303(r).

Total Annual Burden: 10,000 hours.

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

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On June 17, 2021, the Federal Communications Commission released a Report and Order, *Allowing Earlier Equipment Marketing and Importation Opportunities,* ET Docket No. 20–382, 86 FR 52088, September 20, 2021. Among other adopted rules intended to target enhancements to our marketing and importation rules, the Commission amended the 47 CFR part 2 rules that allow equipment manufacturers to better gauge consumer interest and prepare for new product launches.

List of Subjects in 47 CFR Part 2

Communications equipment, Radio, Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

The Federal Communications Commission amends 47 CFR part 2 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

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

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

§ 2.803 [Amended]

■ 2. In § 2.803(c)(2)(i)(D), remove ''(c)(2)(i)(B)(*1*)'' and add ''(c)(2)(i)(C)(*1*)'' in its place.

[FR Doc. 2022–07607 Filed 4–11–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 22–30; RM–11916; DA 22–358; FR ID 81392]

Television Broadcasting Services Vernon, Alabama

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On January 20, 2022, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* (*NPRM*) in response to a petition for rulemaking filed by Alabama Educational Television Commission (Petitioner or AETC), requesting the allotment of reserved noncommercial educational channel *4 to Vernon, Alabama, in the Table of Allotments as the community's first local service. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends the Federal Communications Commission (Commission or FCC) regulations to allot channel *4 at Vernon. The newly allotted channel will be authorized pursuant to the Commission's application and selection procedures for reserved noncommercial educational television stations.

DATES: Effective May 12, 2022.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov*.

SUPPLEMENTARY INFORMATION: The proposed rule was published at 87 FR 6100 on February 3, 2022. The Petitioner filed comments in support of the petition, as required by the Commission's rules, reaffirming its commitment to apply for channel *4 and if authorized, to build a station promptly. A number of elected officials also filed comments in support of AETC's allotment request. We believe the public interest would be served by allotting channel *4 at Vernon, Alabama. Vernon (population 5,551) clearly qualifies for community of license status for allotment purposes. In addition, the proposal would result in a first local service to Vernon under the Commission's second allotment priority. Moreover, the allotment is consistent with the minimum geographic spacing requirements for new television allotments in the Commission's rules, and the allotment point complies with the rules as the entire community of Vernon is encompassed by the 35 dBμ contour.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 22–30; RM–11916; DA 22–358, adopted April 4, 2022, and released April 4, 2022. The full text of this document is available for download at *https://www.fcc.gov/edocs*. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(j), amend the Table of Allotments, under Alabama, by adding an entry for Vernon in alphabetical order to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
ALABAMA	
* * * * *	
Vernon	*4
* * * * *	

[FR Doc. 2022–07644 Filed 4–11–22; 8:45 am]
BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 87, No. 70
Tuesday, April 12, 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 HOMELAND SECURITY

8 CFR Part 258

[Docket No. USCBP–2022–0016]

RIN 1651–AB20

Procedures for Debarring Vessels From Entering U.S. Ports

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Immigration and Nationality Act (INA) requires the Department of Homeland Security (DHS) to debar from entering U.S. ports any or all vessels owned or chartered by an entity found to be in violation of certain laws and regulations relating to the performance of longshore work by nonimmigrant crew members. This document proposes to amend DHS regulations to set forth the procedures regarding the debarment of such vessels from entering U.S. ports.

DATES: Comments must be received on or before June 13, 2022.

ADDRESSES: Please submit comments, identified by docket number, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments via docket number [USCBP–2022–0016].

Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. 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*. Due to relevant COVID–19-related restrictions, CBP has temporarily suspended its on-site public inspection of submitted comments.

FOR FURTHER INFORMATION CONTACT: R. Joseph O'Donnell, Jr., Fines, Penalties and Forfeitures Division, Office of Field Operations, U.S. Customs and Border Protection, at 202–344–1691 or *joseph.r.odonnell@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the notice of proposed rulemaking. The Department of Homeland Security (DHS or Department) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposal.

Comments that will provide the most assistance to the Department in developing these procedures will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Background

A. Purpose and Legal Authority

The Immigration and Nationality Act (INA) (Pub. L. 82–414, 66 Stat. 163 (1952)), as amended, addresses whether nonimmigrants may be admitted into the United States and, if so, under what conditions. Section 258 of the INA prohibits alien crew members (classified as nonimmigrants under INA 101(a)(15)(D)) from entering the United States in order to perform longshore work, subject to certain statutory exceptions. *See* 8 U.S.C. 1288; *see also* 8 U.S.C. 1101(a)(15)(D) and 1184(f). Longshore work is defined as any activity in the United States or in U.S. coastal waters relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go. *See* INA 258(b)(1) (8 U.S.C. 1288(b)(1)). Longshore work does not include the loading or unloading of certain cargo including oil and hazardous substances and materials for which the Secretary of Transportation has prescribed regulations governing cargo handling or storage; the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo; and the reduction or elimination of discharge during ballasting, tank cleaning, and handling of such cargo.[1] *See* INA 258(b)(2) (8 U.S.C. 1288(b)(2)). DHS regulations implementing this statutory prohibition are set forth in title 8 of the Code of Federal Regulations (CFR) parts 251 and 258.

The INA authorizes DHS and the Secretary of Labor to investigate violations of and enforce the INA provisions relating to the performance of longshore work by nonimmigrant crew members. Specifically, DHS is authorized to issue a fine for the illegal performance of longshore work and is required, upon notification of a violation from the Secretary of Labor, to debar any vessel owned or chartered by the violating entity from entering U.S. ports for a period not to exceed one year. *See* INA 251(d) and 258(c)(4)(E)(i) (8 U.S.C. 1281(d) and 1288(c)(4)(E)(i)); 8 CFR 258.1(a)(2). DHS has delegated to U.S. Customs and Border Protection (CBP) the authority to enforce and administer INA provisions relating to longshore work, including the authority to issue a fine and debar a vessel. *See* DHS Delegation No. 7010.3(B)(11) (Revision No. 03.1).

Although the regulations (8 CFR part 280) specify the procedures CBP will follow prior to imposing a fine for a violation of the INA, including how an entity may contest or seek mitigation of a fine, there currently are no regulations that specify the procedures for debarring vessels. This was illuminated in 2009 and 2010, when CBP received a notification of violation from the Secretary of Labor. CBP served the violating entity (identified in the notification received from the Secretary of Labor) a letter by registered mail indicating CBP's intent to debar the vessels owned or chartered by the violating entity. CBP provided the violating entity with the opportunity to request mitigation, meet with CBP, and present evidence and any briefs in support of the request for mitigation. CBP considered all of the relevant evidence and determined an appropriate debarment, which was communicated to the violating entity in writing by registered mail. In order to establish consistent, fair, and transparent

[1] *See, e.g.,* 49 CFR part 176.

debarment procedures, DHS proposes amending 8 CFR part 258 to set forth the debarment procedures. The proposed procedures generally codify the steps CBP took in its 2009 and 2010 debarments, which were the only times CBP has conducted debarments, while clarifying and formalizing the process and procedures for both CBP and the violating entity subject to the debarment.

B. INA Exceptions Authorizing Longshore Work by Nonimmigrant Crew Members

Subject to certain exceptions, nonimmigrant crew members are prohibited from performing longshore work in the United States or in U.S. coastal waters. *See* INA 258 (8 U.S.C. 1288); 8 CFR 258.1 and 8 CFR 258.2. The exceptions are (1) the prevailing practice exception; (2) the State of Alaska exception; and (3) the reciprocity exception. *See* 8 U.S.C. 1288(c)–(e); 8 CFR 258.2.[2] Prior to the performance of longshore work under any of the exceptions, the vessel master or agent who uses nonimmigrant crew members must comply with regulations and procedures of both the Department of Labor (DOL) and CBP. If the Secretary of Labor determines that the entity has failed to follow DOL regulations regarding these statutory exceptions and that a violation has occurred, the DOL will notify CBP as set forth below.

DOL Procedures and Enforcement

Pursuant to DOL regulations, in order to invoke either the prevailing practice exception (under certain circumstances) or the State of Alaska exception, the vessel master or agent who uses nonimmigrant crew members must file an attestation with the Secretary of Labor prior to the performance of any longshore work.[3] *See* 20 CFR 655.510 and 655.530–655.541. The attestation must specify which exception the vessel master or agent is invoking, contain the required attestation elements, and be accompanied by facts and evidence demonstrating that the particular exception is applicable. *See* 20 CFR 655.510 and 655.533.

The Secretary of Labor has the authority to investigate alleged violations of the INA relating to the performance of longshore work, including any violations arising out of an attestation. *See* 20 CFR 655.600 and 655.605. If the Secretary of Labor investigates an alleged violation and makes a final determination that the vessel master or agent has failed to meet a condition attested to or has misrepresented a material fact in an attestation, the Secretary must notify CBP of the violation. INA 258(c)(4)(E)(i) and 258(d)(5)(A) (8 U.S.C. 1288(c)(4)(E)(i) and 1288(d)(5)(A)). The Secretary of Labor may also impose a civil monetary penalty for each nonimmigrant crew member with respect to whom there has been a violation of the INA. INA 258(c)(4)(E)(i) (8 U.S.C. 1288(c)(4)(E)(i)); 20 CFR 655.620.

CBP Procedures and Enforcement

After filing any necessary attestation with the Secretary of Labor, the owner or master of a vessel intending to invoke one of the exceptions must deliver to CBP the Passenger List and Crew List (CBP Form I–418 or its electronic equivalent), indicate that nonimmigrant crew members will perform longshore work, and specify under which exception the work is permitted. *See* 8 CFR 251.1(a)(2) and 258.3. A vessel owner or operator must also submit any documentation required pursuant to 8 CFR 258.2. In order to rely on the exceptions that require an attestation, the vessel master or agent must present to CBP the notification received from the Secretary of Labor that the required attestation has been accepted. 8 CFR 258.2(b)(2)(iii).

Upon notification of a violation from the Secretary of Labor that the vessel master or agent has failed to meet a condition attested to or has misrepresented a material fact in an attestation, CBP is required to debar any vessel or vessels owned or chartered by the violating entity from entering U.S. ports for a period not to exceed one year. INA 258(c)(4)(E)(i) and 258(d)(5)(A) (8 U.S.C. 1288(c)(4)(E)(i) and 1288(d)(5)(A)).

Additionally, CBP may investigate violations of the INA relating to longshore work and may impose a monetary fine on an owner, agent, consignee, master, or commanding officer who permits nonimmigrant crew members to perform longshore work in a manner inconsistent with the INA. INA 251(d) (8 U.S.C. 1281(d)); 8 CFR 258.1(a)(2).

III. Proposed Amendments

This document proposes to add to the regulations the procedures CBP will follow in order to debar vessels from entering U.S. ports after receiving a notification of a violation from the Secretary of Labor pursuant to 8 CFR part 258. The relevant details are provided below.

Part 258

8 CFR part 258 sets forth the regulations regarding the limitations on the performance of longshore work by nonimmigrant crew members. Section 258.1 sets forth the general prohibition of nonimmigrants performing longshore work, other than pursuant to the specified exceptions, and provides definitions. Section 258.2 describes the exceptions under which nonimmigrant crew members may perform longshore work in the United States. Section 258.3 describes the actions a master or agent of a vessel must take in order to rely on one of the exceptions.

In this document, DHS proposes to add a new § 258.4, which will outline procedures for debarring vessels following notification from the Secretary of Labor, including how CBP determines the debarment and how the violating entity may request mitigation. In general, the proposed debarment procedures would require CBP to issue a notice of intent to debar, which would be served on the violating entity. CBP would also provide an opportunity for the violating entity to file an answer, submit documentary evidence, and request a mitigation meeting with CBP. The proposed procedures also require CBP to issue a final order of debarment. The details of proposed § 258.4 are set forth below.

A. Definitions Applicable to CBP's Debarment Proceedings

Proposed paragraph (a) sets forth definitions for the following terms for purposes of CBP's debarment proceedings: Good cause, mitigation, and mitigation meeting. Good cause, for purposes of extending the deadline for filing an answer in CBP's debarment proceedings, would include instances in which the violating entity is experiencing technical difficulties affecting its ability to receive, process, or transmit relevant information or data; natural disasters that affect the violating entity's ability to retrieve, process, or transmit relevant information or data; or, other instances in which CBP, in its discretion, determines an undue hardship warrants an extension of the deadline for filing an answer. A mitigation meeting, for purposes of

[2] The exceptions are set forth in the Department of Labor regulations in title 20 of the CFR. For information on the reciprocity exception, see 20 CFR 655.500(a)(1)(i). For information on the prevailing practice exception, see 20 CFR 655.510. For information on the State of Alaska exception, see 20 CFR 655.530–655.541.

[3] An attestation is required in order to invoke the prevailing practice exception when there is no collective bargaining agreement or when the Secretary of Labor has announced that an attestation is required to use an automated self-unloading conveyor belt or vacuum-actuated system. *See* 8 U.S.C. 1288(c)(1)(A)(i) and 1288(c)(1)(B); 20 CFR 655.500(b)(2), 655.510(a), and 655.520.

CBP's debarment proceedings, would be a personal appearance before a designated CBP official in which representatives of the violating entity can provide information and explain why CBP should mitigate the debarment. Mitigation in a debarment proceeding would mean determining the length of the debarment, the ports covered by the debarment, and the vessels subject to the debarment. It does not include revocation of the requirement to debar.

B. Notice of Intent To Debar

Proposed paragraph (b) sets forth the procedures pertaining to the issuance of a notice of intent to debar and specifies the information to be included in such notice and the rights of the violating entity. It provides that CBP will cause the notice of intent to debar to be served on the entity subject to the debarment by a method that demonstrates receipt by the addressee, such as certified mail with return receipt or express courier delivery, and provides that the date of service is the date of receipt.

It further provides that the notice of intent to debar will include the following information: The proposed period of debarment, not to exceed one year; the ports covered by the proposed debarment; a brief explanation of CBP's reasons for the proposed debarment; and the applicable statutory and regulatory authority for the proposed debarment. The notice will also notify the entity subject to the proposed debarment that it may file an answer and request a mitigation meeting and will set forth the procedures for doing so. The notice of intent to debar will also notify the violating entity that in the absence of a timely filed answer, the proposed debarment will become final 30 days after service of the notice of intent to debar.

C. Answer; Request for Mitigation Meeting

Proposed paragraph (c) covers the procedures relating to filing an answer and supporting documentation with CBP and requesting mitigation and a mitigation meeting. It provides that all notifications and correspondences between CBP and the violating entity with respect to the debarment proceedings will be done in writing and transmitted using certified mail or express courier.[4] It further provides that an entity that receives a notice of intent to debar will have 30 days from service of the notice to file an answer with CBP, but permits CBP, in its discretion, to extend the deadline for filing an answer up to an additional 30 days upon a showing of good cause.[5] It further provides that the answer must be filed by the entity identified in the notice of intent to debar, or its authorized representative. The answer must be dated, typewritten or legibly written, signed under oath, and include the address at which the entity, or its authorized representative, desires to receive further communications. The answer must set forth specific reasons why the proposed debarment should be mitigated and state whether a mitigation meeting is requested.[6] It further specifies that a mitigation meeting will be conducted if the entity subject to the proposed debarment requests one or if directed at any time by CBP.[7]

Proposed paragraph (c) also provides that if an entity requests mitigation, it must submit to CBP both an answer and documentary evidence in support of the request for mitigation. The entity is also permitted to file a brief in support of any arguments made. If a mitigation meeting is requested, the entity may present evidence in support of any request for mitigation at that time. CBP can require that the answer and any supporting documentation be in English or be accompanied by an English translation, certified by a competent translator.[8]

D. Disposition of Case

Proposed paragraph (d) states how CBP will determine a final order of debarment for each case. Specifically, proposed paragraph (d) states that if an entity that receives service of a notice of intent to debar does not timely file an answer or if the entity admits the allegations and does not request mitigation or a mitigation meeting, the proposed debarment will automatically become a final order of debarment 30 days after service of the notice of intent to debar. If CBP grants a good cause extension to the deadline for filing an answer, but no answer is timely filed, the proposed debarment will automatically become a final order of debarment when the time for filing an answer expires. If an entity timely files an answer that requests mitigation or a mitigation meeting, CBP will determine a final debarment and will issue to the entity a final order of debarment in writing. No appeal from a final order of debarment will be available.

E. Debarment

Proposed paragraph (e) states that CBP will determine a proposed debarment or a final debarment by considering the information received from the Secretary of Labor in the notice of violation, any evidence or arguments timely presented by the entity subject to the debarment, and any other relevant factors.[9] Other relevant factors include, but are not limited to, the entity's previous history of violations of any provision of the INA, the number of U.S. workers adversely affected by the violation, the gravity of the violation, the entity's efforts to comply in good faith with regulatory and statutory requirements governing performance of longshore work by nonimmigrant crew members, the entity's remedial efforts and commitment to future compliance, the extent of the entity's cooperation with the investigation, and the entity's financial gain/loss due to the violation. CBP will also consider the potential financial loss, injury, or adverse effect to other parties, including U.S. workers, likely to result from the debarment, including whether the debarment is likely to result in the loss of job opportunities for U.S. workers.

CBP will submit final orders of debarment to all U.S. ports of entry, prohibiting entry of the violating entity's vessel(s) during the debarment. CBP will send a notice of final order to each violating entity. CBP will also send a notice of final order to any entity that has submitted a request to CBP of interest in the debarment proceeding.

[4] A notice of intent to debar will debar only one violating entity. If there is more than one violating entity, separate notices will be issued to each.

[5] Good cause, for purposes of extending the deadline for filing an answer, includes: Technical difficulties or natural disasters that affect the violating entity's ability to receive, process, or transmit relevant information or data; or other instances in which CBP, in its discretion, determines an undue hardship on the violating entity warrants an extension of the deadline for filing an answer.

[6] A violating entity may mitigate its length of debarment by showing that a specific period of debarment would have a negative impact on the U.S. economy and/or U.S. citizens/consumers. Examples of this would include showing that a specific period of business activity (*i.e.,* fishing season) would be negatively impacted if a vessel were debarred, or that a vessel will be transporting produce or a type of perishable consumer good to the United States within a specific time frame for which debarment would be detrimental.

[7] The violating entity may request a mitigation meeting to mitigate the length of the debarment period, the ports covered by the debarment, and the number of vessels subject to the debarment.

[8] *See, e.g.,* 8 CFR 204.1(f)(3), 274a.2(b)(1)(i)(A). *See also* 8 CFR 1003.33 (Department of Justice Executive Office for Immigration Review's rule on documents submitted to the immigration court).

[9] The information received from the Secretary of Labor, evidence or arguments timely presented by the entity subject to the debarment, and any other relevant factors that CBP considers in its determination of the debarment will be disclosed in its final determination of debarment to the violating entity.

F. Notice of Completion of Debarment and Record

Proposed paragraph (f) states that upon completion of the debarment, CBP will send a notice to all interested parties, including the entity subject to the debarment and the relevant U.S. ports of entry, that the entity subject to the debarment has completed the debarment and is once again permitted to enter U.S. ports. Additionally, proposed paragraph (g) states that CBP will keep a complete record of the debarment proceedings. CBP will retain the records for 5 years, after which the records will be sent to the National Archives. Records retention and access to records will conform to the Records Retention Schedule and Freedom of Information Act.

IV. Statutory and Regulatory Analysis

A. Executive Orders 12866 and 13563

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has not reviewed this regulation.

Pursuant to section 258 of the INA, CBP is required to debar vessels. This rule does not create that requirement. Rather, this proposed rule would codify and clarify existing practice, with some exceptions, that CBP follows in carrying out that requirement. Accordingly, even without this rule, CBP still has the authority to debar vessels. This rule is being proposed to avoid confusion and to have, in writing, a clear and consistent process for the debarment of vessels.

CBP has debarred vessels in only two instances in the agency's recorded history, in 2009 and 2010. As described above, the proposed rule would generally codify the procedures CBP followed when debarring vessels in 2009 and 2010, with changes only to the type of mail service CBP uses to serve notices of intent to debar. The process CBP follows for debarring vessels is not changing as a result of this rule. Therefore, this rule has no economic impact on violating entities.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires agencies to assess the impact of regulations on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). As explained above, pursuant to section 258 of the INA, CBP is required to debar vessels. This rule does not create that requirement. Rather, this proposed rule would codify and clarify the existing procedures, with some exceptions, that CBP follows in carrying out that requirement. These procedures are seldom used as CBP has debarred vessels in only two instances—in 2009 and in 2010. Furthermore, CBP is generally adopting existing practices, and costs to violating entities would not change as a result of this rule. Therefore, CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget. There is no information collection associated with this proposed rule, so the provisions of the PRA do not apply.[10]

V. Signing Authority

This proposed regulation is being issued in accordance with 19 CFR 0.2(a) pertaining to the Secretary of Homeland Security's authority (or that of his delegate) to approve regulations that are not related to customs revenue functions.

List of Subjects in 8 CFR Part 258

Aliens, Longshore and harbor workers, Reporting and recordkeeping requirements, Seaman.

[10] The required DOL attestations are covered by OMB Control Number 1205–0309.

Proposed Regulatory Amendments

Amendments to the Regulations

For the reasons stated in the preamble, DHS proposes to amend part 258 of title 8 CFR (8 CFR part 258) as set forth below.

PART 258—LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN

■ 1. The authority citation for part 258 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1281; 8 CFR part 2.

■ 2. Add § 258.4 to read as follows:

§ 258.4 Debarment of vessels.

(a) *Definitions.* The following definitions apply throughout this section:

Good cause, for purposes of extending the deadline for filing an answer, include: Technical difficulties or natural disasters that affect the violating entity's ability to receive, process, or transmit relevant information or data; or other instances in which CBP, in its discretion, determines that an undue hardship on the violating entity warrants an extension of the deadline for filing an answer.

Mitigation in a debarment proceeding means determining the length of the debarment, the ports covered by the debarment, and the vessels subject to the debarment. It does not include revocation of the requirement to debar.

Mitigation meeting is a personal appearance before a designated CBP official in which representatives of the violating entity can provide information and explain why CBP should mitigate the debarment.

(b) *Notice of intent to debar*—(1) *Issuance of notice.* Upon receipt of a notice of violation from the Secretary of Labor pursuant to section 258 of the Immigration and Nationality Act (8 U.S.C. 1288(c)(4)(E)(i)), CBP will serve a notice of intent to debar on the entity subject to the notice of violation, as provided in paragraph (b)(3) of this section.

(2) *Contents of notice.* The notice of intent to debar will include the following:

(i) The proposed period of debarment, not to exceed 1 year;

(ii) The ports covered by the proposed debarment;

(iii) A brief explanation of the reasons for the proposed debarment;

(iv) The statutory and regulatory authority for the proposed debarment;

(v) A statement that the entity subject to the debarment may file an answer and request a mitigation meeting pursuant to paragraph (c) of this section;

(vi) The procedures for filing an answer and requesting a mitigation meeting, including the date by which the answer must be received and the address to which it may be submitted; and

(vii) A statement that in the absence of a timely filed answer, the proposed debarment will become final 30 days after service of the notice of intent to debar.

(3) *Service.* The notice of intent to debar will be served by a method that demonstrates receipt, such as certified mail with return receipt or express courier delivery, by the entity identified in the notice of violation received from the Secretary of Labor. The date of service is the date of receipt.

(c) *Answer; request for mitigation meeting*—(1) *General.* Any entity upon which the notice has been served, or its authorized representative, may file with CBP an answer that indicates the specific reasons why the proposed debarment should be mitigated and whether a mitigation meeting is requested. CBP must receive the answer within 30 days from the date of service of the notice of intent to debar.

(2) *Procedures*—(i) *Form.* The answer must be dated, typewritten or legibly written, signed under oath, and include the address at which the entity or its authorized representative desires to receive further communications. CBP may require that the answer and any supporting documentation be in English or be accompanied by an English translation certified by a competent translator.

(ii) *Supporting documentation required.* In addition to an answer, any entity responding to a notice of intent to debar must submit documentary evidence in support of any request for mitigation and may file a brief in support of any arguments made. The entity may present evidence in support of any request for mitigation at a mitigation meeting.

(iii) *Mitigation meeting.* A mitigation meeting will be conducted if requested by the entity subject to the proposed debarment in accordance with the requirements of this section, or if directed at any time by CBP.

(iv) *Good cause extension.* CBP, in its discretion, may extend the deadline for filing an answer up to an additional 30 days from the original receipt of CBP's notice upon a showing of good cause. Upon receipt of a request to extend the deadline for filing an answer, CBP will respond to the request for an extension within 5 business days by certified mail or express courier.

(d) *Disposition of case*—(1) *No response filed or allegations not contested.* If no answer is timely filed or the answer admits the allegations in the notice of intent to debar and does not request mitigation or a mitigation meeting, the proposed debarment specified in the notice of intent to debar automatically will become a final order of debarment 30 days after service of the notice of intent to debar. If CBP grants a good cause extension pursuant to paragraph (c)(2)(iv) of this section, and no answer is timely filed, the proposed debarment automatically will become a final order of debarment when the time for filing an answer expires.

(2) *Answer filed; mitigation meeting requested.* If an answer is timely filed that requests mitigation and/or a mitigation meeting, CBP will determine a final debarment in accordance with paragraph (e) of this section.

(3) *Unavailability of appeal.* The final order of debarment is not subject to appeal.

(4) *Notice of final order of debarment.* (i) CBP will issue to the entity subject to the debarment a final order of debarment in writing.

(ii) CBP will send notice, by certified mail or express courier, to all interested parties, including the relevant U.S. ports of entry, that the entity subject to the debarment is debarred and stating the terms of the debarment.

(e) *Debarment*—(1) *Generally.* In determining a proposed debarment and a final debarment, CBP will consider the information received from the Secretary of Labor, any evidence or arguments timely presented by the entity subject to the debarment, and any other relevant factors.

(2) *Other relevant factors.* Other relevant factors include, but are not limited to, the following:

(i) The previous history of violations of any provision of the INA by the entity subject to the debarment;

(ii) The number of U.S. workers adversely affected by the violation;

(iii) The gravity of the violation;

(iv) The efforts made by the entity subject to the debarment to comply in good faith with the regulatory and statutory requirements governing performance of longshore work by nonimmigrant crewmen;

(v) The remedial efforts by the entity subject to the debarment;

(vi) The commitment to future compliance by the entity subject to the debarment;

(vii) The extent of cooperation with the investigation by the entity subject to the debarment;

(viii) The extent of financial gain/loss to the entity subject to the debarment due to the violation; and

(ix) The potential financial loss, injury, or adverse effect to other parties, including U.S. workers, likely to result from the debarment.

(f) *Notice of completion of debarment.* Upon completion of any debarment, CBP will send notice, by certified mail or express courier, to all interested parties, including the entity subject to the debarment, and the relevant U.S. ports of entry, that the entity subject to the debarment has completed the debarment and is once again permitted to enter U.S. ports.

(g) *Record.* CBP will keep a record of the debarment proceedings which includes, but is not limited to, the materials exchanged between CBP and the parties. Records will be retained in accordance with CBP's Records Retention Schedule and Freedom of Information Act.

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2022–07774 Filed 4–11–22; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0253; Airspace Docket No. 21–ANM–09]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Coeur D'Alene—Pappy Boyington Field, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Coeur D'Alene—Pappy Boyington Field, ID. These airspace modifications support the addition of the RNAV GPS RWY 2 Instrument Approach Procedure (IAP, and the removal of the VOR/DME RWY 2 IAP at the airport). Additionally, this action proposes updates to the legal description. The Airport's location and use of the term ''Notice to Airmen'' are not correct and will require modification. These actions will ensure the safety and management of IFR operations at the airport.

DATES: Comments must be received on or before May 27, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of

Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0253; Airspace Docket No. 21–ANM–09, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0253; Airspace Docket No. 21–ANM–09''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by modifying Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at Coeur D'Alene—Pappy Boyington Field, ID.

The area north of the airport requires additional airspace to properly contain departures due to rising terrain adjoining the Class E surface area in the northeast. The FAA proposes to widen and extend both the Class E surface area and Class E airspace extending upward from 700 feet above the surface to properly contain departures to points 700 feet above the surface and 1,200 feet above the surface, respectively.

Furthermore, the FAA proposes to modify the Class E airspace south of the airport. Both the current southern extension to the Class E surface area and the Class E airspace extending upward from 700 feet require modification to properly contain the 1,000 foot and 1,500 foot points of the RNAV GPS RWY 2 IAP, respectively.

Additionally, the FAA proposes to modify the Class E airspace extending upward from 700 feet west of the airport to better contain the 1,500 foot point of the RNAV GPS RWY 6 IAP, and to account for rising terrain west of the airport.

Finally, the FAA proposes to make administrative changes to the current legal descriptions. The Class E airspace extending from 700 feet above the surface is defined on line 1 of the current description to be located in ''WA'' State, and requires amendment to show the correct State, annotated as ''ID.'' Additionally, the legal description of the Class E airspace defined as a surface area uses the phrase ''Notice to Airmen.'' This should be amended to read ''Notice to Air Missions'' to match the FAA's current definition of ''NOTAM.''

Class E2 and E5 airspace designations are published in paragraphs 6002 and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in 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 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM ID E2 Coeur D'Alene, ID [Amended]

Coeur D'Alene—Pappy Boyington Field
(Lat. 47°46′28″ N, long. 116°49′11″ W)

That airspace within a 4.4-mile radius of the Coeur D'Alene—Pappy Boyington Field, and within 1 mile each side of the 193° bearing extending from the 4.4-mile radius to 5.5 miles south of the airport, and that airspace 1.5 miles west and 3.5 miles east of the 019° bearing extending from the 4.4-mile radius to 5.2 miles northeast of the airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ANM ID E5 Coeur D'Alene, ID [Amended]

Coeur D'Alene—Pappy Boyington Field
(Lat. 47°46′28″ N, long. 116°49′11″ W)

That airspace within a 4.4-mile radius of the Coeur D'Alene—Pappy Boyington Field, and within 2.2 miles each side of the 193° bearing from the airport extending from the 4.4-mile radius to 9 miles south of the airport, and that airspace 4.4 miles each side of the 251° bearing from the Coeur D'Alene—Pappy Boyington Field extending from the 4.4-mile radius to 16 miles west of the airport and that airspace 1.8 miles west and 4 miles east of the 013° bearing from the Coeur D'Alene—Pappy Boyington Field extending from the 4.4-mile radius to 8.5 miles northeast from the airport.

Issued in Des Moines, Washington, on April 5, 2022.

B.G. Chew,

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

[FR Doc. 2022–07745 Filed 4–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–384]

RIN 1117–AB75

Schedules of Controlled Substances; Exempted Prescription Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration proposes to revoke the exempted prescription product status for all butalbital products previously granted exemptions. Upon publication of a final rule, these products shall become subject to all schedule III controls under the Controlled Substances Act. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule III controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess) or propose to handle butalbital products. This rulemaking also proposes to make changes to our regulations to clarify that DEA may revoke ''(either individually or categorically)'' any previously granted exemptions, and adds regulations to clarify that products exempted from application of all or any part of the Controlled Substances Act are listed in the Table of Exempted Prescription Products available on the DEA Diversion Control website (*https://www.deadiversion.usdoj.gov/*).

DATES: Comments must be submitted electronically or postmarked on or before May 12, 2022.

ADDRESSES: Interested persons may file written comments on this proposal in accordance with 21 CFR 1308.43(g). Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period. To ensure proper handling of comments, please reference ''Docket No. DEA–384'' on all correspondence, including any attachments.

- *Electronic comments:* The Drug Enforcement Administration (DEA) encourages that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site to submit comments. Upon completion of your submission, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *Regulations.gov*. If you have received a Comment Tracking Number, you have successfully submitted your comment, and there is no need to resubmit the same comment.
- *Paper comments:* Paper comments that duplicate the electronic submission are not necessary. Should you wish to mail a paper comment *in lieu of* an electronic comment, send via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Ph.D., Chief (DOE), Diversion Control Division, Drug Enforcement Administration; Telephone: (202) 362–3249.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. The Drug Enforcement Administration (DEA) will make comments available for public inspection online at *https://www.regulations.gov,* unless reasonable

cause is given. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want to make it publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want to make it publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment.

DEA will make publicly available in redacted form comments containing personal identifying information and confidential business information identified as directed above. If a comment has so much confidential business information or personal identifying information that DEA cannot redact it effectively, all or part of that comment may not be made publicly available. Comments posted to *https://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified, as directed above, as confidential.

An electronic copy of this document and supplemental information to this proposed rule are available at *https://www.regulations.gov* for easy reference.

Legal Authority

Pursuant to the Controlled Substances Act (CSA), under 21 U.S.C. 811(g)(3), 21 CFR 1308.31, and 21 CFR 1308.32, the Attorney General (and thus the Administrator of DEA by delegation) may, by regulation, exempt any compound, mixture, or preparation containing a nonnarcotic controlled substance from the application of all or any part of this subchapter if he finds that it is approved for prescription use, and that it contains one or more other active ingredients which are not listed in any schedule and which are included in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse. By regulation, the Administrator may revoke a previously granted exemption by following the same procedures that are used to evaluate an application for exemption—namely, by publishing in the **Federal Register** a general notice of the proposed rulemaking in revoking the exemption, permitting interested persons to file written comments on or objections to the revocation, considering any comments submitted, and publishing in the **Federal Register** a final order on the proposal to revoke the exemption. *See* 21 CFR 1308.31(c), (d).

This rulemaking proposes to make changes to 21 Code of Federal Regulations (CFR) 1308.21(d) to clarify that DEA may revoke ''(either individually or categorically)'' any previously granted exemptions, and adds § 1308.31(e) to clarify that products exempted from application of all or any part of the Controlled Substances Act pursuant to section 201(g)(3)(A), of the Act (21 U.S.C. 811(g)(3)(A)) are listed in the Table of Exempted Prescription Products available on the DEA Diversion Control website. In addition, this rulemaking proposes the removal of exempted prescription product status for butalbital products previously granted exemption. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions of schedule III controlled substances on any person who handles or proposes to handle butalbital products that were previously exempted from control under 21 CFR 1308.31 and 1308.32.

Background: Exempted Prescription Products

Over time, DEA has exempted prescription drug products from certain parts of the CSA when the products meet the requirements for exemption, including the requirement to contain active ingredients believed to vitiate the potential for abuse. The current table of products that have been granted exempted prescription product status, pursuant to 21 CFR 1308.31 and 1308.32, can be found on the DEA Diversion Control Division website at *https://www.deadiversion.usdoj.gov/schedules/exempt/exempt_rx_list.pdf.* The list, dated February 11, 2022, contains 189 prescription products containing butalbital. These butalbital products were granted exempted status due to the quantity of acetaminophen in the formulation, which was believed at the time to vitiate the potential for abuse.

Many of the preparations granted exempted prescription product status were excepted by the Bureau of Drug Abuse Control (BDAC) of the Food and Drug Administration (FDA), the predecessor to the Bureau of Narcotics and Dangerous Drugs and later DEA. A panel of public health physicians and FDA medical officers developed the criteria used by BDAC in 1967. Following the establishment of the criteria, DEA approved subsequent applications by new manufacturers over the years based upon the same criteria, whereby the inclusion of other active ingredients was thought to be in sufficient quantities to vitiate the potential for abuse. These criteria developed in 1967 were found to meet the standard for exemption currently described in 21 U.S.C. 811(g)(3)(A), such that if a prescription drug was found to meet the 1967 criteria for exception, then it also met the test to contain an ingredient that vitiated the potential for abuse under the CSA standard.

These criteria were based upon the expectation that combining the controlled substance with an amount of counteractive drug sufficient to cause early deterrent side effects would vitiate the potential for abuse. For products containing long or intermediate acting barbiturates in combination with analgesics, the criteria provided that an exception would be granted if for every 15 mg of barbiturate the product contained at least (a) 188 mg aspirin; (b) 375 mg salicylamide; or (c) 70 mg phenacetin, acetanilid or acetaminophen.

Butalbital is classified as an intermediate acting barbiturate. Butalbital is a schedule III controlled substance that falls under Administration Controlled Substances Code Number 2100 as it is a derivative of barbituric acid. 21 CFR 1308.13(c)(3). In 1967, products such as Fioricet, which contained butalbital (50 mg) in combination with acetaminophen (300 mg) and caffeine (40 mg), qualified for the exception under the above criteria. However, products such as Fiorinal, which contained butalbital (50 mg) in combination with aspirin (325 mg) and caffeine (40 mg), did not contain sufficient quantities of aspirin to meet the exception criteria, and therefore did not qualify for the exception. As such, Fiorinal was a schedule III controlled product, while Fioricet and similar butalbital combination products containing sufficient amounts of acetaminophen were automatically granted exempted prescription product status under the BDAC criteria once an application under 21 CFR 1308.31 was received. The rationale behind the difference between Fiorinal and Fioricet was that the acetaminophen quantity in

Fioricet would deter the product's abuse due to the potential liver toxicity resulting from the ingestion of high doses of acetaminophen.

However, subsequent experience has shown that the presence of acetaminophen in these butalbital products has not adequately deterred abuse and diversion. DEA has observed a pattern of diversion, online distribution, and abuse of exempted butalbital products. In particular, DEA has observed exploitation of the exempted prescription product status of butalbital combination products to enable abuse. Therefore, because the inclusion of acetaminophen has not vitiated the abuse potential of these products, DEA has concluded that these products do not meet the exemption criteria found in 21 U.S.C. 811(g)(3)(A).

Sellers have utilized websites to exploit the exempted prescription product status to make butalbital/acetaminophen and butalbital/acetaminophen/caffeine combination products available over the internet. In addition, DEA has documented a significant number of law enforcement encounters with butalbital/acetaminophen and butalbital/acetaminophen/caffeine products. DEA is actively investigating cases where individuals are exploiting the exempted prescription product status and are using such products to provide the controlled substance butalbital for drug abuse purposes. DEA, therefore, proposes to revoke the previously issued exempted prescription product status of all butalbital products. Upon publication of a final rule, these products shall become subject to the schedule III regulatory controls under the CSA.

Increase in Website Activity Relating to Exempted Prescription Products

The Ryan Haight Online Pharmacy Consumer Protection Act of 2008 (Pub. L. 110–425) (Ryan Haight Act) was enacted on October 15, 2008 and became effective on April 13, 2009. The Ryan Haight Act amended the CSA to prevent the illegal distribution and dispensing of controlled substances by means of the internet and made it illegal under Federal law to ''deliver, distribute, or dispense a controlled substance by means of the internet, except as authorized by [the CSA]'' or to aid or abet such activity. 21 U.S.C. 841(h)(1). The Ryan Haight Act applies to all controlled substances in all schedules.

Under the Ryan Haight Act, for every controlled substance that is delivered, distributed, or sold, there must be a ''valid prescription.'' This means not only that the prescription must comply with the longstanding requirement of being issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice, but also that the prescribing practitioner must either (i) have conducted at least one in-person medical evaluation of the patient or (ii) meet the definition of a ''covering practitioner.'' 21 U.S.C. 829(e)(2)(A). Alternatively, a practitioner may write a prescription when engaged in the practice of telemedicine under the limited circumstances enumerated at 21 U.S.C. 802(54). 21 U.S.C. 829(e)(3)(A). Any practitioner who writes a prescription for a controlled substance that fails to comply with this provision of the CSA, as well as any pharmacy that knowingly or intentionally fills such a prescription, violates 21 U.S.C. 841(h)(1).

Hence, the Ryan Haight Act makes it unambiguous that, except in limited and specified circumstances, it is a per se violation of the CSA for a practitioner to issue a prescription for a controlled substance by means of the internet without having conducted at least one in-person medical evaluation.

After the Ryan Haight Act became effective, online pharmacies could no longer deliver, distribute, or dispense controlled substances without registering with DEA as online pharmacies and complying with associated laws and regulations, including the requirement of a prescription issued after an in-person medical evaluation of the patient in most circumstances. In response, DEA has seen a significant increase in the number of online pharmacies highlighting the availability of exempted prescription products containing butalbital/acetaminophen and butalbital/acetaminophen/caffeine and providing online dispensing. These sites are thereby exploiting the exempted prescription product status so customers can obtain butalbital. Thus, DEA finds a need to remove the exempted prescription product status for these products. If this proposed rule goes into effect, online pharmacies will be required to cease the sale and distribution of the products containing butalbital unless they comply with all relevant CSA requirements, including the requirements of the Ryan Haight Act and associated regulations.

DEA does not have data for the volume of exempted butalbital products dispensed via the internet. Therefore, DEA requests that online pharmacies/websites provide such volume data in their comments, so DEA can assess the potential impact of this proposed rulemaking.

Seizure Data

The National Forensic Laboratory Information System (NFLIS),[1] System to Retrieve Information from Drug Evidence (STRIDE), and STARLiMS databases [2] indicate that there were 3,122 butalbital drug reports identified that were submitted to Federal, state, and local forensic laboratories from January 1, 2010 to December 31, 2020.[3] In 2010, there were 402 butalbital reports, 420 reports in 2011, 363 reports in 2012, 328 reports in 2013, 330 reports in 2014, 340 reports in 2015, 302 reports in 2016, 252 reports in 2017, 148 reports in 2018, 132 reports in 2019 and 105 reports in 2020.

For the majority of butalbital exhibits, analytical laboratories only identify the active ingredient butalbital. Only a portion of the exhibits identifies the other secondary product ingredients. However, when secondary ingredients are reported, combinations of butalbital and acetaminophen greatly exceed the number of combination products containing butalbital and aspirin (or other ingredients) reported. (See chart below.)

SUMMARY TABLE

Calendar year	Percent of reports butalbital/acetaminophen	Percent of reports butalbital/aspirin
2010	29.4	6.0
2011	40.6	4.3
2012	40.6	4.4
2013	37.0	3.7
2014	25.3	2.0
2015	23.7	2.3
2016	21.5	2.9
2017	22.9	1.8
2018	16.2	5.1
2019	21.7	3.3
2020	33.0	2.1

Therefore, DEA concludes, based on the data mentioned above, that the mere presence of acetaminophen or acetaminophen/caffeine in butalbital combination products does not serve to vitiate the potential for abuse.

[1] NFLIS is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state and local forensic laboratories across the country. The NFLIS participation rate, defined as the percentage of the national drug caseload represented by laboratories that have joined NFLIS, is over 97 percent. NFLIS includes drug chemistry results from completed analyses only.

[2] STRIDE is a database of drug exhibits sent to DEA laboratories for analysis. Exhibits from the database are from DEA, other Federal agencies, and law enforcement agencies. On October 1, 2014, STARLiMS replaced STRIDE as the DEA laboratory drug evidence data system of record.

[3] NFLIS database was queried on August 19, 2021, by date of submission, all drugs reported; STRIDE and STARLiMS databases were queried August 19, 2021, by date of collection, all drug records analyzed.

State Regulatory Controls on Butalbital Products

At least 15 states have seen a need to place additional regulatory requirements on the butalbital products for which DEA has granted exempted prescription product status. Alabama, Alaska, California, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Maryland, Mississippi, New Mexico, Oklahoma, Pennsylvania, and Utah all subject these products to schedule III controls.

Ability To Reapply for Exempted Prescription Product Status

Any manufacturer of a butalbital/acetaminophen or butalbital/acetaminophen/caffeine combination product that is subject to this rulemaking may reapply for exempted prescription product status by following the application procedures specified in 21 CFR 1308.31 if they believe that their formulation contains unique attributes which demonstrate that their product meets the exemption criteria (*e.g.,* it contains one or more active ingredients which are not listed in any schedule and which are included in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse). However, DEA wishes to clarify that the mere presence of acetaminophen in the formulation in quantities of greater than 70 mg per 15 mg of barbiturate will no longer automatically qualify a butalbital product for an exemption unless the applicant can further demonstrate that the formulation vitiates the potential for abuse.

Requirements for Handling Schedule III Controlled Substances

If this proposed rule is adopted in final form, butalbital products formerly subject to automatic exemption will become subject to the CSA's schedule III regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, dispensing, importing, exporting, research, and conduct of instructional activities and chemical analysis with, and possession involving, schedule III substances, including the following (as of the date a final rule becomes effective):

1. *Registration.* Any person who handles (manufactures, distributes, dispenses, imports, exports, engages in research, or conducts instructional or chemical analysis with, or possesses) butalbital products, or who desires to handle butalbital products, would be required to be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312.

2. *Disposal of Stocks.* Any person who does not desire or is not able to obtain a schedule III registration would be required to surrender all quantities of currently held butalbital products. Alternately, they may transfer all quantities of currently held butalbital products to a person registered with DEA in accordance with 21 CFR part 1317, in addition to all other applicable Federal, state, local, and tribal laws.

3. *Security.* Butalbital products would be subject to schedule III–V security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b) and in accordance with 21 CFR 1301.71–1301.93.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of butalbital products would be required to comply with 21 U.S.C. 825 and 958(e) and be in accordance with 21 CFR part 1302.

5. *Inventory.* Every DEA registrant who possesses any quantity of butalbital products would be required to take an inventory of butalbital products on hand, pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

Any person who becomes registered with DEA must take an initial inventory of all stocks of controlled substances (including butalbital products) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

After the initial inventory, every DEA registrant must take a new inventory of all controlled substances (including butalbital products) on hand at least every two years, pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* Every DEA registrant would be required to maintain records and submit reports for butalbital products, or products containing butalbital products, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304, 1312, and 1317.

7. *Prescriptions.* All prescriptions for butalbital products would be required to comply with 21 U.S.C. 829 and be issued in accordance with 21 CFR parts 1306 and 1311, subpart C.

8. *Importation and Exportation.* All importation and exportation of butalbital products would be required to be in compliance with 21 U.S.C. 952, 953, 957, and 958 and in accordance with 21 CFR part 1312.

9. *Liability.* Any activity involving butalbital products not authorized by, or in violation of, the CSA or its implementing regulations, would be unlawful and may subject the person to administrative, civil, and/or criminal sanctions.

List of Butalbital Products To Be Removed From the Table of Exempted Prescription Products

For reasons detailed above, DEA proposes the removal of Exempted Prescription Product status for all butalbital products, to include the products listed below:

Company	Trade name	NDC code	Form	Controlled substance	(mg or mg/ml)
Actavis Pharma, Inc	Butalbital, Acetaminophen and Caffeine Capsules USP 50/300/40.	0591–2640	CA	Butalbital	50
Actavis Pharma, Inc	Butalbital, Acetaminophen and Caffeine Tablets USP 50/325/40.	0591–3369	TB	Butalbital	50
Actavis Pharma, Inc	Fioricet (Butalbital, Acetaminophen and Caffeine USP 50/300/40).	52544–080	CA	Butalbital	50
Alpha Scriptics Inc	Butacet Capsules	53121–0133	CA	Butalbital	50
Alphagen Laboratories, Inc	Butalbital and Acetaminophen Capsules 50mg/650mg	00603–2542	CA	Butalbital	50
Alphagen Laboratories, Inc	Geone Capsules	59743–0004	CA	Butalbital	50
Altana, Inc	Axocet (Butalbital and Acetaminophen)	0281–0389	TB	Butalbital	50
Althon Pharmaceuticals, Inc	Butalbital, Acetaminophen and Caffeine Tablets USP	66813–074	TB	Butalbital	50
Alvogen, Inc	Butalbital and AcetaminophenTablets USP 50/325	47781–0535	TB	Butalbital	50
Alvogen, Inc	Butalbital, Acetaminophen and Caffeine Tablets USP 50/325/40.	47781–0536	TB	Butalbital	50
Alvogen, Inc	Butalbital and Acetaminophen Tablets 50/325	47781–0628	TB	Butalbital	50

Company	Trade name	NDC code	Form	Controlled substance	(mg or mg/ml)
Alvogen, Inc	Butalbital, Acetaminophen and Caffeine Tablets (50/325/40).	47781–0625	TB	Butalbital	50
Alvogen, Inc	Butalbital and Acetaminophen Tablets (50/300)	47781–0644	TB	Butalbital	50
American Pharmaceuticals, Inc.	AMERICET Tablets	58605–0501	TB	Butalbital	50
American Urologicals Inc	Butace	00539–0906	CA	Butalbital	50
Amerisource Health Services Corporation.	Butalbital, Acetaminophen and Caffeine Tablets 50/325/40mg.	68084–0396	TB	Butalbital	50
Aphena Pharma Solutions	Butalbital, Acetaminophen and Caffeine Tablets (50/325/40mg.	71610–0042	TB	Butalbital	50
Atland Pharmaceuticals	Butalbital and Acetaminophen Tablets (25mg/325mg)	71993–301	TB	Butalbital	25
Atley Pharmaceuticals	Butalbital, Acetaminophen and Caffeine Tablets	59702–661	TB	Butalbital	50
Aurobindo Pharma Inc	Butalbital, Acetaminophen and Caffeine Capsules USP 50/325/40.	13107–075	CA	Butalbital	50
AvKare, Inc	Butalbital, Acetaminophen and Caffeine Tablets USP 50/325/40.	50268–139	TB	Butalbital	50
AvKare, Inc	Butalbital, Acetaminophen and Caffeine Capsules USP 50/300/40.	42291–181	CA	Butalbital	50
Baucum Laboratories Inc	Butalbital, Acetaminophen and Caffeine Tablets	54696–0513	TB	Butalbital	50
Blansett Pharm Co	Anolor 300 Capsules	51674–0009	CA	Butalbital	50
Cardinal Health	Butalbital, Acetaminophen and Caffeine Tablets 50mg/325mg/40mg.	55154–3356	TB	Butalbital	50
Cardinal Health	Butalbital, Acetaminophen and Caffeine Tablets 50mg/325mg/40mg.	55154–7988	TB	Butalbital	50
Cardinal Health	Butalbital, Acetaminophen and Caffeine Tablets 50mg/325mg/40mg.	55154–7147	TB	Butalbital	50
Cardinal Health	Butalbital, Acetaminophen and Caffeine Tablets 50mg/325mg/40mg.	55154–3356	TB	Butalbital	50
Cardinal Health	Butalbital, Acetaminophen and Caffeine Tablets 50mg/325mg/40mg.	0904–6538	TB	Butalbital	50
Carnrick Labs Inc	Phrenilin	00086–0050	TB	Butalbital	50
Carpenter Pharmacal Co	ALAGESIC Tablets	55726–0300	TB	Butalbital	50
Cody Laboratories, Inc	BU–TAB AC	65893–100	TB	Butalbital	50
Columbia Drug Co	Isopap Capsules	11735–0400	CA	Butalbital	50
CTEX Pharmaceuticals, Inc	Butex Forte Capsules	62022–0070	CA	Butalbital	50
CTEX Pharmaceuticals, Inc	Butex Forte Capsules	62022–0074	CA	Butalbital	50
D.M. Graham Laboratories, Inc.	Butalbital, Acetaminophen and Caffeine Tablets	00756–0111	TB	Butalbital	50
Diversified Health Care Services.	Geone Capsules	59743–004	CA	Butalbital	50
Dunhall Pharmacal Inc	Triaprin	00217–2811	CA	Butalbital	50
Duramed Pharmaceuticals	Butalbital, Acetaminophen and Caffeine Tablets	51285–0849	TB	Butalbital	50
EconoMed Pharmaceuticals, Inc.	ARCET Capsules	38130–0325	CA	Butalbital	50
EconoMed Pharmaceuticals, Inc.	ARCET Compound Tablets	38130–0111	TB	Butalbital	50
Equipharm Corp	EQUI–CET Tablets	57779–0111	TB	Butalbital	50
Everett Laboratories, Inc	Repan Capsules	00642–0164	CA	Butalbital	50
Everett Laboratories, Inc	Repan Capsules	00642–0163	CA	Butalbital	50
Everett Laboratories, Inc	Repan Tablets	00642–0162–10	TB	Butalbital	50
Forest Pharmacal Inc	Acetaminophen 325mg/Butalbital 50mg	00456–0674	TB	Butalbital	50
Forest Pharmacal Inc	Acetaminophen 500mg/Butalbital 50mg	00456–0671	TB	Butalbital	50
Forest Pharmacal Inc	Bancap	00456–0546	CA	Butalbital	50
Forest Pharmacal Inc	Esgic Capsules	00456–0631	CA	Butalbital	50
Forest Pharmacal Inc	ESGIC PLUS Capsules	00456–0679	CA	Butalbital	50
Forest Pharmacal Inc	Esgic Tablets	00456–0630	TB	Butalbital	50
Forest Pharmacal Inc	ESGIC–PLUS	00456–0678	TB	Butalbital	50
Genetco Inc	Butalbital, Apap and Caffeine	00302–0490	TB	Butalbital	50
Geneva Pharmaceuticals, Inc	Butalbital, Acetaminophen and Caffeine Tablets	00781–1901	TB	Butalbital	50
GM Pharmaceuticals (Manufactured by Mikart, Inc.).	Vanatol S (Butalbital, Acetaminophen, & Caffeine Soln 50/325/40.	58809–359	LQ	Butalbital	50
GM Pharmaceuticals (Manufactured by Mikart, Inc.).	Vanatol LQ (Butalbital, Acetaminophen, & Caffeine Soln 50/325/40.	58809–820	LQ	Butalbital	50
Goldline Laboratories	Butalbital, APAP and Caffeine Tablets	00182–1274	TB	Butalbital	50
Granules Pharmaceuticals Inc.	Butalbital, Acetaminiphen and Caffeine Capsules 50mg/300mg/40mg.	70010–044	CA	Butalbital	50
Granules Pharmaceuticals Inc.	Butalbital and Acetaminiphen Capsules 50mg/300mg	70010–054	CA	Butalbital	50
GSMS Incorporated	Butalbital, Acetaminophen and Caffeine Tablets USP (50/325/40).	60429–589	TB	Butalbital	50
GSMS Incorporated	Butalbital, Acetaminophen and Caffeine Capsules USP (50/300/40).	51407–200	CA	Butalbital	50

Company	Trade name	NDC code	Form	Controlled substance	(mg or mg/ml)
Halsey Drug Co Inc	Blue Cross Butalbital, APAP and Caffeine Tablets	00879–0567	TB	Butalbital	50
Halsey Drug Co Inc	Butalbital and Acetaminophen Tablets	00879–0543	TB	Butalbital	50
Hyrex Pharmaceutical	Two-Dyne Revised	00314–2229	TB	Butalbital	50
International Ethical Laboratories, Inc.	Tencon Tablets	11584–029–01	TB	Butalbital	50
Interstate Drug Exchange	IDE–Cet Tablets	00814–3820	TB	Butalbital	50
Intetlab	CON–TEN	11584–1029	CA	Butalbital	50
Inwood Laboratories, Inc	Butalbital, Acetaminophen and Caffeine Tablets, USP	0258–3657	TB	Butalbital	50
Keene Pharmacal Inc	Endolar	00588–7777	CA	Butalbital	50
Kenco	Axotal	00013–1301	TB	Butalbital	50
KVK Tech	Butalbital, Acetaminophen & Caffeine Tablets (50mg/325mg/40mg).	10702–253	TB	Butalbital	50
Landry Pharmacal Inc	Febridyne Plain Capsules	05383–001	CA	Butalbital	50
Lannett Company, Inc	Butalbital, Acetaminophen & Caffeine Tablets (50mg/325mg/40mg).	00527–1695	TB	Butalbital	50
Lannett Company, Inc	Butalbital, Acetaminophen & Caffeine Capsules (50mg/325mg/40mg).	00527–4094	CA	Butalbital	50
Lannett Company, Inc	Butalbital, Acetaminophen & Caffeine Capsules (50mg/300mg/40mg).	00527–4095	CA	Butalbital	50
Larken Laboratories, Inc	Allzital Butalbital and Acetaminophen Tablets (25mg/325mg).	68047–752	TB	Butalbital	25
Larken Laboratories, Inc	Butalbital and Acetaminophen Tablets (25mg/325mg)	68047–722	TB	Butalbital	25
Larken Laboratories, Inc	Butalbital and Acetaminophen Tablets (50mg/325mg)	68047–721	TB	Butalbital	50
Lasalle Laboratories	Pacaps Modified Formula	48534–0884	CA	Butalbital	50
Lemmon Company	Acetaminophen/Butalbital/Caffeine Tablets	00093–0854	TB	Butalbital	50
LGM Pharma Solutions, LLC	Butalbital, Acetaminophen and Caffeine Tablets (50/325/40mg).	79739–7320	TB	Butalbital	50
LGM Pharma Solutions, LLC	Butalbital, Acetaminophen and Caffeine Capsules (50/300/40mg).	79739–7029	CA	Butalbital	50
LGM Pharma Solutions, LLC	Butalbital and Acetaminophen Tablets (50/300mg)	79739–7075	TB	Butalbital	50
Libertas Pharma, Inc	Butalbital, Acetaminophen and Caffeine Capsules USP	51862–179	CA	Butalbital	50
Lunsco Inc	Pacaps Capsules	10892–0116	CA	Butalbital	50
Major Pharmaceuticals	Butalbital, Acetaminophen and Caffeine Tablets (50/325/40mg).	0904–6938	TB	Butalbital	50
Major Pharmaceuticals	Fabophen Tablets	00904–3280	TB	Butalbital	50
Mallard Consumer Products	Anaquan Tablets	59441–0343	TB	Butalbital	50
Mallard Inc	Anoquan Modified Formula	00166–0881	CA	Butalbital	50
Mallinckrodt Inc	Butalbital, Acetaminophen, and Caffeine (“BAC”) Tablets USP.	00406–0970	TB	Butalbital	50
Marlop Pharmacal Inc	Dolmar	12939–0812	CA	Butalbital	50
Marnel Pharmaceuticals	Margesic Capsules	00682–0804	CA	Butalbital	50
Marnel Pharmaceuticals	Marten-Tab Tablets	00682–1400	TB	Butalbital	50
Martec Pharmacal Inc	Butalbital, Acetaminophen and Caffeine Tablets	52555–0079	TB	Butalbital	50
Mayne Pharma	Butalbital, Acetaminophen, & Caffeine Capsules 50/300/40	51862–542	CA	Butalbital	50
Mayrand Pharmaceuticals, Inc.	Sedapap-10 Tablets	00259–1278	TB	Butalbital	50
Midlothian Laboratories (Manufactured by Mikart, Inc.).	Esgic (Butalbital, Acetaminophen, & Caffeine Capsules 50/325/40.	68308–219	CA	Butalbital	50
Midlothian Laboratories (Manufactured by Mikart, Inc.).	Esgic (Butalbital, Acetaminophen, & Caffeine Tablets 50/325/40.	68308–220	TB	Butalbital	50
Midlothian Laboratories (Manufactured by Mikart, Inc.).	Zebutal (Butalbital, Acetaminophen, & Caffeine Capsules 50/325/40.	68308–554	CA	Butalbital	50
Mikart, Inc	Alagesic Capsules	50991–302	CA	Butalbital	50
Mikart, Inc	Bupap	00095–0240	TB	Butalbital	50
Mikart, Inc	Butalbital and Acetaminophen Tablets 50/325	46672–0099	TB	Butalbital	50
Mikart, Inc	Butalbital and Acetaminophen Tablets 50/650	11584–0029	TB	Butalbital	50
Mikart, Inc	Butalbital and Acetaminophen Tablets 50/650	46672–0098	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Capsules	46672–0228	CA	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Capsules	00588–7788	CA	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Eilixer	46672–0633	EL	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Tablets	52555–0647	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Tablets	46672–0053	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Tablets USP	49884–0811	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Tablets USP	00258–3665	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Tablets USP (50/325/40).	51862–540	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Tablets, USP	0591–3416	TB	Butalbital	50
Mikart, Inc	Butalbital and Acetaminophen Capsules 50/300	46672–286	CA	Butalbital	50
Mikart, Inc	Butalbital and Acetaminophen Tablets 50/300	46672–856	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen and Caffeine Tablets, USP	46672–184	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen, and Caffeine Oral Solution	66813–073	LQ	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen, and Caffeine Tablets	51432–0034	TB	Butalbital	50
Mikart, Inc	Butalbital, Acetaminophen, and Caffeine Tablets	46672–0059	TB	Butalbital	50

Company	Trade name	NDC code	Form	Controlled substance	(mg or mg/ml)
Mikart, Inc	Capacet (Butalbital, Acetaminophen, and Caffeine 50/325/40).	58407–534	CA	Butalbital	50
Mikart, Inc	Cephadyn Tablets	59702–0650	TB	Butalbital	50
Mikart, Inc	Dolgic Plus Tablets	68453–074	TB	Butalbital	50
Mikart, Inc	Dolgic Tablets	62022–0073	TB	Butalbital	50
Mikart, Inc	DOLMAR Tablets	12939–0811	TB	Butalbital	50
Mikart, Inc	Esgic Capsules	00535–0012	CA	Butalbital	50
Mikart, Inc	Esgic Tablets	00535–0011	TB	Butalbital	50
Mikart, Inc	Promacet	58605–524	TB	Butalbital	50
Mikart, Inc	Sedapap Tablets	00259–0392	TB	Butalbital	50
Mikart, Inc. (on behalf of Mayne Pharma).	Butalbital and Acetaminophen Capsules 50/300	51862–544	CA	Butalbital	50
Mikart, Inc. (on behalf of Mayne Pharma).	Butalbital and Acetaminophen Tablets 50/300	51862–538	TB	Butalbital	50
Mikart, Inc. (on behalf of Monarch PCM, LLC).	Vtol LQ (Butalbital, Acetaminophen, Caffeine Oral Solution)	70154–111	LQ	Butalbital	50
Mikart, Inc	Tencon (Butalbital and Acetaminophen 50mg/325mg)	11584–0030	TB	Butalbital	50
Mikart, Inc./Shionogi, Inc	Dolgic Plus Tablets	59630–074	TB	Butalbital	50
Moore Medical Corporation	Butalbital, Acetaminophen and Caffeine Tablets	00839–7831	TB	Butalbital	50
Nexgen Pharma	BUPAP (Butalbital and Acetaminophen 50mg/300mg)	0095–3000	TB	Butalbital	50
Nexgen Pharma	Butalbital with Acetaminophen and Caffeine Tablets	0722–7029	TB	Butalbital	50
Nexgen Pharma	Butalbital, Acetaminophen and Caffeine Tablets (50mg/325mg/40mg).	0722–7320	TB	Butalbital	50
Northampton Medical, Inc	FEMCET	58436–0703	TB	Butalbital	50
NorthStar	Butalbital, Acetaminophen and Caffeine Capsules (50mg/300mg/40mg).	16714–170	CA	Butalbital	50
Oceanside Pharmaceuticals (Manufactured by Nexgen).	Butalbital and Acetaminophen Tablets (50mg/300mg)	68682–306	TB	Butalbital	50
PD-Rx Pharmaceuticals, Inc	Butalbital/APAP/Caffeine Tablets (50mg/325mg/40mg)	55289–0879	TB	Butalbital	50
Pharmaceutical Basics Inc	Butalbital, Acetaminophen and Caffeine Tablets	00832–1102	TB	Butalbital	50
Phlight Pharma, LLC	Allzital (Butalbital and Acetaminophen Tablets (25 mg/325 mg)).	70569–150	TB	Butalbital	25
Poly Pharmaceuticals, Inc	Alagesic	50991–0302	CA	Butalbital	50
Private Formula Inc	Sangesic	00511–1627	TB	Butalbital	30
ProficientRx	Butalb/Acet/Caffeine 50mg/325mg/40mg	63187–933	TB	Butalbital	50
ProficientRx	Butalb/Acet/Caffeine 50mg/300mg/40mg	71205–962	CA	Butalbital	50
ProficientRx	Butalb/Acet/Caffeine 50mg/325mg/40mg	71205–981	TB	Butalbital	50
ProficientRx	Butalb/Acet/Caffeine 50mg/325mg/40mg	71205–510	TB	Butalbital	50
Qualitest Pharmaceuticals, Inc.	Butalbital and Acetaminophen Tablets	0603–2540	TB	Butalbital	50
Qualitest Pharmaceuticals, Inc.	Butalbital, Acetaminophen and Caffeine Tablets 50/325/40mg.	0603–2544	TB	Butalbital	50
Qualitest Pharmaceuticals, Inc.	Butalbital, Acetaminophen and Caffeine Tablets USP	0603–2547	TB	Butalbital	50
Qualitest Pharmaceuticals, Inc.	Butalbital, Acetaminophen and Caffeine Tablets, USP	0603–2551	TB	Butalbital	50
Qualitest Products Inc	Butalbital, Acetaminophen and Caffeine Tablets	52446–0544	TB	Butalbital	50
Redi-Med	Butalbital Compound Capsules	53506–0103	CA	Butalbital	50
Roberts Pharmaceutical Corporation.	Anoquan	54092–0178	TB	Butalbital	50
Roberts Pharmaceutical Corporation.	Tencet Tablets	59441–0153	TB	Butalbital	50
Rotex Pharmaceuticals, Inc	Rogesic Capsules	31190–0008	CA	Butalbital	50
Rugby Laboratories Inc	Butalbital, Acetaminophen and Caffeine Tablets, USP	0536–5567	TB	Butalbital	50
Rugby Laboratories Inc	ISOCET Tablets	00536–3951	TB	Butalbital	50
Russ Pharmaceuticals, Inc	FEMCET Capsules	50474–0703	CA	Butalbital	50
Savage Laboratories	AXOTAL	00281–1301	TB	Butalbital	50
Shoals Pharmaceuticals, Inc	Tencet	47649–0370	TB	Butalbital	50
Shoals Pharmaceuticals, Inc	Tencet Capsules	47649–0560	CA	Butalbital	50
Skylar Laboratories, LLC	Allzital (Butalbital and Acetaminophen Tablets) (25mg/325mg).	70362–722	TB	Butalbital	25
Skylar Laboratories, LLC	Butalbital and Acetaminophen Tablets (50mg/325mg)	70362–721	TB	Butalbital	50
Solubiomix	Butalbital and Acetaminophen Tablets (50mg/325mg)	69499–302	TB	Butalbital	50
Solubiomix	Butalbital and Acetaminophen Capsules (50mg/300mg)	69499–342	CA	Butalbital	50
Stewart Jackson Pharmacal, Inc.	Ezol	45985–0578	CA	Butalbital	50
STI Pharma, LLC	Butalbital and Acetaminophen Tablets (50mg/325mg)	54879–026	TB	Butalbital	50
Sunrise Pharmaceuticals, Inc	Butalbital, Acetaminophen, Caffeine Capsules (50mg/300mg/40mg).	11534–187	CA	Butalbital	50
Taro Pharmaceuticals U.S.A., Inc.	Butalbital, Acetaminophen and Caffeine Caps (50mg/300mg/40mg).	51672–4222	CA	Butalbital	50
Tedor Pharma, Inc	Butalbital and Acetaminophen Tablets (50mg/300mg)	47781–534	TB	Butalbital	50
Tedor Pharma, Inc	Butalbital and Acetaminophen Tablets (50mg/325mg)	43199–053	TB	Butalbital	50

Company	Trade name	NDC code	Form	Controlled substance	(mg or mg/ml)
Tedor Pharma, Inc. (Manufactured for Xspire Pharma).	Butalbital, Acetaminophen and Caffeine Caps (50mg/300mg/40mg).	42195–955	CA	Butalbital	50
Trimen Labs	Amaphen Capsules (reformulated)	11311–0954	CA	Butalbital	50
U.S. Pharmaceuticals	Medigesic Capsules	52747–0600	CA	Butalbital	50
UAD Laboratories Inc	Bucet Capsules	00785–2307	CA	Butalbital	50
US Pharmaceuticals Inc	Medigesic Tablets	52747–0311	TB	Butalbital	50
Valeant Pharmaceuticals	Phrenilin Forte	0187–0844	CA	Butalbital	50
Victory Pharma Inc. (Manuf. by West-Ward Pharmaceutical).	Zebutal Brand Butalbital, Acetaminophen, and Caffeine Capsules.	68453–170	CA	Butalbital	50
WE Hauck Inc	G–1 Capsules	43797–0244	CA	Butalbital	50
Westminster Pharmaceuticals	Butalbital, Acetaminophen and Caffeine Tablets (50mg/325mg/40mg).	69367–203	TB	Butalbital	50
West-Ward Pharmaceutical Corp.	Butalbital with Acetaminophen and Caffeine Tablets	00143–1787	TB	Butalbital	50
West-Ward Pharmaceutical Corp.	Butalbital, Acetaminophen and Caffein Capsules	00143–3001	CA	Butalbital	50
West-Ward Pharmaceutical Corp.	Butalbital, Acetaminophen, and Caffeine Tablets, USP	00143–1115	TB	Butalbital	50
West-Ward Pharmaceutical Corp.	Zebutal Brand Butalbital, Acetaminophen, and Caffeine Capsules.	59630–0170	CA	Butalbital	50
Wraser Pharmaceuticals	Phrenilin Forte (Butalbital, Acetaminophen and Caffeine) 50/300/40.	66992–955	CA	Butalbital	50
Zenith Goldline Pharmaceuticals.	Butalbital, Acetaminophen and Caffeine Tablets	00182–2659	TB	Butalbital	50

Regulatory Analyses

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

This proposed rule was developed in accordance with the principles of Executive Orders (E.O.) 12866 and 13563. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866 classifies a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB) as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined that it is a significant regulatory action under E.O. 12866.

Benefits

The removal of exempted prescription product status for butalbital products previously granted exemption would impose the regulatory controls and administrative, civil, and criminal sanctions of schedule III controlled substances on any person who handles or proposes to handle butalbital products that were previously exempted from control under 21 CFR 1308.31 and 1308.32. Controlling previously exempt butalbital prescription products as schedule III controlled substances is expected to prevent, curtail, and limit the questionable distribution and dispensing of these products, including the distribution and dispensing via the internet. One of DEA's primary concerns is the prevalence of questionable online websites that promote the sale of exempted butalbital products ''without a prescription.'' Such questionable sales practices exploit the current regulatory status of these exempted prescription products. These questionable websites are not to be equated with ''mail order pharmacies,'' which serve a valuable role in legitimate U.S. health care. This proposal is directed in particular to such questionable websites and is not intended to adversely affect legitimate mail order or retail pharmacies. This proposed rule is expected to impact these online sales practices, resulting in fewer individuals abusing these products and potentially becoming addicted to these or similar products.

Additionally, DEA anticipates benefits from reduced societal costs (*i.e.,* health care costs, criminal justice system costs, opportunity costs, etc.) due to abuse and addiction. While this proposed rule is expected to lower the abuse of currently exempt butalbital products, DEA has no basis to quantify the amount of abuse that will be prevented, and the societal cost savings result of this rule. However, DEA anticipates that removal of exempted prescription product status for butalbital products will reduce the amount of abuse of these products, and lead to societal cost savings.

Costs

Below is an Economic Impact Analysis which summarizes the costs associated with this proposed rule.

Affected Persons

The removal of exempted prescription product status for previously exempted butalbital products will affect all persons who handle (manufacture, distribute, dispense, engage in research, conduct instructional activities, or possess) or propose to handle these products. The exempt butalbital products are prescription drug products

used for the treatment of tension headaches. While some hospitals or clinics may hold some exempt butalbital products in inventory, quantities are expected to be minimal and the economic impact on hospitals is expected to be minimal. Therefore, DEA does not anticipate this proposed rule will affect hospitals. Additionally, while prescribers would need a DEA registration to prescribe these products, nearly all individual practitioners are expected to be registered with DEA already or otherwise have authority to prescribe controlled substances but are exempt from registration. Therefore, for the purposes of this analysis, DEA assumes this proposed rule primarily affects manufacturers, distributors, and pharmacies.

The ''Table of Exempted Prescription Products'' includes the National Drug Code (NDC), which serves as a universal product identifier for the exempt prescription products, among other information. While the list of products that have been granted exempted prescription product status contains 189 prescription products containing butalbital (as of February 11, 2022), not all are actively marketed in the United States. By comparing the NDC of the 189 products that were granted exempt status to the current NDC Directory,[4] coupled with recent exemption approvals, DEA estimates 49 exempt butalbital products are actively marketed in the United States. DEA believes many of the remainder of these 189 products have been discontinued; there is no requirement to inform DEA of discontinuation of products that have been granted exempt prescription product status. From review of applicant information in the application for exempt prescription product status and NDC labeler information from the NDC Directory, DEA estimates the 49 exempt butalbital products are manufactured by 30 manufacturers.

The number of DEA registrations forms the basis of the number of distributors and pharmacies. Because exempted butalbital products are widely prescribed, DEA assumes that all DEA-registered distributors and pharmacies are exempted butalbital product handlers. Also, for the purposes of this analysis, DEA assumes all legally operating distributors and pharmacies that handle exempted butalbital products are registered with DEA. Based on DEA records, as of June 5, 2020, there are 627 distributor registrations and 70,672 pharmacies authorized to handle schedule III controlled substances.

In summary, DEA estimates 71,329 establishments (30 manufacturers, 627 distributors, and 70,672 pharmacies) are affected by this proposed rule.

Costs Associated With Requirements

DEA considered various costs associated with handling exempt butalbital products as a schedule III controlled substance for each of the business activities (manufacturer, distributor, prescriber, and pharmacy) anticipated to handle butalbital and be impacted by this proposed rule. The costs include costs associated with various requirements, such as: Registration, physical security, labeling and packaging, inventory and recordkeeping, and disposal.

The registration requirements impact all manufacturers that do not hold a DEA manufacturer registration. DEA conducted a search of its registration records for the 30 manufacturer establishments identified as handling exempt butalbital. DEA estimates there are 19 manufacturers that would need DEA registrations if this proposed rule were promulgated. The 19 non-registered manufacturers would incur an initial registration and an annual renewal fee of $3,699 for the manufacturer registration for a total of $70,281 per year. DEA assumes all legally operating distributors and pharmacies that handle exempted butalbital products are already registered with DEA. Therefore, DEA estimates distributors and pharmacies would not incur additional registration-related costs if this proposed rule were promulgated. In summary, the estimated cost of the registration requirements associated with this proposed rule is the cost of the initial registration and annual renewal registration fees for the 19 manufacturers, $70,281 per year.

DEA estimated the costs associated with physical security requirements for manufacturers and distributors. Many states already control butalbital as a schedule III controlled substance under state law. As state requirements for schedule III controlled substances generally meet or exceed DEA requirements, only the establishments located in states where the exempt butalbital products are not controlled as schedule III controlled substances under state law are estimated to incur costs associated with physical security. Based on review of publicly available information regarding the locations of the manufacturers and registered locations of distributors, DEA estimates 17 manufacturer establishments and 399 distributors are located in states where exempt butalbital products are not already subject to controls equivalent to Federal schedule III handling requirements under state law. Based on a review of manufacturing data of a largely prescribed controlled substance and review of commercially available industry reports of exempt butalbital products, DEA estimates 3 of the 17 manufacturers (located in states where the exempt butalbital products are not controlled as schedule III controlled substances under state law) will need a large secure area and 14 of 17 will require a small secure area. DEA estimates the three large manufacturers would each need to secure 20,000 square feet (sq. ft.) of space and 14 small manufacturers would each need to secure 10,000 sq. ft. of space, at a cost of $112,000 and $79,196 for a large and small manufacturer, respectively, for a total of $1,444,744.

As with manufacturers, DEA anticipates a concentration of market share with a small number of large distributors distributing the majority of exempt butalbital products in the U.S. DEA estimates the market distribution of exempt butalbital products is similar to that of a largely prescribed controlled substance. Based on estimates that 20 large, 60 medium, and 319 small distributors would need to secure 4,000 sq. ft., 250 sq. ft., and 16 sq. ft. of space, respectively, DEA estimates a cost of $35,418, $8,854, and $2,217 for large, medium, and small distributors, respectively, for a total of $1,946,823. In summary, DEA estimates the requirements associated with physical security controls will have a one-time cost of $1,444,744 for all manufacturers combined and a one-time cost of $1,946,823 for all distributors combined, for a grand total of $3,391,567.

DEA estimates pharmacies are already handling other schedule III controlled substances and have the controls and procedures in place to store exempt butalbital products in a secure area at a minimal cost. Pharmacies and institutional practitioners may disperse such substances throughout the stock of non-controlled substances in such a manner as to obstruct the theft or diversion of controlled substances. 21 CFR 1301.75(b). DEA believes these

[4] ''The Drug Listing Act of 1972 requires registered drug establishments to provide FDA with a current list of all drugs manufactured, prepared, propagated, compounded, or processed by it for commercial distribution. (See Section 510 of the Federal Food, Drug, and Cosmetic Act (Act) (21 U.S.C. 360)). Drug products are identified and reported using a unique, three-segment number, called the National Drug Code (NDC), which serves as a universal product identifier for drugs. FDA publishes the listed NDC numbers and the information submitted as part of the listing information in the NDC Directory which is updated daily.'' *https://www.fda.gov/Drugs/InformationOnDrugs/ucm142438.htm.* (accessed March 18, 2020)

facilities possess adequate physical security controls and any cost associated with physical security requirements as a result of this rule is minimal.

In accordance with the CSA, every DEA registrant must maintain, on a current basis, a complete and accurate record of each controlled substance manufactured, received, sold, delivered, or otherwise disposed of. 21 U.S.C. 827(a). These records must be maintained separately from all other records of the registrant, or alternatively, in the case of non-narcotic controlled substances, be in such a form that required information is readily retrievable from the ordinary business records of the registrant. 21 U.S.C. 827(b)(2). The records must be kept and be available for at least two years for inspection and copying by officers or employees of the Attorney General. 21 U.S.C. 827(b)(3). To fulfill its regulatory responsibilities, DEA assumes for the purpose of this analysis that exempt butalbital product handlers already maintain detailed records of exempt butalbital product transactions and those records can be maintained separately or readily retrievable at minimal cost. DEA estimates that there will be no economic impact beyond the inventory of exempted prescription status butalbital product stock pursuant to the initial and biennial inventory requirements in 21 CFR 1304.11.

Following the finalization of this scheduling action, registrants would be required to take an inventory of all stocks of exempted prescription status butalbital products on hand and continue to conduct inventories biennially. DEA estimates the inventories for manufacturers and distributors will be conducted by a warehouse first-line supervisor and administrative personnel and will take one-half hour to complete. Additionally, DEA estimates inventories for pharmacies will be conducted by a pharmacist and a pharmacy technician and will take 6 minutes (0.1 hour) to complete. Based on U.S. Bureau of Labor Statistics hourly wage data and load for benefits, DEA estimates the cost of initial and biennial inventory for manufacturers, distributors, and pharmacies is $33.03, $33.03, and $11.12 per occurrence, respectively.[5] Total inventory cost for 30 manufacturers, 627 distributors and 70,672 pharmacies is $807,573 initially, in the first year, and biennially, thereafter.

If this rule is finalized, labeling and packaging requirements pursuant to 21 CFR part 1302 would apply to currently exempted prescription status butalbital products. Printed labels would need to indicate their status as a schedule III controlled substance. For example, the printed label would need to include ''CIII'' or ''C–III.'' DEA assumes that the activity of manufacturers making labeling changes is routine and in their normal course of business. Therefore, DEA assumes that the cost of making this change is minimal. Accordingly, DEA estimates that the cost of the labeling and packaging requirements of this proposed rule is minimal.

A reverse distributor generally performs the disposal of controlled substances by registrants. DEA recognizes that removing the exempt status for previously exempt butalbital products may increase the volume of material that registrants will need to dispose through a reverse distributor. However, as exempted prescription status butalbital products are currently not controlled, DEA does not have information on the volume of exempt butalbital products currently disposed of, and thus cannot determine what the increase in schedule III controlled substance disposal will be or how it will affect the fees charged by reversed distributors. Therefore, DEA is unable to quantify the costs associated with the disposal of exempt butalbital products. However, since DEA assumes the affected establishments are already disposing of controlled substances, the disposal of previously exempted prescription status butalbital products will be incorporated into existing business processes. DEA believes that any cost increase, if one exists, will be minimal.

In summary, DEA estimates the economic impact of this proposed rule is due to the costs associated with registration requirements, the costs associated with storage requirements, and the costs associated with inventory requirements. The registration cost is an initial registration fee and an annual renewal fee of $70,281 (for the 19 non-registered manufacturer establishments). The cost associated with storage requirements is a one-time cost of $3,391,567 for all affected establishments combined (17 manufacturers and 399 distributors located in states where exempted prescription status butalbital products are not controlled under State law). The costs associated with inventory and recordkeeping are an initial inventory cost of $807,573 and a biennially recurring inventory cost of $807,573 for all manufacturer, distributor, and pharmacy establishments combined.

DEA determined the annualized cost of the proposed rule by calculating the present value of the costs utilizing the discounted cash flow method at 3 percent and 7 percent and converting the present value into equal annual payments over 20 years at the 3 percent and 7 percent discount rates.[6] The present value of the costs associated with the proposed rule is $10,434,492 and $8,336,626 at 3 percent and 7 percent discount rates, respectively. The annualized costs are $701,362 and $786,918 at 3 percent and 7 percent discount rates, respectively. Conservatively, using the 7 percent rate, the estimated annualized cost of the proposed rule is $786,918 per year. The estimated highest cost in any given year is $4,269,421, which represents the year of implementation of the rule (Year 1). Although DEA currently is unable to quantify the societal cost savings resulting from the placement of butalbital products in schedule III, DEA believes such savings will exceed the costs associated with this proposed rule.

Discussion of Uncertainties

This analysis evaluates the economic impact of controlling pharmaceuticals that are currently exempt from control. Therefore, DEA does not have a strong basis to estimate some of the costs or other impacts to affected persons. DEA welcomes all comments that would narrow the uncertainties in the presented analysis, and specifically asks potentially affected persons the following questions (specific and quantified responses are more helpful):

1. DEA does not have data on (a) the volume of butalbital products dispensed via online pharmacies and websites; (b) the number of physicians impacted that do not have DEA registrations; (c) the number of pharmacies impacted that do not have DEA registrations; and (d) the impact on patients that are unable to

[5] Bureau of Labor Statistics, Occupational and Employment and Wages, May 2019, *https://www.bls.gov/oes/current/oes_nat.htm.* Bureau of Labor Statistics, ''Employer Costs for Employee Compensation—December 2019'' reports that benefits for private industry is 29.9 percent of total compensation. The 29.9 percent of total compensation equates to a 42.7 percent (29.9/70.1) load on wages and salaries. *https://www.bls.gov/news.release/pdf/ecec.pdf.* 0.5 hour × [$26.47 per hour + $19.82 per hour] × 1.427 load = $33.03. 0.1 hour × [$61.58 per hour + $16.32 per hour] × 1.427 load = 11.12.

[6] The use of 7 percent and 3 percent rates for present value calculation, annual payment calculation, and analysis time horizon is based on OMB Circular A–4, September 17, 2003. *See also* ''Regulatory Impact Analysis: A Primer'' and ''Regulatory Impact Analysis: Frequently Asked Questions (FAQ)'' February 7, 2011, Office of Information and Regulatory Affairs (OIRA). DEA used a 20-year time horizon for this analysis as there is no predetermined end to this rule.

seek face-to-face guidance from a provider. DEA requests comments that help to identify the extent of the impact this rulemaking may impose.

2. DEA estimates that hospitals and clinics would be minimally affected by this proposed rule because most hospitals and clinics are expected to hold minimal inventory. Distributions of exempt butalbital products to hospitals and clinics are expected to be minimal, while a large majority of distributions are to pharmacies. Will hospitals and clinics be materially affected by this proposed rule? If so, please explain with specific and quantified information as possible.

3. DEA estimates 19 manufacturers would need to obtain a DEA registration to continue manufacturing exempt butalbital products. Is this a reasonable estimate? Would any manufacturer cease manufacturing exempt butalbital products rather than obtaining a DEA registration to continue manufacturing of exempt butalbital products?

4. How much time would be required to conduct an inventory of exempt butalbital products for a typical manufacturer, distributor, and pharmacy? Who (what occupation) usually conducts the inventory?

5. If this rule is finalized, commercial packaging would require, with some exceptions, a printed label a symbol designating the schedule, *i.e.,* ''CIII'' or ''C–III.'' DEA assumes that the activity of manufacturers making labeling changes is routine and in their normal course of business. What is the cost of adding the required symbol to the commercial packaging?

Executive Order 12988, Civil Justice Reform

This proposed regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This proposed rulemaking does not have federalism implications warranting the application of E.O. 13132. The proposed rule does not have substantial direct effects on the states, on the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), has reviewed this proposed rule and by approving it, certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Below is a summary of the threshold analyses conducted by the DEA to support the certification statement above.

In accordance with the RFA, DEA evaluated the impact of this proposed rule on small entities. DEA estimates that this proposed rule will affect 31,187 entities, of which 30,593 are small entities (17 manufacturers, 406 distributors, and 30,170 pharmacies). The number of affected small entities for each business activity is compared to the number of small entities in each corresponding North American Industry Classification System (NAICS) code to determine whether a substantial number of small entities are affected. Additionally, the annualized cost of the proposed rule for each affected entity is compared to its estimated annual revenue to determine whether this proposed rule will have a significant economic impact on small entities. Since DEA does not collect revenue information on its registrants, to estimate the number of entities ''significantly'' impacted by the proposed rule, DEA relied on publicly available information. Combining the two criteria, substantial number and significant economic impact, DEA determined that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Specifically, DEA examined the registration, physical security, labeling and packaging, inventory and recordkeeping, and disposal requirements for the small entities estimated to be affected by the proposed rule. Based on DEA's understanding of its registrants' operations and facilities, and research of publicly available information regarding size and location, DEA estimates that the annualized cost of this proposed rule would vary. Entities already registered to handle schedule III controlled substances would not incur any additional registration costs, and manufacturers and distributors located in the states that control exempt butalbital products as a schedule III controlled substance under state law would not incur any additional costs associated with physical security as state requirements for schedule III controlled substances generally meet or exceed Federal requirements. DEA estimates the following annualized costs:

- $10,703 per establishment for costs associated with registration, physical security, and inventory requirements: Non-registered manufacturers located in a state where exempt butalbital products are not already subject to controls equivalent to Federal schedule III handling requirements under state law.
- $7,004 per establishment for costs associated with physical security and inventory requirements: Registered manufacturers located in a state where exempt butalbital products are not already subject to controls equivalent to Federal schedule III handling requirements under state law.
- $3,716 per establishment for costs associated with registration and inventory requirements: Non-registered manufacturers located in a state where exempt butalbital products are already subject to controls equivalent to Federal schedule III handling requirements under state law.
- $17 per establishment for costs associated with inventory requirements: Registered manufacturers located in a state where exempt butalbital products are already subject to controls equivalent to Federal schedule III handling requirements under state law.
- $213 per establishment for costs associated with physical security and inventory requirements: Distributors located in a state where exempt butalbital products are not already subject to controls equivalent to Federal schedule III handling requirements under state law.
- $17 per establishment for costs associated with inventory requirements: Distributors located in a state where exempt butalbital products are already subject to controls equivalent to Federal schedule III handling requirements under state law.
- $6 per establishment for costs associated with inventory requirements: All pharmacies.

DEA estimates manufacturer, distributor, and pharmacy business activities best correspond to the following NAICS codes:

- Manufacturer: 325412—Pharmaceutical Preparation Manufacturing
- Distributor: 424210—Drugs and Druggists' Sundries Merchant Wholesalers
- Pharmacy: 446110—Pharmacies and Drug Stores

DEA researched publicly available information for each of the 17 affected manufacturer small entities and estimated each of their annual revenues. The annualized cost corresponding to their registration and location were compared with the estimated annual revenue for each of the 17 manufacturer small entities. DEA considers the economic impact is ''significant'' if the annual impact is greater than 3 percent of annual revenue. The economic impact is estimated to be significant for one of the small manufacturers. In conclusion, DEA estimates there are 930 small firms in NAICS code 325412—Pharmaceutical Preparation Manufacturing, of which 17 small entities are affected by this proposed rule, and one small entity in NAICS code 325412 will have a significant economic impact.

Regarding physical security and inventory costs to distributors, the U.S. Census Bureau's Statistics on U.S. Businesses (SUSB) data contains estimated annual revenue, the number of establishments, and the number of firms for each NAICS code at various revenue ranges, *i.e.,* less than $100,000, $100,000–499,000, $500,000–999,999, etc. The estimated annualized cost of $213 and $17 per distributor establishment was compared to the average annual revenue of the smallest of small firms in NAICS code 424210—Drugs and Druggists' Sundries Merchant Wholesalers. From SUSB data, there are 585 firms in the smallest firm size category, ''Less than $100,000,'' for a combined estimated annual receipts of $31,248,000, or an average of $53,415 per firm.[7] The annualized cost of $213 and $17 are 0.4 percent and 0.03 percent of the average annual receipt of $53,415 per firm. Because DEA does not expect this proposed rule to have a significant economic impact on the smallest of small entities, DEA does not expect it to have a significant economic impact on any small entity. DEA estimates there are 6,663 small firms in NAICS code 424210—Drugs and Druggists' Sundries Merchant Wholesalers, of which 406 distributor small entities are affected by this proposed rule, and no small entities in NAICS code 424210 will have a significant economic impact.

Regarding inventory requirement costs for pharmacies, the estimated annualized cost of $6 per pharmacy establishment was compared to the average annual revenue of the smallest of small firms in NAICS code 446110—Pharmacies and Drug Stores. From SUSB data, there are 751 firms in the smallest firm size category, ''Less than $100,000,'' for a combined estimated annual receipts of $36,066,000 or an average of $48,024 per firm.[8] The annualized cost of $6 is approximately 0.01 percent of the average annual receipt of $48,024 per firm. Because DEA does not expect this proposed rule to have a significant economic impact on the smallest of small entities, DEA does not expect it to have a significant economic impact on any small entity. While DEA estimates this proposed rule to affect a substantial number of pharmacy small entities in NAICS code 446110—Pharmacies and Drug Stores, the proposed rule is not expected to have a significant economic impact on any pharmacy small entity.

In conclusion, DEA's assessment of economic impact by size category indicates that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The estimated highest cost in any given year is $4,269,421; thus, DEA has determined in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* that this action would not result in any federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted for inflation) in any one year. Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, DEA proposes to amend 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.31, revise paragraph (d) and add paragraph (e) to read as follows:

§ 1308.31 Application for exemption of nonnarcotic prescription product.

* * * * *

(d) The Administrator may revoke (either individually or categorically) any exemption granted pursuant to section 201(g)(3)(A) of the Act (21 U.S.C. 811(g)(3)(A)) by following the procedures set forth in paragraph (c) of this section for handling an application for an exemption which has been accepted for filing. The Administrator has categorically revoked exemptions for the following products:

(1) Effective as of [effective date of final rule], the previous exemptions approved for butalbital products are revoked and such products become subject to the statutory and regulatory restrictions applicable to schedule III controlled substances.

(2) [Reserved]

(e) The compounds, mixtures, or preparations that the Administrator has exempted from application of all or any part of the Act pursuant to section 201(g)(3)(A), of the Act (21 U.S.C. 811(g)(3)(A)) are listed in the Table of Exempted Prescription Products available on the DEA Diversion Control website at *www.deadiversion.usdoj.gov/schedules.*

Anne Milgram,

Administrator.

[FR Doc. 2022–07572 Filed 4–11–22; 8:45 am]

BILLING CODE 4410–09–P

[7] *https://www2.census.gov/programs-surveys/susb/tables/2012/us_6digitnaics_r_2012.xlsx.* (accessed June 3, 2020).

[8] Ibid.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2570

RIN 1210–AC05

Procedures Governing the Filing and Processing of Prohibited Transaction Exemption Applications

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Department of Labor (the Department) is extending the comment period for a proposed rule that would update, clarify, and supersede the Department's current regulation governing the filing and processing of applications for administrative exemptions from the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA), the Internal Revenue Code of 1986 (the Code), and the Federal Employees' Retirement System Act of 1986 (FERSA). The Department published the proposed rule in the **Federal Register** on March 15, 2022, with a 30-day comment period that was scheduled to end on April 14, 2022. Since the proposed rule was published, the Department has received multiple requests from interested parties for the Department to provide additional time for them to develop and submit their comments on the proposal. In response to these requests, the Department is extending the comment period for an additional 45 days, through May 29, 2022.

DATES: Written comments and requests for a public hearing on the proposed rule must be submitted to the Department on or before May 29, 2022.

ADDRESSES: All written comments and requests for a hearing concerning the proposed rule should be sent to the Office of Exemption Determinations through the Federal eRulemaking Portal and identified by RIN 1210–AC05.

Federal eRulemaking Portal: www.regulations.gov at Docket ID number: EBSA–2022–0003.

See **SUPPLEMENTARY INFORMATION** below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: Brian Shiker, telephone: (202) 693–8552, email: *shiker.brian@dol.gov,* Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor (this is not a toll-free number).

Customer Service Information: Individuals interested in obtaining information from the Department concerning ERISA and employee benefit plans may call the Employee Benefits Security Administration's Toll-Free Hotline, at 1–866–444–EBSA (3272) or visit the Department's website (*www.dol.gov/ebsa*).

SUPPLEMENTARY INFORMATION:

Comment Instructions

All comments and requests for a hearing must be received by the end of the comment period. Requests for a hearing must state the issues to be addressed and include a general description of the evidence to be presented at the hearing. Persons are encouraged to submit all comments electronically and not to follow such submission with paper copies. The comments and hearing requests will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue NW, Washington, DC 20210; however, the Public Disclosure Room may be closed for all or a portion of the comment period due to circumstances surrounding the COVID–19 pandemic caused by the novel coronavirus. Comments and hearing requests will also be available to the public, without charge, online at *www.regulations.gov,* at Docket ID number: EBSA–2022–0003 and *www.dol.gov/ebsa.*

Warning: All comments received will be included in the public record without change and will be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a comment, the Employee Benefits Security Administration (EBSA) recommends that you include your name and other contact information, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number), or confidential business information that you do not want publicly disclosed. However, if EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment. Additionally, the *www.regulations.gov* website is an ''anonymous access'' system, which means EBSA will not know your identity or contact information unless you provide it. If you send an email directly to EBSA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the internet.

Background

The Secretary of Labor is authorized to grant administrative exemptions from the prohibited transaction provisions of ERISA, the Code, and FERSA and to establish an exemption procedure to grant such exemptions. The Department's exemption procedure regulation was first published in 1990 and most recently updated in 2011.[1]

On March 15, 2022, the Department published a notice of proposed rulemaking in the **Federal Register** entitled: Procedures Governing the Filing and Processing of Prohibited Transaction Exemption Applications (the Proposed Rule).[2] The Proposed Rule would update, clarify, and supersede the Department's existing regulation governing the filing and processing of applications for administrative exemptions from the prohibited transaction provisions of ERISA, the Code, and FERSA.

The Proposed Rule contains a 30-day comment period, which was scheduled to expire on April 14, 2022. Since the publication of the Proposed Rule, the Department has received multiple letters from interested persons expressing concern that the proposal's 30-day comment period did not provide them with sufficient time to develop and submit their comments regarding the proposed substantive changes to the current exemption procedure regulation and requesting the Department to extend the comment period by at least 30 days.

After carefully considering the extension requests, the Department has decided that it is appropriate to extend the comment period in the context of this proposed regulation for an additional 45 days (from 30 to 75 total days) to provide interested parties with additional time to participate in this rulemaking process. The comment period, therefore, will close on May 29, 2022.

[1] 29 CFR part 2570.30 through 2570.52 (55 FR 32847 (Aug. 10, 1990) and 76 FR 6637 (Oct. 27, 2011)).

[2] 87 FR 14722.

Signed at Washington, DC, this 6th day of April 2022.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2022–07785 Filed 4–11–22; 8:45 am]

BILLING CODE 4510–29–P

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Domestic Mailing Services Products

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: On April 6, 2022, the Postal Service (USPS®) filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC), effective July 10, 2022. This proposed rule contains revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) to coincide with the price adjustments.

DATES: Submit comments on or before May 12, 2022.

ADDRESSES: Mail or deliver written comments to the Manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PCFederalRegister@usps.gov,* with a subject line of ''July 2022 Domestic Mailing Services Proposal.'' Faxed comments are not accepted. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Doriane Harley at (202) 268–2537, Jacqueline Erwin at (202) 268–2158, or Dale Kennedy at (202) 268–6592.

SUPPLEMENTARY INFORMATION: Proposed prices will be available under Docket No. R2022–1 on the Postal Regulatory Commission's website at *www.prc.gov.*

The Postal Service's proposed rule includes: Changes to prices, mail classification updates, product simplification efforts, and minor revisions to the DMM.

Qualified Business Reply Mail (QBRM) Uniform Rate

Currently, the Postal Service has two pricing tiers for QBRM letters, one price for up to and including 1 ounce and a separate price for up to and including 2 ounces, for both high volume and basic.

The Postal Service is proposing to replace these pricing tiers with a uniform per-piece price for QBRM letters up to and including 3.5 ounces. The proposal would also allow high-volume business reply mail customers to use the QBRM product.

QBRM customers will be required to have an Intelligent Mail barcode (IMb) on their QBRM mailpieces. This allows the Postal Service to process the mailers' QBRM letters through the automated accounting process.

Direct Container Discount for Marketing Mail High Density Plus and Saturation Flats

The Postal Service is proposing to offer discounts for USPS Marketing Mail Saturation Flats (including EDDM, not EDDM Retail) and High Density Plus Flats in 5-digit (direct) containers (pallets, sacks, and tubs). Currently, the Postal Service offers discounts for Carrier Route Flats and High Density Flats on 5-digit (direct) pallets; these discounts would now extend to Carrier Route Flats and High Density Flats in 5-digit (direct) sacks and tubs.

Round-Trip Mailings With One Optical Disc—Nonautomation Presort

Currently, the Postal Service offers two prices for nonautomation machinable letters: AADC and Mixed AADC.

The Postal Service is proposing to extend the updated pricing structure for nonautomation machinable letters to Round-Trip Mailings with One Optical Disc. Letter-shaped mailpieces up to 1 ounce will be able to avail themselves of nonautomation machinable letter AADC and Mixed AADC prices instead of being limited to one nonautomation presort price. Similarly, flat-shaped mailings up to 2 ounces will be able to avail themselves to nonautomation machinable letter AADC and Mixed AADC prices instead of one nonautomation presort price.

Priority Mail Insurance

Currently, the Postal Service includes insurance coverage with Priority Mail® against loss, damage, or missing contents limited to a maximum liability of $50.00 when the mailer pays retail or Commercial Base prices and to a maximum liability of $100.00 when the mailer pays Commercial Plus prices. Additionally, the Postal Service does not include insurance with Priority Mail Return service pieces.

The Postal Service is proposing to make the insurance amount included with retail and commercial priced Priority Mail limited to a maximum liability of $100.00.

In addition, the Postal Service is proposing to include the $100.00 of insurance with Priority Mail Return service pieces.

These proposed revisions will provide consistency within postal products and add value for customers.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

The Postal Service proposes the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1):

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) to read as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Mail

* * * * *

230 First-Class Mail

* * * * *

233 Prices and Eligibility

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4.0 Additional Eligibility Standards for Nonautomation Machinable First-Class Mail

4.3 Price Application—Nonautomation Machinable—Letters

Nonautomation machinable letters are subject to AADC and mixed AADC prices only (including Round-Trip Mailings with One Optical Disc).

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240 Commercial Mail USPS Marketing Mail

243 Prices and Eligibility

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6.0 Additional Eligibility Standards for Enhanced Carrier Route USPS Marketing Mail Letters and Flats

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6.3 Basic Price Enhanced Carrier Route Standards

* * * * *

[Revise the title and text of 6.3.4; to read as follows:]

6.3.4 Basic Carrier Route Bundles on a 5-Digit/Direct Container (Basic—CR Bundles/Container) Price Eligibility—Flats

The Basic—CR Bundles/Container discount applies to each piece in a carrier route bundle of 10 or more pieces that are palletized under 705.8.0 on a 5-digit carrier route or 5-digit scheme carrier route pallet entered at an Origin (None), DNDC, DSCF, or DDU entry or palletized under 705.14.0 on a FSS scheme pallet (in a FSS Scheme bundle), or in a Carrier Route sack or tub under 245.9.3 and entered at an Origin (None), DNDC, DSCF, or DDU.

* * * * *

6.5 High Density and High Density Plus (Enhanced Carrier Route) Standards—Flats

* * * * *

[Revise the title and text of 6.5.3; to read as follows:]

6.5.3 High Density Carrier Route Bundles on a 5-Digit/Direct Container (High Density—CR Bundles/Container Discount Eligibility)—Flats

High Density—CR Bundles/Container discount applies to 125 or more High Density—eligible pieces that are palletized under 705.8.0 on a 5-digit carrier route, 5-digit carrier routes, or 5-digit scheme carrier route pallet entered at an Origin (None), DNDC, DSCF, or DDU entry, or palletized under 705.14.0 on a FSS scheme pallet (in a FSS scheme bundle), or in a Carrier Route sack or tub under 245.9.3 and entered at an Origin (None), DNDC, DSCF, or DDU.

[Add new section 6.5.4; to read as follows:]

6.5.4 High Density Plus Carrier Route Bundles on a 5-Digit/Direct Container (High Density Plus—CR Bundles/Container Discount Eligibility)—Flats

High Density Plus—CR Bundles/Container discount applies to 300 or more High Density Plus eligible pieces that are palletized under 705.8.0 on a 5-digit carrier route, 5-digit carrier routes, or 5-digit scheme carrier route pallet entered at an Origin (None), DNDC, DSCF, or DDU entry, or palletized under 705.14.0 on a FSS scheme pallet (in a FSS scheme bundle) or in a Carrier Route sack or tub under 245.9.3 and entered at an Origin (None), DNDC, DSCF, or DDU.

* * * * *

6.7 Saturation Enhanced Carrier Route Standards—Flats

* * * * *

[Add new section 6.7.3; to read as follows:]

6.7.3 Saturation—(including EDDM) Carrier Route Bundles on a 5-digit/Direct Container (Saturation–CR Bundles/Container Discount Eligibility)—Flats

Saturation–CR Bundles/Container discount applies to at least 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses on each carrier route that are palletized under 705.8.0 on a 5-digit carrier route, 5-digit carrier routes, or 5-digit scheme carrier route pallet entered at the origin (None), DNDC, DSCF, or DDU entry, or palletized under 705.14.0 on a FSS scheme pallet (in a FSS scheme bundle), or in a Carrier Route sack or tub under 245.9.3 and entered at an Origin (None), DNDC, DSCF, or DDU.

* * * * *

500 Additional Services

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503 Extra Services

1.0 Basic Standards for All Extra Services

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1.4 Eligibility for Extra Services

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Exhibit 1.4.1 Eligibility—Domestic Mail

Extra service	Eligible mail	Additional combined extra services
* * * * *	* *	* *
Insurance Insurance Restricted Delivery *[Revise the "Note:" under "Insurance" to read as follows:]* **Note:** Priority Mail Express includes $100.00 of insurance and Priority Mail includes $100.00 of insurance; see 503.4.0.		
* * * * *	* *	* *

4.0 Insured Mail

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4.2 Insurance Coverage—Priority Mail

[Revise the introductory text of 4.2 to read as follows:]

Priority Mail pieces, including Priority Mail Return service, are insured against loss, damage, or missing contents, up to a maximum of $100.00, subject to the following:

[Revise the text of item a to read as follows:]

a. Insurance coverage is provided against loss, damage, or missing contents and is limited to a maximum liability of $100.00 when the Priority Mail pieces bear an Intelligent Mail package barcode (IMpb) or USPS retail tracking barcode (see 4.3.4) and the mailer pays retail or commercial prices.

[Delete item b in its entirety and renumber items c through f as b through e, respectively.]

* * * * *

[Revise the text of item d (as renumbered) to read as follows:]

d. Insurance coverage under 4.2a is not provided for Priority Mail pieces mailed as Priority Mail Open and Distribute or Premium Forwarding Service.

* * * * *

505 Return Services

1.0 Business Reply Mail (BRM)

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1.6 Additional Standards for Qualified Business Reply Mail (QBRM)

1.6.1 Description

* * * * *

[Revise the text of 1.6.1a, through 1.6.1e; to read as follows:]

a. Meets all the Business Reply Mail (BRM) standards in 1.3 through 1.8.

b. Has postage and per piece charges deducted from a BRM advance deposit account.

c. Is a letter weighing 3.5 ounces or less or card that is prepared to meet the automation compatibility requirements in 201.3.0.

d. Is authorized to mail at QBRM prices and fees under 1.6.2. During the authorization process, a proper ZIP+4 code is assigned to the mailer (under 1.6.2) for each QBRM to be returned under the system (one for card priced pieces and one for letter-size pieces weighing up to and including 3.5 ounces).

e. Bears the proper ZIP+4 code, assigned by USPS, in the address of each piece. The ZIP+4 codes assigned for this program must be used only on the organization's appropriate QBRM pieces.* * *

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3.0 USPS Returns Service

3.1 Basic Standards

* * * * *

3.1.3 Postage and Prices

* * * * *

[Revise item c1 to read as follows:]

1. Insurance is available for USPS Returns service (see 503.4). Insurance is not included with the postage for Priority Mail Return service (see 503.4.2). Insurance for First-Class Package Return service and Ground Return service, and additional insurance for Priority Mail Return service is available to the account holder for a fee on packages that have the applicable STC embedded into the IMpb on the authentic USPS label with valid postage, and for which the account holder has provided electronic data that supports the value of the merchandise (see 503.4.3.1a). Only the account holder of record may file a claim (see 609). Except for Priority Mail Return service, mailers mailing a USPS Returns service package may obtain insurance at their own expense at the time of mailing by presenting an authentic USPS Returns label with valid postage affixed to the package at a Post Office retail unit to obtain the service.

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700 Special Standards

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705 Advanced Preparation and Special Postage Payment Systems

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8.0 Preparing Pallets

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8.10 Pallet Presort and Labeling

* * * * *

8.10.3 USPS Marketing Mail or Parcel Select Lightweight—Bundles, Sacks, or Trays

[Revise the second sentence to read as follows:]

* * * For USPS Marketing Mail High Density and High Density Plus flats price eligibility, only 5-digit pallets under 8.10.3a–c are allowed, and the pallets must be entered under None, DNDC, DSCF or DDU standards. (Use ''HD/HD+ DIRECT'' for one route and ''HD/HD+ CR–RTS'' for multiple routes on the line 2 contents description). * * *

[Revise item a2 to read as follows:]

* * * 2. Line 2: ''STD'' followed by ''FLTS''; followed by ''HD/HD+'' for High Density and High Density Plus flats pricing eligibility; followed by ''CARRIER ROUTES'' (or ''CR–RTS''); followed by ''SCHEME'' (or ''SCH''). * * *

[Revise item b2 to read as follows:]

* * * 2. Line 2: For flats and Marketing parcels (Product Samples only), ''STD FLTS'' or ''STD MKTG,'' as applicable; followed by ''HD/HD+'' for High Density and High Density Plus flats pricing eligibility; followed by ''CARRIER ROUTES'' (or ''CR–RTS''). For letters, ''STD LTRS''; followed by ''CARRIER ROUTES'' (or ''CR–RTS''); followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

[Revise item c to read as follows:]

c. 5-digit carrier routes, required for High Density and High Density Plus flats pricing eligibility, permitted for bundles. Pallet must contain only carrier route mail for one carrier and same 5-digit ZIP Code. Labeling:* * *

* * * * *

Notice 123 (Price List)

[Revise prices as applicable.]

* * * * *

Sarah E. Sullivan,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2022–07710 Filed 4–8–22; 4:15 pm]

BILLING CODE 7710–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[RTID 0648–XB763]

Fisheries Off West Coast States; West Coast Salmon Fisheries; Standardized Bycatch Reporting Methodology Amendments to the Fishery Management Plans for Coastal Pelagic Species, West Coast Highly Migratory Species, and Pacific Coast Salmon

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

ACTION: Announcement of availability of fishery management plan amendments; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) submitted to NMFS three fishery management plan (FMP) amendments: Amendment 19 to the FMP for Coastal Pelagic Species (CPS FMP), Amendment 7 to the FMP for the West Coast Highly Migratory Species (HMS FMP), and Amendment 22 to the FMP for Pacific Coast Salmon Fisheries (Salmon FMP) (collectively Amendments). If approved by the Secretary of Commerce (Secretary), these Amendments would add to or modify language in the CPS, HMS, and Salmon FMPs to more clearly describe and align the FMPs with the way bycatch is currently reported in the fisheries managed by the Council. These Amendments are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act); the CPS, HMS, and Salmon FMPs; and other applicable laws.

DATES: Comments on the Amendments must be received by June 13, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0014, by the following method:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2022–0014 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments should specify to which FMP (CPS, HMS, or Salmon) each comment refers. Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of proposed Amendments and the National Environmental Policy Act (NEPA) Categorical Exclusion are available on the NMFS website at *https://www.fisheries.noaa.gov/action/standardized-bycatch-reporting-methodology-amendments-fishery-management-plans-coastal.* Additional documents can be found on the Council's website at *www.pcouncil.org.*

FOR FURTHER INFORMATION CONTACT: For CPS—Taylor Debevec at (562) 980–4066 or *taylor.debevec@noaa.gov.* For HMS—Celia Barroso at (562) 432–1850 or *celia.barroso@noaa.gov.* For Salmon—Jeromy Jording at (360) 763–2268 or *jeromy.jording@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. 16 U.S.C. 1854(a). The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a document in the **Federal Register** announcing that the amendment is available for public review and comment. 16 U.S.C. 1854(a)(1)(B). The Council has submitted the Amendments to the Secretary for review. This notification announces that the proposed Amendments are available for public review and comment.

NMFS manages the CPS, HMS, and salmon fisheries in the Pacific Coast exclusive economic zone under the CPS, HMS, and Salmon FMPs, respectively. The Council prepared these FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 660.

Section 303(a)(11) of the Magnuson-Stevens Act requires that any FMP establish a standardized bycatch reporting methodology (SBRM) to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—(A) minimize bycatch, and (B) minimize the mortality of bycatch that cannot be avoided. (16 U.S.C. 1853(a)(11)).

On January 19, 2017, NMFS published a final rule (82 FR 6317) establishing national guidance regulations at 50 CFR 600.1600 through 50 CFR 600.1610 for compliance with the Magnuson-Stevens Act SBRM requirement (SBRM regulations). The SBRM regulations require regional fishery management councils, in coordination with NMFS, to review their FMPs and make any necessary changes so all FMPs are consistent with the guidance.

The SBRM regulations define an SBRM as a consistent procedure or procedures used to collect, record, and report bycatch data in a fishery managed under an FMP. This information, in conjunction with other relevant sources, is used to assess the amount and type of bycatch occurring in the fishery and inform the development of conservation and management measures to minimize bycatch. The SBRM regulations require that an FMP identify the required procedure that constitutes the SBRM for the fishery and explain how the procedure meets the purpose to collect, record, and report bycatch data.

The SBRM regulations require the Council to explain how each FMP's SBRM meets the purpose described in the national guidelines, based on an analysis of four considerations: (1) Characteristics of bycatch in the fishery, (2) the feasibility of the reporting methodology, (3) the uncertainty of data resulting from the methodology, and (4) how the data will be used to assess the amount and type of bycatch occurring in the fishery (50 CFR 600.1610(a)). The Council must address these considerations when reviewing or establishing an SBRM. The regulations further require that all FMPs be made consistent with the rule in early 2022. The Council therefore undertook a review of its FMPs to ensure they meet this requirement.

At its June 2021 meeting, the Council received a report from the staff, informed by the Council's management teams' review of the SBRM language in the FMPs (SBRM Scoping Report) (*https://www.pcouncil.org/documents/2021/06/c-2-attachment-2-sbrm-scoping-report.pdf/*). The SBRM Scoping Report described the SBRM language in each FMP and made initial recommendations on the consistency of the FMPs with the SBRM regulations. The SBRM Scoping Report demonstrated that the Council's FMP for Pacific Coast Groundfish clearly described SBRM for that fishery consistent with the SBRM regulations, and that no modification was needed to address the requirements and guidance in the 2017 rule. However, the SBRM Scoping Report recommended that additions and modifications were needed in the CPS, HMS, and Salmon FMPs to clearly and accurately describe SBRM for those fisheries, consistent with the SBRM regulations. The SBRM Scoping Report also concluded that it was necessary to address one or more of the considerations, described in the SBRM regulations, in the CPS, HMS and Salmon FMPs. At its September 2021 meeting, the Council adopted, for public review, draft revisions to the CPS, HMS, and Salmon FMPs recommended by the CPS Management Team, HMS Management Team, and Salmon Technical Team, respectively, to address the SBRM regulations (*https://www.pcouncil.org/september-2021-decision-document/*).

The Council took final action at its November 2021 meeting, adopting amendments to the CPS, HMS, and Salmon FMPs to ensure these FMPs are consistent with the SBRM regulations, and that they clearly and accurately describe SBRM for those fisheries. Specific discussion of these FMP amendments are provided below under the appropriate FMP heading.

The Council's Amendments would not add any new reporting requirements and would not change any regulatory requirements. This action would only add to or modify language in the CPS, HMS, and Salmon FMPs to more clearly describe and align with how bycatch is currently reported in the fisheries managed by the Council. Each FMP was considered by the respective Council

advisory bodies, which made their recommendations to the Council. Noting that the Council may have taken a different approach to addressing the four factors the SBRM regulations require Councils to address with respect to SBRM for each of the FMPs, a brief background on the rationale for how the respective proposed amendments satisfy the requirements of the SBRM regulations is included below.

CPS FMP Amendment 19

The existing CPS FMP generally describes SBRM and data collection. Additional details on bycatch data collection for CPS FMP fisheries are included in the CPS Stock Assessment and Fishery Evaluation (SAFE) document. However, some details were lacking on considerations described in the SBRM regulations (*e.g.,* data uncertainty). The Council's proposed amendments seek to ensure the four considerations in the SBRM regulations are clearly described in the FMP. Based on the Council's recommendations, NMFS proposes to create a new section of the FMP (2.6) and add information to other parts of section 2 of the FMP to more clearly describe the SBRM for CPS fisheries, including an evaluation of the four considerations for determining that the SBRM meets the stated purpose of the SBRM regulations.

HMS FMP Amendment 7

The existing HMS FMP generally describes SBRM and data collection. Additional details on bycatch data collection for HMS FMP fisheries are included in Appendix C and the HMS SAFE documents. However, for some of the fisheries, details were lacking on considerations described in the SBRM regulations (*e.g.,* data use and feasibility). The Council's proposed amendments seek to ensure the four considerations in the SBRM regulations are adequately described in the FMP. Based on the Council's recommendations, NMFS proposes to amend Section 6.3 of the HMS FMP to more clearly describe the SBRM for each HMS fishery, including an evaluation of the four considerations for determining that the SBRM meets the stated purpose of the SBRM regulations.

Salmon FMP Amendment 22

The existing Salmon FMP generally describes SBRM and data collection. Additional details on bycatch data collection for Salmon FMP fisheries are included in the Salmon SAFE documents. However, details are lacking on considerations described in the SBRM regulations (*e.g.,* describing scientific uncertainty in procedures used to collect, record, report, and assess salmon). Additionally, the description of SBRM in the salmon FMP lacked some important information about how SBRM is currently implemented in the fishery. The Council's proposed amendment would ensure the four considerations in the SBRM regulations are adequately addressed in the FMPs. The amendment would also clarify and update the description of how SBRM is implemented in the fishery. NMFS proposes to approve the Council's proposed amendment to Section 3.5 of the Salmon FMP to more clearly describe the SBRM for the fishery, and to address the four considerations for determining that the SBRM meets the stated purpose of the SBRM regulations.

All comments received by the end of the comment period on the Amendments (see **DATES** and **ADDRESSES** above) will be considered in the Secretary's decision to approve, disapprove, or partially approve this amendment. To be considered in this decision, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date. Additionally, each comment should specify to which FMP the comment refers.

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

Dated: April 7, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–07788 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 70
Tuesday, April 12, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

60-Day Notice of Proposed Information Collection for Foreign Tax Reporting by Assistance Recipients

AGENCY: U.S. Agency for International Development.

ACTION: Notice of proposed information collection.

SUMMARY: The U.S. Agency for International Development (USAID) seeks Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, USAID requests public comment on this collection from all interested individuals and organizations.

DATES: Submit comments on or before June 13, 2022.

ADDRESSES: Submit comments, identified by the title of the action through the Federal eRulemaking Portal at *https://www.regulations.gov* by following the instructions for submitting comments. Please include your name and company name (if any) on any attachments. If your comment cannot be submitted using *https://www.regulations.gov*, please email the point of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Kelly Miskowski, at (202) 916–2752 or via email at *policymailbox@usaid.gov*.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to allow 60 days for public comment preceding submission of the collections to OMB. Comments are requested concerning: (a) Whether the collections of information are necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the 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 through the use of automated collection techniques or other forms of information technology.

All comments must be in writing and submitted through the method(s) specified in the Addresses section above. All submissions must include the information collection title. Please include your name, title, organization, postal address telephone number, and email address in the text of the message. Please note that comments submitted in response to this Notice are public record. We recommend that you do not submit detailed personal information, Confidential Business Information, or any information that is otherwise protected from disclosure by statute.

USAID will only address comments that explain why the proposed collection would be inappropriate, ineffective, or unacceptable without a change. Comments that are insubstantial or outside the scope of the notice of request for public comment may not be considered.

OMB No: N/A (new submission).

Form: No Form associated with this collection.

Title of Information Collection: Foreign Tax Reporting by USAID Assistance Recipients.

Type of Review: New Collection.

Purpose

The Foreign Tax Reporting collection is needed to comply with current statutory requirements. Sec. 7013, Public Law 116–260, 143 Stat. 1182, the annual Department of State, Foreign Operations, and Related Programs Appropriations Act (SFOAA), and similar provisions in prior years' SFOAAs, mandate that agencies take certain actions to prevent taxation of assistance provided with funds appropriated in an SFOAA, or to obtain full reimbursement of all taxes paid. Since 2003, USAID has required these reports in its grants and cooperative agreements but has not previously requested OMB approval for the information collection. The reporting requirement was revised in 2014 (in Sec. 7013, Pub. L. 113–76, 128 Stat. 5) to redefine the taxes that must be reported, and USAID is in the process of revising our assistance policy and required procedures in an update to Automated Directives System (ADS 303) Grants and Cooperative Agreements to Non-Governmental Organizations.

Respondents: U.S. and foreign recipients of direct grants and cooperative agreements carrying out their award activities overseas.

Estimated Number of Annual Responses: 4,800.

Annual burden hours per respondent: 1.

Estimated Number of Annual Burden Hours: 4,800.

Luis Rivera,

Acting Senior Procurement Executive, U.S. Agency for International Development.

[FR Doc. 2022–07787 Filed 4–11–22; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Seek OMB Approval To Collect Information: Forms Pertaining to the Scientific Peer Review of ARS Research Projects; Correction

AGENCY: Agricultural Research Service (ARS), USDA.

ACTION: Notice and request for comments; correction.

SUMMARY: The notice is correcting information in the **SUPPLEMENTARY INFORMATION** section of the notice published in the **Federal Register** on April 7, 2022. The title, the information collection number, and the expiration date of the information collection was missing from that notice. This information is required for publishing notices announcing collection renewals.

DATES: Written comments on this notice should be submitted on or before June 13, 2022.

ADDRESSES: All comments concerning this notice should be directed to the Director & Program Coordinator listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Marquea D. King, Director & Program Coordinator, Office of Scientific Quality Review (OSQR); ARS, USDA; 5601 Sunnyside Avenue, Beltsville, Maryland; 20705; Phone: 301–504–3283; Fax: 301–504–1251; email: *marquea.king@usda.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of April 7, 2022, FR Doc. 2022–07407, on page 20379, correct the **SUPPLEMENTARY INFORMATION** caption to read as follows:

Title: PEER Review Forms for the Scientific Quality Review.

OMB Number: 0518–0028.

Expiration Date of Approval: October 31, 2022.

The OSQR will seek approval from OMB to update six existing forms that will ensure the ARS efficiently manages data associated with the peer review of agricultural research. All forms are transferred and received electronically and may include on-line submission in the future.

Abstract: The OSQR was established in September of 1999 as a result of the Agricultural Research, Extension, and Education Reform Act 1998 (''The Act'') (Pub. L. 105–185). The Act included mandates to perform scientific peer reviews of all research activities conducted by the USDA. The Office manages the ARS peer review system by centrally coordinating all of the intramural peer review functions for ARS research projects on a 5-year cycle.

Each set of reviews is assigned a chairperson to govern the panel review process. Peer reviewers are external to the Agency and non-ARS scientists. Peer review panels are convened to assess the technical/scientific quality and correctness of each research project plan. Each panel reviewer receives information on a range of 2–5 ARS research projects.

On average, 150 research projects are reviewed annually by an estimated 185 reviewers; whereby approximately 130 are reviewed by panel and approximately 20 are reviewed through an ad hoc (written review) process. The management and execution of this peer review process is vastly dependent on the use of these forms.

The OSQR will seek OMB approval of the following forms:

1. Confidentiality Agreement Form—USDA uses this form to document that a selected reviewer is responsible for keeping confidential any information learned during the subject peer review process. The Confidentiality Agreement is signed prior to the reviewer's involvement in the peer review process. This form requires an original signature and can be submitted electronically.

2. Panelist Information Form—USDA uses this form to gather the most recent background information, diversity and inclusion data about the reviewer as well as information relevant to the paying of an honorarium and for travel, when needed. Sensitive information is transmitted on this form and destroyed after payment is received.

3. Peer Review of an ARS Research Project Form (Peer Review Form)—USDA uses this form to guide the reviewer's expert comments in written form on the assigned project plan. The form contains the criteria for plan review and seeks the reviewer's narrative comments and evaluation.

4. Additional Reviewer Comment Form—This form is supplied to members of a panel not assigned as a primary nor secondary reviewer on a particular project plan, however it encourages additional expert comments or recommendations for any plan regardless of the reviewers' assignment as primary or secondary.

5. Ad Hoc Review Form—USDA uses this in select cases (for Reviewers not participating in a panel review), a check-off listing of action classes at the end of the form allows them to provide an overall rating of the plan.

6. Recommendations for ARS Research Project Form—USDA uses this form to guide the panel's evaluation and critique of the review process. The form combines both primary and secondary reviewers' recommendations of the research project plan.

7. Panel Expense Report Form (Expense Report)—USDA uses this form to document a panel reviewer's expense incurred traveling to and attending a peer review meeting. The Expense Report includes lodging, meals, and transportation expenses. When completed, the form contains sensitive information and is held in compliance with the ARS travel guidelines. This form is used only in the rare circumstance that a panel meeting requires travel of the participants.

USDA's collection of information on the Confidentiality Agreement Form is needed to document that a selected reviewer is responsible for keeping confidential any information learned during the subject peer review process. The Confidentiality Agreement would be signed prior to the reviewer's involvement in the peer review process.

USDA's collection of information on the Panelist Information Form is needed to collect the most recent background information along with diversity and inclusion data about the reviewer. It contains sensitive information.

USDA's collection of information on the Peer Review Form and Reviewer Comment Form is needed to guide the reviewer's comments on the subject project. Both contain review guidance and space to insert comments.

USDA's collection of information on the Ad Hoc Review Form is needed to guide reviewer comments of those not participating in a chaired panel and affords a place to select an overall Action Class rating for the plan.

USDA's collection of information on the Recommendations Form is needed to guide the panel's critique of the review process. It contains the recommendations of the panel for the subject research project.

USDA's collection of information on the Expense Report Form is needed to document a panel reviewer's expenses incurred by attending a peer review meeting. The Expense Report includes lodging, meals, and transportation expenses. It includes sensitive information.

Estimate of Burden: The burden associated with this approval process is the minimum required to successfully achieve program objectives. The information collection frequency is the minimum consistent with program objectives. The following estimates of time required to complete the forms, based on previous OSQR's experience with our current business model.

1. Confidentiality Agreement Form: (10 minutes completion time). The reviewer must read and consider the terms of the agreement and then sign and date the form.

2. Panelist Information Form: (30 minutes completion time). The reviewer provides standard personal and diversity information, similar to that found in grant review programs.

3. Panelist Peer Review of an ARS Research Project Form: (4–7 hours completion time). As the review page length varies. Reviewers freely write as much as they wish and complete the form. To adequately evaluate a research project plan that may exceed 60–70 pages in length, each reviewer must thoroughly read each plan.

4. Reviewer Comment Form: (60 minutes completion time). General assessment of the plan with brief comments on the approach and feasibility of the project and about one page.

5. Panel Recommendation for ARS Research Project Form: (30–60 minutes completion time). The page length significantly varies among Panelist Peer Reviews and Reviewer Comments. All recommendation forms are completed by the OSQR and further discussed and revised by the reviewers as part of their panel discussions. In-person panels are handled in the same manner.

6. Panel Expense Report Form: (30 minutes completion time).

Respondents and Estimated Number of Respondents: Selected scientific experts, currently working in the same discipline as the research projects being peer reviewed. These external experts

are credible peers to the ARS. Annually, about 185 peer reviewers complete these forms. Most plans are discussed and deliberated via webinar and telephone conferencing. Travel is not generally necessary thus reviewers are not expected to complete Panel Expense Reports.

Frequency of Response:

Form	Number of respondents	Annual frequency
Confidentiality Agreement	185	1 per respondent (Total = 185).
Peer Review Forms (required and assigned 2 plans)	200	2 per panel respondent (Total = 400).
Reviewer Comment Form (reviewer is not assigned as primary or secondary review).	6	2 per panel respondent (Total = 12).
Expense Report (in-person reviewers)	6	1 per respondent (Total = 6).
Panelist Information Forms	185	1 per respondent/per form (Total = 185).
Recommendations Form (non-online project reviews)	82	2 per respondent (Total = 164).

Estimated Total Annual Burden on Respondents:

Form (time required to complete)	Number completed annually	Total burden (hours)
Confidentiality Agreement (10 minutes)	185	31
Panelist Information Forms (30 minutes)	185	93
Peer Review Forms (~6 hours)	200	1,200
Recommendations Form (2 hour)	82	164
Reviewer Comment Form (1 hour)	6	6
Expense Report (30 minutes)	6	3

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Comments: The Notice is soliciting comments from members of the public and impacted agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of ARS functions, including whether the information will have practical utility; (2) Evaluate the accuracy of the estimated burden from proposed collection of information; (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 the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. All responses to this notice will be summarized and included in the request for OMB approval.

Signed at Washington, DC, April 7, 2022.

Yvette Anderson,

Federal Register Liaison Officer, ARS, ERS, NASS.

[FR Doc. 2022–07783 Filed 4–11–22; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request;

April 7, 2022.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by May 12, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Application and Permit for Non-Federal Commercial Use of Roads, Trails and Areas Restricted by Regulation or Order.

OMB Control Number: 0596–0016.

Summary of Collection: Authority for permits for use of National Forest System (NFS) roads, trails, and areas on NFS lands restricted by order or regulation drives from the National Forest Roads and Trails Act (16 U.S.C. 532–538). This statute authorizes the Secretary of Agriculture to promulgate regulations regarding use of NFS roads, NFS trails, and areas on NFS lands; established procedures for sharing investments in NFS roads; and require commercial users to perform road maintenance commensurate with their use of NFS roads. Forest Service regulations implementing this authority are found in 36 CFR 212.5, 212.9,

212.51, 261.10, 261.12, 261.13, 261.54, and 261.55.

Need and Use of the Information: The information is collected from individuals, corporations, or organizations who want to use a NFS Road, Trail or Area for purposes that are restricted. The agency issues Road Use Permits for a variety of reasons: To allow people to use a road, trail or area that is otherwise closed; to allow people to perform maintenance on a road when they desire a higher standard than the Forest Service does; to allow people to plow snow on a road; for non-federal commercial use of a road; or to allow over size or over weight vehicles. For non-federal commercial use permits, the land owner generally obtains the permit, but will employ a timber/trucking company to haul the material. Without the information FS would not be able to issue permits for moving oversize vehicles on FNS roads, permits to enter areas subject to areas for closures, or permits for motorized use of roads, trails, or areas not designated for such use on a motor vehicle use map.

Description of Respondents: Business or other for-profit; Individuals or households; State, Local or Tribal Government; Not-for-profit institutions; Farms.

Number of Respondents: 1,100.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 275.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–07780 Filed 4–11–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 7, 2022.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by May 12, 2022. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service (NASS)

Title: Cold Storage Survey.

OMB Control Number: 0535–0001.

Summary of Collection: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare, and issue State and national estimates of crop and livestock production, prices, and disposition; as well as economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture.

The monthly Cold Storage Survey provides information on national supplies of food commodities in refrigerated storage facilities. A biennial survey of refrigerated warehouse capacity is also conducted to provide a benchmark of the capacity available for refrigerated storage of the nation's food supply. Information on stocks of food commodities that are in refrigerated facilitates have a major impact on the price, marketing, processing, and distribution of agricultural products.

Need and Use of the Information: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. USDA agencies such as the World Agricultural Outlook Board, Economic Research Service, and Agricultural Marketing Service use this information from the Cold Storage report in setting and administering government commodity programs and in supply and demand analysis. Included in the report are stocks of pork bellies, frozen orange juice concentrate, butter, and cheese which are traded on the Chicago Board of Trade. The timing and frequency of the surveys have evolved to meet the needs of producers, facilities, agribusinesses, and government agencies.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,266.

Frequency of Responses: Reporting: Monthly; Annually.

Total Burden Hours: 5,069.

National Agricultural Statistics Service

Title: List Sampling Frame Survey.

OMB Control Number: 0535–0140.

Summary of Collection: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture. The List Sampling Frame Surveys are used to develop and maintain a complete list of possible farm and ranch operations. The goal is to produce for each State a relatively complete, current, and unduplicated list of names for statistical sampling for agricultural operation surveys and the Census of Agriculture. Data from these agricultural surveys are used by government agencies and educational institutions in planning, farm policy analysis, and program administration. More importantly, farmers and ranchers use NASS data to help make informed business decisions on what commodities to produce and when is the optimal time to market their products. NASS data is useful to farmers in comparing their farming practices with the economic and environmental data published by NASS.

Need and Use of the Information: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. The List Sampling Frame Surveys are used to develop and maintain a complete list of possible farm operations. Data from criteria surveys are used to provide

control data for new records on the list sampling frame. This information is utilized to define the size of operation, define sample populations, and establish eligibility for the Census of Agriculture. New names and addresses of potential farms are obtained on a regular basis from growers association, other government agencies and various outside sources. The goal is to produce for each State a relatively complete, current, and unduplicated list of names for statistical sampling for agricultural operation surveys and the Census of Agriculture. This information is used to develop efficient sample designs, which allows NASS the ability to draw reduced sample sizes from the originally large universe populations.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 255,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 55,797.

National Agricultural Statistics Service

Title: Custom Work Survey.

OMB Control Number: 0535–0266.

Summary of Collection: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare, and issue state and national estimates of crop and livestock production, prices, and disposition; as well as economic statistics, environmental statistics related to agriculture; and also, to conduct the Census of Agriculture.

The Custom Works program will survey farmers who potentially paid for custom services during a specified reference period to collect information on how much they paid for those services. These services include land tillage, application of fertilizers and chemicals, planting, harvesting, hauling, various livestock tasks, and many more tasks. The program will provide farm operators with estimates of the average prices paid for different custom services in their state and/or local area.

Need and Use of the Information: Data collected under this docket are for cooperative agreements between the National Agricultural Statistics Service (NASS) and numerous cooperators including, but not limited to: Alabama Department of Agriculture, Georgia Department of Agriculture, Kansas Department of Agriculture, Mississippi Delta Research and Extension Center, Nebraska Department of Agriculture, North Dakota State University, Oklahoma State University, Pennsylvania Department of Agriculture, South Carolina Department of Agriculture, and Wisconsin Department of Agriculture, Trade, and Consumer Protection. The purpose of the survey is to collect custom rates from agricultural workers.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 41,500.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 15,027.

National Agricultural Statistics Service

Title: Cooperator Funded Chemical Use Surveys.

OMB Control Number: 0535–NEW.

Summary of Collection: The chemical use data collection activities in this clearance request would be conducted through cooperative agreements with State Departments of Agriculture, land-grant universities, or other organizations with which NASS has a Memorandum of Understanding (MOU). Previously, these collections were included in the Agricultural Resource Management and Chemical Use Surveys Information Collection Request (OMB Control Number 0535–0218). These cooperator funded chemical use surveys are being separated out to allow flexibility for survey changes and possible new surveys without affecting the surveys funded through USDA's Congressional appropriation. The surveys in the Information Collection Request allow flexibility for the cooperators to best address current trends in the farming industry within States.

Need and Use of the Information: The Field Crop Production Practice and Chemical Use Surveys in this request will be conducted to meet research and publication goals for Extension and State Departments of Agriculture described in question one.

The summarized and published information will be analyzed by the sponsoring cooperators and stakeholders in agriculture. Results will be used to study

—production agriculture as well as

—various programs and policies to determine their impact on agricultural producers and consumers.

Description of Respondents: Businesses or other for-profits and Farms.

Number of Respondents: 24,585.

Frequency of Responses: Reporting; Annually.

Total Burden Hours: 11,882.

Levi Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–07781 Filed 4–11–22; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2021–0030]

National Advisory Committee on Meat and Poultry Inspection; Committee and Charter Reestablish

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of the Intent to Reestablish of the U.S. Department of Agriculture National Advisory Committee on Meat and Poultry Inspection and its Charter.

SUMMMARY: The U.S. Department of Agriculture (USDA) intends to reestablish the National Advisory Committee on Meat and Poultry Inspection (NACMPI) and its charter. The purpose of the Committee is to provide advice to the Secretary of Agriculture concerning State and Federal programs with respect to meat and poultry inspection, food safety, and other matters that fall within the scope of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA).

FOR FURTHER INFORMATION CONTACT: Ms. Valeria Green, Designated Federal Officer, Director, Resource and Administrative Management Staff, Office of Policy and Program Development, Food Safety and Inspection Service, by telephone at (301)504–0846. Email: *valeria.green@usda.gov,* regarding specific questions about the Committee. General information about the Committee can also be found at: *https://www.fsis.usda.gov/nacmpi.*

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. app.), notice is hereby given that the Secretary of Agriculture intends to reestablish the charter and the NACMPI for two years. The Committee provides advice and recommendations to the Secretary on meat and poultry inspection programs, pursuant to sections 7(c), 24, 301(a)(3), and 301(c) of the Federal Meat Inspection Act, 21 U.S.C. 607(c), 624, 645, 661(a)(3), and 661(c), and to sections 5(a)(3), 5(c), 8(b), and 11(e) of the Poultry Products Inspection Act, 21 U.S.C. 454(a)(3), 454(c), 457(b), and 460(e).

The following sections of the NACMPI charter have been updated: Objectives and Scope of Activities; Estimated Annual Operating Costs and Staff Years; Membership and Designation; and Subcommittees. A

copy of the charter and other information about the committee can be found at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/advisory-committees/nacmpi.*

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS also will announce and provide a link to it through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *https://www.fsis.usda.gov/subscribe.*

Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Cikena Reid,

Committee Management Officer, USDA.

[FR Doc. 2022–07798 Filed 4–11–22; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–84–2021]

Foreign-Trade Zone (FTZ) 80—San Antonio, Texas, Authorization of Production Activity; CGT U.S., Ltd. (Polyvinyl Chloride (PVC) Coated Upholstery Fabric Cover Stock), New Braunfels, Texas

On December 8, 2021, CGT U.S., Ltd. (CGT) submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 80E, in New Braunfels, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 73730, December 28, 2021). On April 7, 2022, the applicant was notified of the FTZ Board's decision that no further review of the proposed activity is warranted at this time. The FTZ Board authorized the production activity described in the notification, subject to the FTZ Act and the Board's regulations, including Section 400.14. The foreign-status material (100% polyester woven weft pile fabric—dyed) may only be admitted in privileged foreign status (19 CFR 146.41).

Dated: April 7, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–07772 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

PJSC Aeroflot, 1 Arbat St., 119019, Moscow, Russia; Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of: PJSC Aeroflot (''Aeroflot''). OEE's request and related information indicates that the Russian Federal Government is the majority owner of Aeroflot, through its Federal Agency for State Property Management, and it is headquartered in Moscow, Russia, with numerous international offices facilitating Aeroflot's international flight and business activities.

I. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. app. 2401 *et seq.* (''EAA''), (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

II. OEE's Request for a Temporary Denial Order (''TDO'')

The U.S. Commerce Department, through BIS, responded to the Russian Federation's (''Russia's'') further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (*e.g.,* Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (Section 746.8(a)(1) of the EAR).[2] BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (Section 740.15 of the EAR).[3] Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request is based upon facts indicating that Aeroflot engaged in recent conduct prohibited by the Regulations by operating aircraft subject to the EAR and classified under ECCN 9A991.b, on flights into Russia after March 2, 2022, without the required BIS authorization.

Specifically, OEE's investigation, including publicly available flight tracking information, indicates that after March 2, 2022, Aeroflot operated multiple U.S.-origin aircraft subject to the EAR, including, but not limited to, those identified below, on flights into and out of Moscow, Russia from/to Beijing, China; Delhi, India; Antalya and Istanbul, Turkey; and Dubai, United Arab Emirates; respectively. Pursuant to Section 746.8 of the EAR, all of these flights would have required export or reexport licenses from BIS. Aeroflot flights would not be eligible to use license exception AVS. No BIS authorizations were either sought or obtained by Aeroflot for these exports or reexports to Russia. The information about those flights includes the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
VP–BGB	41679	777–3M0 (ER) (B77W)	Beijing, CN/Moscow, RU	March 3, 2022.
VQ–BFL	65309	777–300 (ER) (B77W)	Beijing, CN/Moscow, RU	March 6, 2022.
VP–BGF	41686	777–3M0 (ER) (B77W)	Delhi, IN/Moscow, RU	March 5, 2022.
VQ–BFO	65311	777–300 (ER) (B77W)	Delhi, IN/Moscow, RU	March 7 ,2022.
VQ–BQC	41688	777–3M0 (ER) (B77W)	Antalya, TR/Moscow, RU	March 7, 2022.
VQ–BQD	41682	777–3M0 (ER) (B77W)	Istanbul, TR/Moscow, RU	March 6, 2022.
VQ–BQE	41683	777–3M0 (ER) (B77W)	Istanbul, TR/Moscow, RU	March 5, 2022.
VQ–BUB	41690	777–3M0 (ER) (B77W)	Dubai, UAE/Moscow, RU	March 6, 2022.

Based on this information, there are heightened concerns of future violations of the EAR, given that any subsequent actions taken with regard to any of the listed aircraft, or other Aeroflot aircraft illegally exported or reexported to Russia after March 2, 2022, may violate the EAR. Such actions include, but are not limited to, refueling, maintenance, repair, or the provision of spare parts or services. *See* General Prohibition 10 of the EAR at 15 CFR 736.2(b)(10).[4] Even Aeroflot's continued use of such U.S.-origin aircraft only on domestic routes within Russia runs afoul of General Prohibition 10, which (among other restrictions) prohibits the continued use of an item that was known to have been exported or reexported in violation of the EAR.[5] For example, publicly available flight tracking data shows that on March 17–18, 2022, aircraft VP–BGB and VQ–BFL flew on flights into and out of Moscow, Russia to/from Vladivostok, Russia and Petropavlovsk-Kamchatsky, Russia, respectively. In addition, Aeroflot has publicly announced its intention to continue operating domestic flights across its route network within Russia and to/from Belarus. In a public statement on its website and available as of the signing of this order, Aeroflot stated that ''AEROFLOT WILL CONTINUE FULL OPERATIONS OF ITS FLIGHT NETWORK WITHIN RUSSIA, WITH THE EXCEPTION OF TEMPORARY RESTRICTIONS ON FLIGHTS TO SOUTHERN CITIES IN RUSSIA. FLIGHTS TO/FROM MINSK (BELARUS) WILL CONTINUE'' (emphasis in original).[6]

Moreover, additional concerns of future violations of the regulations are raised by public statements available as of the signing of this order on Aeroflot's own website stating, in part, that ''[o]ne of the goals of Aeroflot Group's 2028

[2] 87 FR 12,226 (Mar. 3, 2022).

[3] 87 FR 13,048 (Mar. 8, 2022).

[4] Section 736.2(b)(10) of the EAR provides: General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR. (emphasis in original).

[5] *https://www.ibtimes.com/russias-aeroflot-says-halting-all-flights-abroad-march-8-3425087.*

[6] *https://www.aeroflot.ru/us-en/news/62292?_preferredLocale=us&_preferredLanguage=en.*

business strategy is to expand its fleet to 600 aircraft (235 of which will be Russia-built).'' [7] As of December 2021, Aeroflot's fleet consisted of 187 aircraft, of which 59 were U.S.-origin aircraft along with 118 additional aircraft manufactured outside of Russia, some of which could also be subject to the EAR based on containing more than 25% U.S.-origin controlled content.[8] Given BIS's review policy of denial under section 746.8(a) of the Regulations for exports and reexports to Russia, it is foreseeable that Aeroflot will attempt to evade the Regulations in order to obtain new or additional aircraft and parts, or service its existing aircraft that were exported or reexported to Russia in violation of section 746.8 of the regulations.

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Aeroflot took actions in apparent violation of the Regulations by exporting or reexporting the aircraft cited above, among many others, on flights into Russia after March 2, 2022, without the required BIS authorization. Moreover, the continued operation of these aircraft by Aeroflot, even on domestic routes within Russia, along with its stated intent to acquire additional aircraft, and the company's on-going need to acquire replacement parts and components, many of which are U.S.-origin, presents a high likelihood of imminent violations warranting imposition of a TDO. I further find that such apparent violations have been significant, and deliberate. Therefore, issuance of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Aeroflot, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 and 766.23(b) of the Regulations.

[7] *https://www.aeroflot.ru/ru-en/about/aeroflot_today/company_profile#:~:text=Aeroflot%20is%20Russia%E2%80%99s%20de%20facto%20national%20carrier%20and,1923%2C%20Aeroflot%20is%20among%20the%20world%E2%80%99s%20oldest%20airlines.*

[8] *Id.*

IV. Order

It is therefore ordered: FIRST, PJSC Aeroflot, 1 Arbat St., 119019, Moscow, Russia, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Aeroflot any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Aeroflot of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Aeroflot acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Aeroflot of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

D. Obtain from Aeroflot in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Aeroflot, or service any item, of whatever origin, that is owned, possessed or controlled by Aeroflot if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

THIRD, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Aeroflot by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, Aeroflot may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Aeroflot as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Aeroflot, and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: April 7, 2022.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2022–07768 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting—Revised

Note: The Committee will meet for one day on April 27, 2022, instead of the two-day meeting published on April 8, 2022.

The Information Systems Technical Advisory Committee (ISTAC) will meet on April 27, 2022, at 1:00 p.m., Eastern Daylight Time. The meeting will be available via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, April 27

Open Session

1. Welcome and Introductions
2. Working Group Reports
3. Ideas for Wassenaar Proposals 2023
4. Old Business

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than April 20, 2022.

To the extent time permits, members of the public may present oral statements to the Committee.

The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 7, 2022, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (10)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and l0(a)(3). The remaining portions of the meeting will be open to the public.

For more information, contact Yvette Springer via email.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2022–07801 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Azur Air, Sharypovo Airport, 404/1 Kozhevnicheskiy Lane, Moscow, Russia; Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of: Azur Air (''Azur''). OEE's request and related information indicate that Azur is headquartered in Moscow, Russia, with a regional hub located in Vnukovo International Airport, Vnukovo, Russia.

I. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

II. OEE's Request for a Temporary Denial Order (''TDO'')

The U.S. Commerce Department, through BIS, responded to the Russian Federation's (''Russia's'') further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (*e.g.,* Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (Section 746.8(a)(1) of the EAR).[2] BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (Section 740.15 of the

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. app. 2401 *et seq.* (''EAA'') (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

[2] 87 FR 12226 (Mar. 3, 2022).

EAR).[3] Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by, Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request is based upon facts indicating that Azur engaged in recent conduct prohibited by the Regulations by operating aircraft subject to the EAR and classified under ECCN 9A991.b, on flights into Russia after March 2, 2022, without the required BIS authorization.

Specifically, OEE's investigation, including publicly available flight tracking information, indicates that after March 2, 2022, Azur operated multiple U.S.-origin aircraft subject to the EAR, including, but not limited to, those identified below, on flights into and out of Moscow and other cities in Russia from/to: Antalya, Turkey; Male, Maldives; Dubai, United Arab Emirates; and Nha Trang, Vietnam, respectively. Pursuant to Section 746.8 of the EAR, all of these flights would have required export or reexport licenses from BIS. Azur flights would not be eligible to use license exception AVS. No BIS authorizations were either sought or obtained by Azur for these exports or reexports to Russia. The information about those flights includes the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
VQ–BKF	26268	757–2Q8 (B752)	Antalya, TR/Moscow, RU	March 4, 2022.
VQ–BKF	26268	757–2Q8 (B752)	Antalya, TR/Moscow, RU	March 5, 2022.
VQ–BKF	26268	757–2Q8 (B752)	Antalya, TR/Moscow, RU	March 7, 2022.
VQ–BKF	26268	757–2Q8 (B752)	Antalya, TR/Moscow, RU	March 9, 2022.
RA–73032	27614	767–306 (ER) (B763)	Antalya, TR/Moscow, RU	March 14, 2022.
RA–73032	27614	767–306 (ER) (B763)	Antalya, TR/Kazan, RU	March 17, 2022.
RA–73032	27614	767–306 (ER) (B763)	Antalya, TR/Moscow, RU	March 18, 2022.
VQ–BTK	35302	777–3ZG (ER) (B77W)	Male, MV/Moscow, RU	March 5, 2022.
RA–73032	27614	767–306 (ER) (B763)	Male, MV/Moscow, RU	March 13, 2022.
RA–73032	27614	767–306 (ER) (B763)	Dubai, AE/Moscow, RU	March 5, 2022.
VQ–BKF	26268	757–2Q8 (B752)	Dubai, AE/Moscow, RU	March 6, 2022.
VQ–BUO	27909	767–33A (ER) (B763)	Dubai, AE/Samara, RU	March 6, 2022.
VQ–BUO	27909	767–33A (ER) (B763)	Dubai, AE/Moscow, RU	March 9, 2022.
VQ–BUO	27909	767–33A (ER) (B763)	Dubai, AE/Vladivostok, RU	March 10, 2022.
RA–73034	27612	767–306 (ER) (B763)	Dubai, AE/Moscow, RU	March 10, 2022.
RA–73032	27614	767–306 (ER) (B763)	Dubai, AE/Moscow, RU	March 14, 2022.
RA–73030	24746	767–3Q8 (ER) (B763)	Dubai, AE/Moscow, RU	March 17, 2022.
RA–73034	27612	767–306 (ER) (B763)	Nha Trang, VN/Moscow, RU	March 6, 2022.
RA–73032	27614	767–306 (ER) (B763)	Nha Trang, VN/Moscow, RU	March 15, 2022.

Based on this information, there are heightened concerns of future violations of the EAR, given that any subsequent actions taken with regard to any of the listed aircraft, or other Azur aircraft illegally exported or reexported to Russia after March 2, 2022, may violate the EAR. Such actions include, but are not limited to, refueling, maintenance, repair, or the provision of spare parts or services. *See* General Prohibition 10 of the EAR at 15 CFR 736.2(b)(10).[4] Even Azur's continued use of such U.S.-origin aircraft only on domestic routes within Russia runs afoul of General Prohibition 10, which (among other restrictions) prohibits the continued use of an item that was known to have been exported or reexported in violation of the EAR. For example, publicly available flight tracking data shows that between March 25–28, 2022, aircraft RA–73030 (SN 24746) and RA–73032 (SN 27614) flew on flights into and out of Moscow, Russia to/from the Russian cities of: Irkutsk, Kaliningrad; Mineralnye Vody, Novosibirsk and Samara.

Moreover, additional concerns of future violations of the Regulations are raised by public information available as of the signing of this order. Specifically, Azur's own website indicates that its fleet of 34 aircraft is entirely comprised of Boeing aircraft.[5] Given BIS's review policy of denial under Section 746.8(a) of the Regulations for exports and reexports to Russia, it is foreseeable that Azur will attempt to evade the Regulations in order to obtain new or additional aircraft parts or service its existing aircraft that were exported or reexported to Russia in violation of Section 746.8 of the Regulations.

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Azur took actions in apparent violation of the Regulations by exporting or reexporting the aircraft cited above, among many others, on flights into Russia after March 2, 2022, without the required BIS authorization. Moreover, the continued operation of these aircraft by Azur, even on domestic routes within Russia and the company's on-going need to acquire replacement parts and components, many of which are U.S.-origin, presents a high likelihood of imminent violations warranting imposition of a TDO. I further find that such apparent violations have been significant and deliberate. Therefore, issuance of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Azur, in connection with export and reexport transactions involving items subject to the Regulations and in connection with

[3] 87 FR 13048 (Mar. 8, 2022).

[4] Section 736.2(b)(10) of the EAR provides: General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR. (emphasis in original).

[5] *https://www.azurair.ru/en/azurair/our-fleet.*

any other activity subject to the Regulations.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 and 766.23(b) of the Regulations.

IV. Order

It is therefore ordered:

FIRST, Azur Air, Sharypovo Airport, 404/1 Kozhevnicheskiy Lane, Moscow, Russia, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Azur any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Azur of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Azur acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Azur of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

D. Obtain from Azur in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Azur, or service any item, of whatever origin, that is owned, possessed or controlled by Azur if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

THIRD, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Azur by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, Azur may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Azur as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Azur and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: April 7, 2022.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2022–07769 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

UTair Aviation JSC, Khanty-Mansiysk Airport, Tyumen Region, Russia 628012; Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of: UTair Aviation JSC (''UTair''). OEE's request and related information indicates that UTair is headquartered at Khanty-Mansiysk Airport, located in Khanty-Mansiysk, Russia, with domestic hubs at Surgut Airport and Vnukovo Airport.

I. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. app. 2401 *et seq.* (''EAA'') (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

II. OEE's Request for a Temporary Denial Order (''TDO'')

The U.S. Commerce Department, through BIS, responded to the Russian Federation's (''Russia's'') further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (*e.g.,* Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (Section 746.8(a)(1) of the EAR).[2] BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (Section 740.15 of the EAR).[3] Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by, Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request is based upon facts indicating that UTair engaged in recent conduct prohibited by the Regulations by operating aircraft subject to the EAR and classified under ECCN 9A991.b, on flights into Russia after March 2, 2022, without the required BIS authorization. Further, since March 2, 2022, UTair has continued to operate aircraft subject to the EAR through domestic flights without the required BIS authorization.

Specifically, OEE's investigation, including publicly available flight tracking information, indicates that after March 2, 2022, UTair operated multiple U.S.-origin aircraft subject to the EAR, including, but not limited to, those identified below, on flights into and out of Moscow and other cities in Russia from/to: Khujand and Dushanbe, Tajikistan; Yerevan, Armenia; Baku and Ganja, Azerbaijan; Jeddah, Saudi Arabia, and Tashkent, Uzbekistan, respectively. Pursuant to Section 746.8 of the EAR, all of these flights would have required export or reexport licenses from BIS. UTair flights would not be eligible to use license exception AVS. No BIS authorizations were either sought or obtained by UTair for these exports or reexports to Russia. As noted below, a number of the aircraft continued to operate on international routes to and from Russia after the aircraft's first unlicensed reexport in further violation of the EAR. The information about those flights includes the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
VQ–BQP	37553	737–8GU (B738)	Khujand, TJ/Surgut, RU	March 3, 2022.
VQ–BQP	37553	737–8GU (B738)	Khujand, TJ/Surgut, RU	March 5, 2022.
VQ–BQR	36386	737–8GU (B738)	Khujand, TJ/Surgut, RU	March 10, 2022.
RA–73063	27534	737–524 (B735)	Khujand, TJ/Surgut, RU	March 17, 2022.
RA–73081	30435	767–224 (ER) (B762)	Dushanbe, TJ/Moscow, RU	March 27, 2022.
RA–73081	30435	767–224 (ER) (B762)	Dushanbe, TJ/Moscow, RU	March 29, 2022.
RA–73081	30435	767–224 (ER) (B762)	Dushanbe, TJ/Moscow, RU	March 30, 2022.
RA–73081	30435	767–224 (ER) (B762)	Dushanbe, TJ/Moscow, RU	March 31, 2022.
VQ–BQQ	37552	737–8GU (B738)	Yerevan, AM/Tyumen, RU	March 6 ,2022.
RA–73082	30437	767–224 (ER) (B762)	Yerevan, AM/Moscow, RU	March 9, 2022.
RA–73082	30437	767–224 (ER) (B762)	Yerevan, AM/Moscow, RU	March 10, 2022.
RA–73082	30437	767–224 (ER) (B762)	Yerevan, AM/Moscow, RU	March 11, 2022.
RA–73061	28907	737–524 (B735)	Yerevan, AM/Tyumen, RU	March 13, 2022.
RA–73081	30435	767–224 (ER) (B762)	Yerevan, AM/Moscow, RU	March 16, 2022.
RA–73062	28908	737–524 (B735)	Yerevan, AM/Moscow, RU	March 25, 2022.
RA–73061	28907	737–524 (B735)	Yerevan, AM/Tyumen, RU	March 29, 2022.
RA–73061	28907	737–524 (B735)	Yerevan, AM/Tyumen, RU	March 30, 2022.
RA–73035	27315	737–524 (B735)	Yerevan, AM/Moscow, RU	March 31, 2022.
VQ–BQR	36386	737–8GU (B738)	Baku, AZ/Surgut, RU	March 9, 2022.
RA–73035	27315	737–524 (B735)	Baku, AZ/Moscow, RU	March 29, 2022.
RA–73061	28907	737–524 (B735)	Baku, AZ/Moscow, RU	March 31, 2022.
RA–73035	27315	737–524 (B735)	Ganja, AZ/Moscow, RU	March 30, 2022.
VQ–BQS	36387	737–8GU (B738)	Jeddah, SA/Grozny, RU	March 5, 2022.
VP–BAI/RA–73082	30437	767–224 (ER) (B762)	Tashkent, UZ/Moscow, RU	March 28, 2022.
VP–BAI/RA–73082	30437	767–224 (ER) (B762)	Tashkent, UZ/Moscow, RU	March 29, 2022.
VP–BAI/RA–73082	30437	767–224 (ER) (B762)	Tashkent, UZ/Moscow, RU	March 30, 2022.
VP–BAI/RA–73082	30437	767–224 (ER) (B762)	Tashkent, UZ/Moscow, RU	March 31, 2022.

[2] 87 FR 12,226 (Mar. 3, 2022).

[3] 87 FR 13,048 (Mar. 8, 2022).

Based on this information, there are heightened concerns of future violations of the EAR, given that any subsequent actions taken with regard to any of the listed aircraft, or other UTair aircraft illegally exported or reexported to Russia after March 2, 2022, may violate the EAR. Such actions include, but are not limited to, refueling, maintenance, repair, or the provision of spare parts or services. *See* General Prohibition 10 of the EAR at 15 CFR 736.2(b)(10).[4] Even UTair's continued use of such U.S.-origin aircraft only on domestic routes within Russia runs afoul of General Prohibition 10, which (among other restrictions) prohibits the continued use of an item that was known to have been exported or reexported in violation of the EAR. For example, publicly available flight tracking data shows that on March 25 and March 28, 2022, aircraft RA–73063 (SN 27534) flew on flights into and out of Surgut, Russia to/from Samara, Russia and, on March 26 and March 28, 2022, aircraft RA–73061 (SN 28907) flew on flights into and out of Moscow, Russia to/from Syktykar, Russia and Ukhta, Russia.

Moreover, additional concerns of future violations of the Regulations are raised by public information indicating efforts by UTair to have aircraft re-registered in Russia and assigned Russian tail numbers. These efforts suggest that UTair intends not only to maintain control over the aircraft, but also to continue operating them in likely violation of the EAR. Public information available as of the signing of this order on UTair's own website also indicates that its fleet consists of 63 aircraft, of which 48 are U.S.-origin; the remainder are manufactured outside of Russia and may be subject to the EAR based on containing more than 25% U.S.-origin controlled content.[5] UTair's website indicates that it currently operates international flights to Tajikistan, Turkey, Azerbaijan, and Armenia, and that while flights to the south of Russia are limited, there are cities that can be reached with UTair.[6] Given BIS's review policy of denial under Section 746.8(a) of the Regulations for exports and reexports to Russia, it is foreseeable that UTair will attempt to evade the Regulations in order to obtain new or additional aircraft parts or service its existing aircraft that were exported or reexported to Russia in violation of Section 746.8 of the Regulations.

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that UTair took actions in apparent violation of the Regulations by exporting or reexporting the aircraft cited above, among many others, on flights into Russia after March 2, 2022, without the required BIS authorization. Moreover, the continued operation of these aircraft by UTair, even on domestic routes within Russia, and the company's on-going need to acquire replacement parts and components, many of which are U.S.-origin, presents a high likelihood of imminent violations warranting imposition of a TDO. I further find that such apparent violations have been significant and deliberate. Therefore, issuance of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with UTair in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 and 766.23(b) of the Regulations.

IV. Order

It is therefore ordered:

FIRST, UTair Aviation JSC, Khanty-Mansiysk Airport, Tyumen Region, Russia, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of UTair any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by UTair of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby UTair acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from UTair of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

D. Obtain from UTair in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned,

[4] Section 736.2(b)(10) of the EAR provides: General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR. (emphasis in original).

[5] *https://www.utair.ru/en/about/aircrafts/.*

[6] *https://media.utair.ru/spring-in-russia.*

possessed or controlled by UTair, or service any item, of whatever origin, that is owned, possessed or controlled by UTair if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

THIRD, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to UTair by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, UTair may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by UTair as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to UTair, and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: April 7, 2022.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2022–07770 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with February anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable April 12, 2022.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders with February anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

With respect to antidumping administrative reviews, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity,

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for respondent selection. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than February 28, 2023.

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
AD Proceedings	
INDIA: Certain Frozen Warmwater Shrimp, A–533–840	2/1/21–1/31/22
Abad Fisheries.	
Accelerated Freeze Drying Co., Ltd.	
ADF Foods Ltd.	
Akshay Food Impex Private Limited.	
Alashore Marine Exports (P) Ltd.	
Albys Agro Private Limited.	
Al-Hassan Overseas Private Limited.	
Allana Frozen Foods Pvt. Ltd.	
Allanasons Ltd.	
Alpha Marine.	
Alps Ice & Cold Storage Private Limited.	
Amaravathi Aqua Exports Private Ltd.	
Amarsagar Seafoods Private Limited.	
Amulya Seafoods.	
Ananda Enterprises (India) Private Limited.	
Ananda Group (comprised of Ananda Aqua Applications; Ananda Aqua Exports (P) Limited; and Ananda Foods).	
Anantha Seafoods Private Limited.	
Anjaneya Seafoods.	
Apex Frozen Foods Limited.	
Aquatica Frozen Foods Global Pvt. Ltd.	
Arya Sea Foods Private Limited.	
Asvini Agro Exports.	
Asvini Fisheries Ltd./Asvini Fisheries Private Ltd.	
Avanti Frozen Foods Private Limited.	
Ayshwarya Sea Food Private Limited.	
B R Traders.	
Baby Marine Eastern Exports.	
Baby Marine Exports.	
Baby Marine International.	
Baby Marine Sarass.	
Baby Marine Ventures.	
Balasore Marine Exports Private Limited.	
BB Estates & Exports Private Limited.	
Bell Exim Private Limited.	
Bhatsons Aquatic Products.	
Bhavani Seafoods.	
Bhimraj Exports Private Limited.	
Bijaya Marine Products.	
Blue-Fin Frozen Foods Private Limited.	
Blue Water Foods & Exports P. Ltd.	
Bluepark Seafoods Pvt. Ltd.	
BMR Exports.	
BMR Industries Private Limited.	
B-One Business House Pvt. Ltd.	
Britto Seafood Exports Pvt Ltd.	
C.P. Aquaculture (India) Pvt. Ltd.	
Calcutta Seafoods Pvt. Ltd./Bay Seafood Pvt. Ltd./Elque & Co.	
Canaan Marine Products.	
Capithan Exporting Co.	
Cargomar Private Limited.	
Castlerock Fisheries Ltd.	
Chakri Fisheries Private Limited.	
Chemmeens (Regd).	
Cherukattu Industries (Marine Div).	
Choice Trading Corporation Pvt. Ltd.	
Coastal Aqua Private Limited.	
Coastal Corporation Ltd.	
Cochin Frozen Food Exports Pvt. Ltd.	
Cofoods Processors Private Limited.	
Continental Fisheries India Private Limited.	
Coreline Exports.	
Corlim Marine Exports Private Limited.	
CPF (India) Private Limited.	
Crystal Sea Foods Private Limited.	
Danica Aqua Exports Private Limited.	
Datla Sea Foods.	
Delsea Exports Pvt. Ltd.	
Deepak Nexgen Foods and Feeds Pvt. Ltd.	
Dwaraka Sea Foods.	
Devi Fisheries Group (comprised of Devi Fisheries Limited; Satya Seafoods Private Limited; Usha Seafoods; and Devi Aquatech Private Limited).	
Devi Sea Foods Limited [5].	

	Period to be reviewed
DSF Aquatech Private Limited.	
Empire Industries Limited.	
Entel Food Products Private Limited.	
Esmario Export Enterprises.	
Everblue Sea Foods Private Limited.	
Falcon Marine Exports Limited/KR Enterprises.	
Febin Marine Foods Private Limited.	
Fedora Sea Foods Private Limited.	
Five Star Marine Exports Private Limited.	
Food Products Pvt., Ltd./Parayil Food Products Pvt., Ltd.	
Forstar Frozen Foods Pvt. Ltd.	
Fouress Food Products Private Limited.	
Frontline Exports Pvt. Ltd.	
G A Randerian Ltd.	
Gadre Marine Exports (AKA Gadre Marine Exports Pvt. Ltd.).	
Galaxy Maritech Exports P. Ltd.	
Geo Aquatic Products (P) Ltd.	
Geo Seafoods.	
Godavari Mega Aqua Food Park Private Limited.	
Grandtrust Overseas (P) Ltd.	
Growel Processors Private Limited.	
GVR Exports Pvt. Ltd.	
Hari Marine Private Limited.	
Haripriya Marine Exports Pvt. Ltd.	
HIC ABF Special Foods Pvt. Ltd.	
Highland Agro.	
Hiravati Exports Pvt. Ltd.	
Hiravati International Pvt. Ltd.	
Hiravati Marine Products Private Limited.	
HMG Industries Ltd.	
HN Indigos Private Limited.	
Hyson Exports Private Limited.	
Hyson Logistics and Marine Exports Private Limited.	
IFB Agro Industries Limited.	
Indian Aquatic Products.	
Indo Aquatics.	
Indo Fisheries.	
Indo French Shellfish Company Private Limited.	
International Freezefish Exports.	
ITC Ltd.	
Jagadeesh Marine Exports.	
Jaya Lakshmi Sea Foods Pvt. Ltd.	
Jinny Marine Traders.	
Jude Foods India Private Limited.	
K.V. Marine Exports.	
The Kadalkanny Group (comprised of Diamond Seafoods Exports; Edhayam Frozen Foods Pvt. Ltd.; Kadalkanny Frozen Foods; and Theva & Company).	
Kalyan Aqua & Marine Exp. India Pvt. Ltd.	
Karunya Marine Exports Private Limited.	
Kaushalya Aqua Marine Product Exports Pvt. Ltd.	
Kay Kay Exports.	
Kings Infra Ventures Limited.	
Kings Marine Products.	
KNC Agro Limited.	
Koluthara Exports Ltd.	
Liberty Group (comprised of Devi Marine Food Exports Private Ltd.; Kader Exports Private Limited; Kader Investment and Trading Company Private Limited; Liberty Frozen Foods Private Limited; Liberty Oil Mills Limited; Premier Marine Products Private Limited; and Universal Cold Storage Private Limited).	
Libran Foods.	
Lito Marine Exports Private Limited.	
LNSK Green House Agro Products LLP.	
Magnum Export/Magnum Exports Pvt. Ltd.	
Magnum Seafoods Limited/Magnum Estates Private Limited.	
Mangala Marine Exim India Pvt. Ltd.	
Mangala Sea Products.	
Mangala Seafoods (AKA Mangala Sea Foods).	
Marine Harvest India.	
Megaa Moda Pvt. Ltd.	
Milesh Marine Exports Private Limited.	
Milsha Agro Exports Pvt. Ltd.	
Milsha Sea Products.	
Minaxi Fisheries Private Limited.	
Mindhola Foods LLP.	
Minh Phu Group.	

	Period to be reviewed
MMC Exports Limited. Monsun Foods Pvt. Ltd. Mourya Aquex Pvt. Ltd. MTR Foods. Munnangi Seafoods Pvt) Ltd. Naga Hanuman Fish Packers. Naik Frozen Foods Private Limited. Naik Oceanic Exports Pvt. Ltd./Rafiq Naik Exports Pvt. Ltd. Naik Seafoods Ltd. NAS Fisheries Pvt. Ltd. Neeli Aqua Private Limited. Nekkanti Mega Food Park Private Limited. Nekkanti Sea Foods Limited. Nezami Rekha Sea Foods Private Limited. Nila Sea Foods Exports/Nila Sea Foods Pvt. Ltd. Nine Up Frozen Foods. N.K. Marine Exports LLP. Nutrient Marine Foods Limited. Oceanic Edibles International Limited. Paragon Sea Foods Pvt. Ltd. Paramount Seafoods. Pasupati Aquatics Private Limited. Penver Products (P) Ltd. Pesca Marine Products Pvt., Ltd. Poyilakada Fisheries Private Limited. Pijikay International Exports P Ltd. Pravesh Seafood Private Limited. Premier Exports International. Premier Marine Foods. Premier Seafoods Exim (P) Ltd. Protech Organo Foods Private Limited. Raju Exports. Rajyalaksmi Marine Exports. Ram's Assorted Cold Storage Limited. Raunaq Ice & Cold Storage. Razban Seafoods Ltd. RDR Exports. Rising Tide. RF Exports Private Limited. Riyarchita Agro Farming Private Limited. Royal Imports and Exports. Royale Marine Impex Pvt. Ltd. RSA Marines/Royal Oceans. Rupsha Fish Private Limited. R V R Marine Products Private Limited. S.A. Exports. S Chanchala Combines. Safera Food International. Sagar Grandhi Exports Pvt. Ltd. Sagar Samrat Seafoods. Sahada Exports. Sai Aquatechs Private Limited. Sai Marine Exports Pvt. Ltd. Sai Sea Foods. Salet Seafoods Pvt. Ltd. Samaki Exports Private Limited. Sanchita Marine Products Private Limited. Sandhya Aqua Exports Pvt. Ltd. Sandhya Marines Limited. Sassoondock Matsyodyog Sahakari Society Ltd. Sea Doris Marine Exports. Sea Foods Private Limited. Seagold Overseas Pvt. Ltd. Seasaga Enterprises Private Limited/Seasaga Group. Sharat Industries Ltd. Shimpo Exports Private Limited. Shimpo Seafoods Private Limited. Shiva Frozen Food Exp. Pvt. Ltd. Shree Datt Aquaculture Farms Pvt. Ltd. Shroff Processed Food & Cold Storage P Ltd. Sigma Seafoods. Silver Seafood. Sita Marine Exports. Sonia Fisheries.	

	Period to be reviewed
Southern Tropical Foods Pvt. Ltd.	
Sprint Exports Pvt. Ltd.	
Sreeragam Exports Private Limited.	
Sri Sakkthi Cold Storage.	
Srikanth International.	
SSF Ltd.	
Star Agro Marine Exports Private Limited.	
Star Organic Foods Private Limited.	
Stellar Marine Foods Private Limited.	
Sterling Foods.	
Summit Marine Exports Private Limited.	
Sun Agro Exim.	
Sunrise Seafoods India Private Limited.	
Supran Exim Private Limited.	
Suryamitra Exim Pvt. Ltd.	
Suvarna Rekha Exports Private Limited.	
Suvarna Rekha Marines P Ltd.	
TBR Exports Private Limited.	
Tej Aqua Feeds Private Limited.	
Teekay Marines Private Limited.	
The Waterbase Limited.	
Torry Harris Seafoods Ltd.	
Triveni Fisheries P Ltd.	
U & Company Marine Exports.	
Ulka Sea Foods Private Limited.	
Uniloids Biosciences Private Limited.	
Uniroyal Marine Exports Ltd.	
Unitriveni Overseas Private Limited.	
V V Marine Products.	
Vaisakhi Bio-Marine Private Limited.	
Vasai Frozen Food Co.	
Vasista Marine.	
Veerabhadra Exports Private Limited.	
Veronica Marine Exports Private Ltd.	
Victoria Marine & Agro Exports Ltd.	
Varma Marine.	
Vinner Marine.	
Vitality Aquaculture Pvt. Ltd.	
VKM Foods Private Limited.	
VRC Marine Foods LLP.	
Wellcome Fisheries Limited.	
West Coast Fine Foods (India) Private Limited.	
West Coast Frozen Foods Private Limited.	
Z.A. Sea Foods Pvt. Ltd.	
Zeal Aqua Limited.	
INDIA: Carbon and Alloy Steel Threaded Rod, A–533–887 [6]	9/25/19–3/31/21
Kova Fasteners Pvt., Ltd.	
INDIA: Stainless Steel Bar, A–533–810	2/1/21–1/31/22
Bhansali Bright Bars Pvt. Ltd.	
Bhansali Inc.	
Hindustan Inox Ltd.	
Laxcon Steels Limited.	
Mega Steels Private Limited.	
Metlax International Private Limited.	
Ocean Steels Private Limited.	
Parvati Private Limited.	
Precision Metals.	
Sieves Manufacturers (India) Pvt. Ltd.	
Venus Group.	
Venus Wire Industries Pvt. Ltd.	
ITALY: Stainless Steel Butt-Weld Pipe Fittings, A–475–828	2/1/21–1/31/22
Filmag Italia, SpA.	
MALAYSIA: Stainless Steel Butt-Weld Pipe Fittings, A–557–809	2/1/21–1/31/22
Pantech Stainless & Alloy Industries Sdn. Bhd.	
Statewell Co., Ltd.	
MEXICO: Large Residential Washers, A–201–842	2/1/21–1/31/22
Electrolux Home Products Corp. NV.	
Electrolux Home Products de Mexico S.A. de C.V.	
PHILIPPINES: Stainless Steel Butt-Weld Pipe Fittings, A–565–801	2/1/21–1/31/22
E N Corporation.	
Enlin Steel Corporation.	
Vinox Corporation (a/k/a Vinoc Corporation).	
REPUBLIC OF KOREA: Certain Cut-To-Length Carbon-Quality Steel Plate, A–580–836	2/1/21–1/31/22
BDP International.	

	Period to be reviewed
Dongkuk Steel Mill Co., Ltd.	
Hyundai Steel Company.	
Sung Jin Steel Co., Ltd.	
SOCIALIST REPUBLIC OF VIETNAM: Certain Frozen Warmwater Shrimp, A–552–802[7]	2/1/21–1/31/22
Amanda Seafood Co., Ltd.	
An Nguyen Investment Production and Group.	
Anh Khoa Seafood.	
Anh Minh Quan Corp.	
APT Co.	
Au Vung One Seafood.	
Bien Dong Seafood Co., Ltd.	
BIM Foods Joint Stock Company.	
Binh Dong Fisheries Joint Stock Company.	
Binh Thuan Import-Export Joint Stock Company.	
Blue Bay Seafood Co., Ltd.	
Cadovimex.	
Cadovimex II Seafood Import Export and Processing Joint Stock Company.	
Cadovimex Seafood Import-Export and Processing Joint Stock Company.	
Cantho Import Export Seafood Joint Stock Company.	
Caseamex.	
CJ Cau Tre Foods Joint Stock Company.	
Coastal Fisheries Development Corporation.	
COFIDEC.	
Danang Seafood Import Export.	
Danang Seaproducts Import-Export Corporation.	
Dong Hai Seafood Limited Company.	
Dong Phuong Seafood Co., Ltd.	
Duc Cuong Seafood Trading Co., Ltd.	
Duong Hung Seafood.	
FFC.	
Fine Foods Company.	
Gallant Dachan Seafood Co., Ltd.	
Gallant Ocean (Vietnam) Co. Ltd.	
Go Dang Joint Stock Company.	
GODACO Seafood.	
Green Farms Seafood Joint Stock Company.	
Hanh An Trading Service Co., Ltd.	
Hong Ngoc Seafood Co., Ltd.	
Hung Bang Company Limited.	
Hung Dong Investment Service Trading Co., Ltd.	
HungHau Agricultural Joint Stock Company.	
JK Fish Co., Ltd.	
Khanh Hoa Seafoods Exporting Company.	
KHASPEXCO.	
Long Toan Frozen Aquatic Products Joint Stock Company.	
MC Seafood.	
Minh Bach Seafood Company Limited.	
Minh Cuong Seafood Import Export Processing Joint Stock Company.	
Minh Phu Hau Giang Seafood[8].	
Minh Phu Seafood Corporation[9].	
Minh Qui Seafood Co., Ltd.[10]	
Nam Viet Seafood Import Export Joint Stock Company.	
Namcan Seaproducts Import Export Joint Stock Company.	
New Generation Seafood Joint Stock Company.	
New Wind Seafood Co., Ltd.	
Ngoc Trinh Bac Lieu Seafood Co., Ltd.	
Nguyen Chi Aquatic Product Trading Company Limited.	
Nhat Duc Co., Ltd.	
Nigico Co., Ltd.	
Phuong Nam Foodstuff Corp.	
QAIMEXCO.	
Quang Minh Seafood Co., Ltd.	
Quoc Ai Seafood Processing Import Export Co., Ltd.	
Quoc Toan PTE.	
Quoc Toan Seafood Processing Factory.	
Quy Nhon Frozen Seafoods Joint Stock Company.	
Safe and Fresh Aquatic Products Joint Stock Company.	
Safe and Fresh Co.	
Saigon Aquatic Product Trading Joint Stock Company.	
Saigon Food Joint Stock Company.	
SEADANANG.	
Seafood Joint Stock Company No. 4.	
Seafood Travel Construction Import-Export Joint Stock Company.	
Seanamico.	

	Period to be reviewed
Seaspimex Vietnam.	
Seavina Joint Stock Company.	
Soc Trang Seafood Joint Stock Company.	
South Ha Tinh Seaproducts Import-Export Joint Stock Company.	
South Vina Shrimp–SVS.	
Southern Shrimp Joint Stock Company.	
Special Aquatic Products Joint Stock Company.	
STAPIMEX.	
T & P Seafood Company Limited.	
T&T Cam Ranh.	
Tai Nguyen Seafood Co., Ltd.	
Tan Phong Phu Seafood Co., Ltd.	
Tan Thanh Loi Frozen Food Co., Ltd.	
THADIMEXCO.	
Thai Hoa Foods Joint Stock Company.	
Thai Minh Long Seafood Company Limited.	
Thaimex.	
Thanh Doan Fisheries Import-Export Joint Stock Company.	
Thanh Doan Sea Products Import & Export Processing Joint-Stock Company.	
Thanh Doan Seafood Import Export Trading Joint-Stock Company.	
The Light Seafood Company Limited.	
Thien Phu Export Seafood.	
Thinh Hung Co., Ltd.	
Thinh Phu Aquatic Products Trading Co., Ltd.	
Thong Thuan Cam Ranh Seafood Joint Stock Company.	
TPP Co. Ltd.	
Trading and Import-Export Co., Ltd.	
Trang Corporation (Vietnam).	
Trung Son Seafood Processing Joint Stock Company.	
Van Duc Food Company Limited.	
Viet Phu Foods and Fish Corp.	
Viet Shrimp Corporation.	
VIFAFOOD.	
Vinh Hoan Corp.	
Vinh Phat Food Joint Stock Company.	
XNK Thinh Phat Processing Company.	
TAIWAN: Crystalline Silicon Photovoltaic Products, A–583–853	2/1/21–1/31/22
AU Optronics Corporation.	
Baoding Jiasheng Photovoltaic Technology Co. Ltd.	
Baoding Tianwei Yingli New Energy Resources Co., Ltd.	
Beijing Tianneng Yingli New Energy Resources Co. Ltd.	
Boviet Solar Technology Co., Ltd.	
Canadian Solar Inc.	
Canadian Solar International, Ltd.	
Canadian Solar Manufacturing (Changshu), Inc.	
Canadian Solar Manufacturing (Luoyang), Inc.	
Canadian Solar Solution Inc.	
EEPV CORP.	
E–TON Solar Tech. Co., Ltd.	
Gintech Energy Corporation.	
Hainan Yingli New Energy Resources Co., Ltd.	
Hengshui Yingli New Energy Resources Co., Ltd.	
Inventec Energy Corporation.	
Inventec Solar Energy Corporation.	
Kyocera Mexicana S.A. de C.V.	
Lixian Yingli New Energy Resources Co., Ltd.	
Motech Industries, Inc.	
Neo Solar Power Corporation.	
Shenzhen Yingli New Energy Resources Co., Ltd.	
Sino-American Silicon Products Inc.	
Solartech Energy Corporation.	
Sunengine Corporation Ltd.	
Sunrise Global Solar Energy.	
Tianjin Yingli New Energy Resources Co., Ltd.	
TSEC Corporation.	
United Renewable Energy Co., Ltd.	
Vina Solar Technology Co., Ltd.	
Win Win Precision Technology Co., Ltd.	
Yingli Energy (China) Co., Ltd.	
Yingli Green Energy International Trading Company Limited.	
THAILAND: Certain Frozen Warmwater Shrimp, A–549–822	2/1/21–1/31/22
A. Wattanachai Frozen Products Co., Ltd.	
A.P. Frozen Foods Co., Ltd.	
A.S. Intermarine Foods Co., Ltd.	

	Period to be reviewed
Ampai Frozen Food Co., Ltd. Anglo-Siam Seafoods Co., Ltd. Apitoon Enterprise Industry Co., Ltd. Asian Alliance International Co., Ltd. Asian Sea Corporation Public Company Limited. Asian Seafoods Coldstorage PLC. Asian Seafoods Coldstorage Public Co., Ltd. (A.K.A. Asian Seafoods Coldstorage (Suratthani) Co.). Asian Seafoods Coldstorage Public Company Limited. Asian Star Trading Co., Ltd. B.S.A. Food Products Co., Ltd. Bright Sea Co., Ltd./The Union Frozen Products Co., Ltd.[11] C N Import Export Co., Ltd. C.K. Frozen Fish and Food Co., Ltd. C.P. Intertrade Co. Ltd. Chaivaree Marine Products Co., Ltd. Chanthaburi Frozen Food Co., Ltd.[12] Chanthaburi Seafoods Co., Ltd.[13] Charoen Pokphand Foods Public Company Limited/CP Merchandising Co., Ltd.[14] Chonburi LC. Commonwealth Trading Co., Ltd. CPF Food Products Co., Ltd. Crystal Frozen Foods Co., Ltd. Daedong (Thailand) Co., Ltd. Daiei Taigen (Thailand) Co., Ltd. Daiho (Thailand) Co., Ltd. Earth Food Manufacturing Co., Ltd. F.A.I.T. Corporation Limited. Far East Cold Storage Co., Ltd. Findus (Thailand) Ltd. Fortune Frozen Foods (Thailand) Co., Ltd. Gallant Ocean (Thailand) Co., Ltd. Golden Seafood International Co., Ltd. Good Fortune Cold Storage Ltd. Good Luck Product Co., Ltd. Grobest Frozen Foods Co., Ltd. Haitai Seafood Co., Ltd. Handy International (Thailand) Co., Ltd. Heritrade Co., Ltd. (AKA Heritrade). HIC (Thailand) Co., Ltd. I.T. Foods Industries Co., Ltd. Inter-Oceanic Resources Co., Ltd. Inter-Pacific Marine Products Co., Ltd. K & U Enterprise Co., Ltd. Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd. Kingfisher Holdings Ltd./KF Foods Limited[15]. Kitchens of the Ocean (Thailand) Ltd. Kongphop Frozen Foods Co., Ltd. Kyokuyo Global Seafoods Co., Ltd. Lee Heng Seafood Co., Ltd. Li-Thai Frozen Foods Co., Ltd. Lucky Union Foods Co., Ltd. Mahachai Food Processing Co., Ltd. Marine Gold Products Ltd.[16]. May Ao Foods Co., Ltd./A Foods 1991 Co., Limited[17]. Merkur Co., Ltd. N&N Foods Co., Ltd. N.R. Instant Produce Co., Ltd. Narong Seafood Co., Ltd. Nongmon SMJ Products. Pacific Fish Processing Co., Ltd. Penta Impex Co., Ltd. Phatthana Frozen Food Co., Ltd.[18] Phatthana Seafood Co., Ltd.[19] Premier Frozen Products Co., Ltd. Royal Andaman Seafood Co., Ltd. S&D Marine Products Co., Ltd. S. Chaivaree Cold Storage Co., Ltd. S. Khonkaen Food Industry Public Co., Ltd. S.K. Foods (Thailand) Public Co. Limited. S2K Marine Product Co., Ltd. Sea Bonanza Food Co., Ltd. Sea Wealth Frozen Food Co., Ltd.[20]. Seafresh Industry Public Co., Ltd./Seafresh Fisheries[21]. SEAPAC.	

	Period to be reviewed
Sea-Tech Intertrade Co., Ltd.	
Sethachon Co.. Ltd.	
Shianlin Bangkok Co., Ltd.	
Shing Fu Seaproducts Development Co.	
Siam Food Supply Co., Ltd.	
Siam Intersea Co., Ltd.	
Siam Marine Products Co., Ltd.	
Siam Ocean Frozen Foods Co., Ltd.	
Siam Union Frozen Foods (A.K.A. The Siam Union Frozen Foods Co., Ltd.).	
Siamchai International Food Co., Ltd.	
Smile Heart Foods (A.K.A. Smile Heart Foods Co. Ltd.).	
SMP Food Product Co., Ltd.	
Songkla Canning Public Co., Ltd.	
Southeast Asian Packaging and Canning Ltd.	
Southport Seafood (A.K.A. Southport Seafood Co., Ltd.).	
Starfoods Industries Co., Ltd.	
STC Foodpak Ltd.	
Suntechthai Intertrading Co., Ltd.	
Surapon Foods Public Co. Ltd/Surat Seafoods Public Co., Ltd.[22]	
Surapon Nichirei Foods Co., Ltd.	
Tep Kinsho Foods Co., Ltd.	
Tey Seng Cold Storage Co., Ltd./Chaiwarut Co., Ltd.[23]	
Thai Agri Foods Public Co., Ltd.	
Thai I-Mei Frozen Foods Co., Ltd.[24]	
Thai Ocean Venture Co., Ltd.	
Thai Royal Frozen Food Co., Ltd.	
Thai Spring Fish Co., Ltd.	
Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Takzin Samut Co., Ltd.[25]	
Thai Union Manufacturing Company Limited.	
Top Product Food Co., Ltd.	
Trang Seafood Products Public Co., Ltd.	
Unicord Public Co., Ltd.	
Xian-Ning Seafood Co., Ltd.	
Yeenin Frozen Foods Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Frozen Warmwater Shrimp, A–570–893	2/1/21–1/31/22
Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd./Allied Pacific Food (Dalian) Co., Ltd.[26]	
Anhui Fuhuang Sungem Foodstuff Group Co., Ltd.	
Asian Seafoods (Zhanjiang) Co., Ltd.	
Beihai Anbang Seafood Co., Ltd.	
Beihai Boston Frozen Food Co., Ltd.	
Beihai Evergreen Aquatic Product Science and Technology Company Limited.	
Beihai Tianwei Aquatic Food Co. Ltd.	
Changli Luquan Aquatic Products Co., Ltd.	
Chengda Development Co Ltd.	
Colorful Bright Trade Co., Ltd.	
Dalian Beauty Seafood Company Ltd.	
Dalian Changfeng Food Co., Ltd.	
Dalian Guofu Aquatic Products and Food Co., Ltd.	
Dalian Haiqing Food Co., Ltd.	
Dalian Hengtai Foods Co., Ltd.	
Dalian Home Sea International Trading Co., Ltd.	
Dalian Philica International Trade Co., Ltd.	
Dalian Philica Supply Chain Management Co., Ltd.	
Dalian Rich Enterprise Group Co., Ltd.	
Dalian Shanhai Seafood Co., Ltd.	
Dalian Sunrise Foodstuffs Co., Ltd.	
Dalian Taiyang Aquatic Products Co., Ltd.	
Dandong Taihong Foodstuff Co., Ltd.	
Dongwei Aquatic Products (Zhangzhou) Co., Ltd.	
Ferrero Food.	
Fujian Chaohui Group.	
Fujian Chaowei International Trading.	
Fujian Dongshan County Shunfa Aquatic Product Co., Ltd.	
Fujian Dongwei Food Co., Ltd.	
Fujian Dongya Aquatic Products Co., Ltd.	
Fujian Fuding Seagull Fishing Food Co., Ltd.	
Fujian Haihun Aquatic Product Company.	
Fujian Hainason Trading Co., Ltd.	
Fujian Hongao Trade Development Co.	
Fujian R & J Group Ltd.	
Fujian Rongjiang Import and Export Co., Ltd.	
Fujian Zhaoan Haili Aquatic Co., Ltd.	

	Period to be reviewed
Fuqing Chaohui Aquatic Food Co., Ltd.	
Fuqing Dongwei Aquatic Products Industry Co., Ltd.	
Fuqing Longhua Aquatic Food Co., Ltd.	
Fuqing Minhua Trade Co., Ltd.	
Fuqing Yihua Aquatic Food Co., Ltd.	
Gallant Ocean Group.	
Guangdong Foodstuffs Import & Export (Group) Corporation.	
Guangdong Gourmet Aquatic Products Co., Ltd.	
Guangdong Jinhang Foods Co., Ltd.	
Guangdong Rainbow Aquatic Development.	
Guangdong Shunxin Marine Fishery Group Co., Ltd.	
Guangdong Taizhou Import & Export Trade Co., Ltd.	
Guangdong Universal Aquatic Food Co. Ltd.	
Guangdong Wanshida Holding Corp.	
Guangdong Wanya Foods Fty. Co., Ltd.	
HaiLi Aquatic Product Co., Ltd.	
Hainan Brich Aquatic Products Co., Ltd.	
Hainan Golden Spring Foods Co., Ltd.	
Hainan Qinfu Foods Co., Ltd.	
Hainan Xintaisheng Industry Co., Ltd.	
Huazhou Xinhai Aquatic Products Co. Ltd.	
Kuehne Nagel Ltd. Xiamen Branch.	
Leizhou Bei Bu Wan Sea Products Co., Ltd.	
Longhai Gelin Foods Co., Ltd.	
Maoming Xinzhou Seafood Co., Ltd.	
New Continent Foods Co., Ltd.	
Ningbo Prolar Global Co., Ltd.	
North Seafood Group Co.	
Pacific Andes Food Ltd.	
Penglai Huiyang Foodstuff Co., Ltd.	
Penglai Yuming Foodstuff Co., Ltd.	
Qingdao Fusheng Foodstuffs Co., Ltd.	
Qingdao Yihexing Foods Co., Ltd.	
Qingdao Yize Food Co., Ltd.	
Qingdao Zhongfu International.	
Qinhuangdao Gangwan Aquatic Products Co., Ltd.	
Raoping YuXiang Aquaculture Co., Ltd.	
Rizhao Meijia Aquatic Foodstuff Co., Ltd.	
Rizhao Meijia Keyuan Foods Co. Ltd.	
Rizhao Rongjin Aquatic.	
Rizhao Rongxing Co. Ltd.	
Rizhao Smart Foods Company Limited.	
Rongcheng Sanyue Foodstuff Co., Ltd.	
Rongcheng Yinhai Aquatic Product Co., Ltd.	
Rushan Chunjiangyuan Foodstuffs Co., Ltd.	
Rushan Hengbo Aquatic Products Co., Ltd.	
Savvy Seafood Inc.	
Sea Trade International Inc.	
Shanghai Finigate Integrated.	
Shanghai Zhoulian Foods Co., Ltd.	
Shantou Freezing Aquatic Product Foodstuffs Co.	
Shantou Haili Aquatic Product Co. Ltd.	
Shantou Haimao Foodstuff Factory Co., Ltd.	
Shantou Jiazhou Food Industrial Co., Ltd.	
Shantou Jinping Oceanstar Business Co., Ltd.	
Shantou Jintai Aquatic Product Industrial Co., Ltd.	
Shantou Longsheng Aquatic Product Foodstuff Co., Ltd.	
Shantou Ocean Best Seafood Corporation.	
Shantou Red Garden Food Processing Co., Ltd./Shantou Red Garden Foodstuff Co., Ltd.[27]	
Shantou Ruiyuan Industry Co., Ltd.	
Shantou Wanya Foods Fty. Co., Ltd.	
Shantou Yuexing Enterprise Company.	
Shengyuan Aquatic Food Co., Ltd.	
Suizhong Tieshan Food Co., Ltd.	
Thai Royal Frozen Food Zhanjiang Co., Ltd.	
Tongwei Hainan Aquatic Products Co., Ltd.	
Time Seafood (Dalian) Company Limited.	
Xiamen East Ocean Foods Co., Ltd.	
Xiamen Granda Import and Export Co., Ltd.	
Yangjiang Dawu Aquatic Products Co., Ltd.	
Yangjiang Guolian Seafood Co., Ltd.	
Yangjiang Haina Datong Trading Co.	
Yantai Longda Foodstuffs Co., Ltd.	
Yantai Tedfoods Co., Ltd.	

	Period to be reviewed
Yantai Wei-Cheng Food Co., Ltd.	
Yixing Magnolia Garment Co., Ltd.	
Zhangzhou Donghao Seafoods Co., Ltd.	
Zhangzhou Fuzhiyuan Food Co., Ltd.	
Zhangzhou Hongwei Foods Co., Ltd.	
Zhangzhou Tai Yi Import & Export Trading Co., Ltd.	
Zhangzhou Xinhui Foods Co., Ltd.	
Zhangzhou Xinwanya Aquatic Product Co., Ltd.	
Zhangzhou Yanfeng Aquatic Product & Foodstuff Co., Ltd.	
Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.	
Zhanjiang Fuchang Aquatic Products Co., Ltd.	
Zhanjiang Fuchang Aquatic Products Freezing Plant.	
Zhanjiang Go-Harvest Aquatic Products Co., Ltd.	
Zhanjiang Guolian Aquatic Products Co., Ltd.[28]	
Zhanjiang Longwei Aquatic Products Industry Co., Ltd.	
Zhanjiang Regal Integrated Marine Resources Co., Ltd.[29]	
Zhanjiang Universal Seafood Corp.	
Zhaoan Yangli Aquatic Co., Ltd.	
Zhejiang Evernew Seafood Co.	
Zhejiang Xinwang Foodstuffs Co., Ltd.	
Zhenye Aquatic (Huilong) Ltd.	
Zhoushan Genho Food Co., Ltd.	
Zhoushan Green Food Co., Ltd.	
Zhoushan Haizhou Aquatic Products.	
Zhuanghe Yongchun Marine Products.	
THE PEOPLE'S REPUBLIC OF CHINA: Common Alloy Aluminum Sheet, A–570–073	2/1/21–1/31/22
Alcha International Holdings Limited.	
Jiangsu Alcha Aluminum Co., Ltd.	
Yinbang Clad Material Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Crystalline Silicon Photovoltaic Products, A–570–010	2/1/21–1/31/22
Anji Dasol Solar Energy Science & Technology Co., Ltd.	
BYD (Shangluo) Industrial Co., Ltd.	
Canadian Solar International Limited.	
Canadian Solar Manufacturing (Changshu) Inc.	
Canadian Solar Manufacturing (Luoyang) Inc.	
Changzhou Trina Hezhong Photoelectric Co., Ltd.	
Changzhou Trina Solar Energy Co., Ltd.	
Changzhou Trina Solar Yabang Energy Co., Ltd.	
Chint Energy (Haining) Co., Ltd.; Chint Solar (Hong Kong) Company Limited; Chint Solar (Jiuquan) Co., Ltd.; Chint Solar (Zhejiang) Co., Ltd.; Chint New Energy Technology (Haining) Co. Ltd.	
CSI Cells Co., Ltd.	
CSI Solar Power (China) Inc.	
CSI–GCL Solar Manufacturing (Yancheng) Co., Ltd.	
De-Tech Trading Limited HK.	
Hefei JA Solar Technology Co., Ltd.	
Hengdian Group DMEGC Magnetics Co. Ltd.	
Hubei Trina Solar Energy Co., Ltd.	
JA Solar Co., Ltd.	
JA Solar Technology Yangzhou Co., Ltd.	
Jiangsu Jinko Tiansheng Solar Co., Ltd.	
Jiawei Solarchina (Shenzhen) Co., Ltd.	
Jiawei Solarchina Co., Ltd.	
JingAo Solar Co., Ltd.	
Jinko Solar Co. Ltd.	
Jinko Solar Import and Export Co., Ltd.	
Jinko Solar International Limited.	
JinkoSolar Technology (Haining) Co., Ltd.	
Jiujiang Shengchao Xinye Technology Co., Ltd.	
Jiujiang Shengzhao Xinye Trade Co., Ltd.	
Lightway Green New Energy Co., Ltd.	
Longi (HK) Trading Ltd.	
Longi Solar Technology Co. Ltd.; Lerri Solar Technology Co., Ltd.	
Luoyang Suntech Power Co., Ltd.	
Ningbo ETDZ Holdings, Ltd.	
Ningbo Qixin Solar Electrical Appliance Co., Ltd.	
Perlight Solar Co., Ltd.	
Renesola Jiangsu Ltd.	
ReneSola Zhejiang Ltd.	
Risen (Luoyang) New Energy Co., Ltd.	
Risen (Wuhai) New Energy Co., Ltd.	
Risen Energy Co. Ltd.; Risen Energy (Changzhou) Co., Ltd.	
Ruichang Branch, Risen Energy (HongKong) Co., Ltd.	
Shanghai BYD Co., Ltd.	
Shenzhen Sungold Solar Co., Ltd.	

	Period to be reviewed
Shenzhen Topray Solar Co., Ltd.	
Shenzhen Yingli New Energy Resources Co., Ltd.; Baoding Jiasheng PhotovoltaicTechnology Co., Ltd.; Baoding Tianwei Yingli New Energy Resources Co., Ltd.; Beijing Tianneng Yingli New Energy Resources Co., Ltd.; Hainan Yingli New Energy Resources Co., Ltd.; Hengshui Yingli New Energy Resources Co., Ltd.; Lixian Yingli New Energy Resources Co., Ltd.; Tianjin Yingli New Energy Resources Co., Ltd.; Yingli Energy (China) Company Limited.	
Sumec Hardware & Tools Co., Ltd.	
Sunny Apex Development Ltd.	
Suntech Power Co., Ltd.	
Taizhou BD Trade Co., Ltd.	
tenKsolar (Shanghai) Co., Ltd.	
Trina Solar (Changzhou) Science & Technology Co., Ltd.	
Trina Solar (Hefei) Science and Technology Co., Ltd.	
Trina Solar Co., Ltd.	
Turpan Trina Solar Energy Co., Ltd.	
Wuxi Suntech Power Co., Ltd.	
Wuxi Tianran Photovoltaic Co., Ltd.	
Xiamen Yiyusheng Solar Co., Ltd.	
Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd.	
Yingli Green Energy International Trading Company Limited.	
Yuhuan Jinko Solar Co., Ltd.	
Zhejiang Aiko Solar Energy Technology Co., Ltd.	
Zhejiang Jinko Solar Co., Ltd.	
Zhejiang Twinsel Electronic Technology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Small Diameter Graphite Electrodes, A–570–929 [30]	2/1/21–1/31/22
5-Continent Imp. & Exp. Co., Ltd.	
Acclcarbon Co., Ltd.	
Allied Carbon (China) Co., Limited.	
Anssen Metallurgy Group Co., Ltd. (a.k.a. AMGL).	
Apex Maritime (Dalian) Co., Ltd.	
Asahi Fine Carbon (Dalian) Co., Ltd.	
Assi Steel Co. Ltd.	
Beijing Fangda Carbon Tech Co., Ltd./Chengdu Rongguang Carbon Co., Ltd./Fangda.	
Carbon New Material Co., Ltd./Fushun Carbon Co., Ltd./Hefei Carbon Co., Ltd. [31]	
Beijing International Trade Co., Ltd.	
Beijing Kang Jie Kong Cargo Agent Expeditors (Tianjin Branch).	
Beijing Shougang Huaxia International Trade Co. Ltd.	
Beijing Xincheng Sci-Tech. Development Inc.	
Beijing Xinchengze Inc.	
Brilliant Charter Limited.	
Carbon International.	
Chang Cheng Chang Electrode Co., Ltd.	
Chengdelh Carbonaceous Elements Factory.	
Chengdu Jia Tang Corp.	
China Carbon Graphite Group Inc.	
China Industrial Mineral & Metals Group.	
China Pingmei Shenma Group.	
China Shaanxi Richbond Imp. & Exp. Industrial Corp. Ltd.	
China Xingyong Carbon Co., Ltd.	
CIMM Group Co., Ltd.	
Dalian Carbon & Graphite Corporation.	
Dalian Honest International Trade Co., Ltd.	
Dalian Hongrui Carbon Co., Ltd.	
Dalian Horton International Trading Co., Ltd.	
Dalian Litian International Freight Forwarders Ltd.	
Dalian Litian International Transportation Co., Ltd.	
Dalian LST Metallurgy Co., Ltd.	
Dalian Oracle Carbon Co., Ltd.	
Dalian Shuangji Co., Ltd.	
Dalian Thrive Metallurgy Imp. & Exp. Co., Ltd.	
Dandong Xinxin Carbon Co., Ltd.	
Datong Carbon.	
Datong Xincheng Carbon Co., Ltd.	
Datong Xincheng New Materials Co., Ltd.	
De Well Container Shipping Corp. (Dewell Group).	
Dechang Shida Carbon Co., Ltd.	
Dewell Group.	
Dignity Success Investment Trading Co., Ltd.	
Double Dragon Metals and Mineral Tools Co., Ltd.	
Ever Express Group Ltd.	
Fangda Lanzhou Carbon Joint Stock Company Co. Ltd.	
Foset Co., Ltd.	
Fushun Carbon Plant.	
Fushun Jinli Petrochemical Carbon Co., Ltd.	

	Period to be reviewed
Fushun Jinly Petro Carbon Co., Ltd. Fushun Jinly Petrochemical Carbon Co., Ltd. Fushun Oriental Carbon Co., Ltd. GES (China) Co. Ltd. Gold Success Group Ltd. Golden Harvest Resources Ltd. GR Industrial Corporation. Grafworld International Inc. Grameter Shipping Co., Ltd. (Qingdao Branch). Guangdong Highsun Yongye (Group) Co., Ltd. Guanghan Shida Carbon Co., Ltd. Haimen Shuguang Carbon Industry Co., Ltd. Handan Hanbo Material Co., Ltd. Hanhong Precision Machinery Co., Ltd. Hebei Long Great Wall Electrode Co., Ltd. Hebei Shuntian Electrode Co., Ltd. Heico Universal (Shanghai) Distribution Co., Ltd. Heilongjiang Xinyuan Carbon Co. Ltd. Heilongjiang Xinyuan Carbon Products Co., Ltd. Heilongjiang Xinyuan Metacarbon Company Ltd. Henan JLV Graphite Co., Ltd. Henan Sanli Carbon Products Co., Ltd. Henan Sihai Import and Export Co., Ltd. Hohhot Muzi Carbon Trade Co., Ltd. Hopes (Beijing) International Co., Ltd. Huanan Carbon Factory. Hunan Mec Machinery and Electronics Imp. & Exp. Corp. Hunan Yinguang Carbon Factory Co., Ltd. Inner Mongolia QingShan Special Graphite and Carbon Co., Ltd. Intl Resources Business Ltd. Jiaozuo Zhongzhou Carbon Co., Ltd. Jiaozuo Zhongzhou Carbon Products Co., Ltd. Jichun International Trade Co., Ltd. of Jilin Province. Jilin Carbon Graphite Material Co., Ltd. Jilin Carbon Import and Export Company. Jilin Songjiang Carbon Co Ltd. Jinneng Group Co., Ltd. JL Carbon PTE Ltd. JL Group. Kaifeng Carbon Company Ltd. KASY Logistics (Tianjin) Co., Ltd. Kimwan New Carbon Technology and Development Co., Ltd. Kingstone Industrial Group Ltd. L & T Group Co., Ltd. Laishui Long Great Wall Electrode Co. Ltd. Lanzhou Carbon Co., Ltd. Lanzhou Carbon Import & Export Corp. Lanzhou Hailong New Material Co. Lanzhou Hailong Technology. Lanzhou Ruixin Industrial Material Co., Ltd. Lianxing Carbon (Shandong) Co., Ltd. Lianxing Carbon Qinghai Co., Ltd. Lianxing Carbon Science Institute. Lianyungang Jianglida Mineral Co., Ltd. Lianyungang Jinli Carbon Co., Ltd. Liaoyang Carbon Co. Ltd. Linghai Hongfeng Carbon Products Co., Ltd. Linyi County Lubei Carbon Co., Ltd. Maoming Yongye (Group) Co., Ltd. MBI Beijing International Trade Co., Ltd. Nantong Dongjin New Energy Co., Ltd. Nantong Falter New Energy Co., Ltd. Nantong River-East Carbon Co., Ltd. Nantong River-East Carbon Joint Stock Co., Ltd. Nantong Yangtze Carbon Corp. Ltd. Nantong Yanzi Carbon Co. Ltd. Ningxia Yonvey Coal Industries. Ningxia Yonvey Coal Industry Co., Ltd. Oracle Carbon Co., Ltd. Orient (Dalian) Carbon Resources Developing Co., Ltd. Orient Star Transport International, Ltd. Oriental Carbon Co. Limited. Pingdingshan Coal Group. Pudong Trans USA, Inc. (Dalian Office).	

	Period to be reviewed
Qingdao Grand Graphite Products Co., Ltd. Qingdao Haosheng Metals Imp. & Exp. Co., Ltd. Qingdao Likun Graphite Co., Ltd. Qingdao Liyikun Carbon Development Co., Ltd. Qingdao Ruizhen Carbon Co., Ltd. Qingdao Yijia E.T.I. I/E Co., Ltd. Qingdao Youyuan Metallurgy Material Limited Company (China). Quingdao Haosheng Metals & Minerals Imp. & Exp. Co., Ltd. Ray Group Ltd. Rex International Forwarding Co., Ltd. Ruitong Carbon Co., Ltd. Sangraf Energy Technology Co., Ltd. Sea Trade International, Inc. Seamaster Global Forwarding (China). Shandong Basan Graphite New Material Plant. Shandong Zibo Continent Carbon Factory. Shanghai Carbon International Trade Co., Ltd. Shanghai GC Co., Ltd. Shanghai Jinneng International Trade Co., Ltd. Shanghai Shen-Tech Graphite Material Co., Ltd. Shanghai Topstate International Trading Co., Ltd. Shanxi Cimm Donghai Advanced Carbon Co., Ltd. Shanxi Datong Energy Development Co., Ltd. Shanxi Foset Carbon Co. Ltd. Shanxi Jiexiu Import and Export Co., Ltd. Shanxi Jinneng Group Co., Ltd. Shanxi Yunheng Graphite Electrode Co., Ltd. Shenyang Jinli Metals & Minerals Imp. & Exp. Co., Ltd. Shida Carbon Group. Shijiazhuang Carbon Co., Ltd. Shijiazhuang Heijin Trade Co., Ltd. Shijiazhuang Huanan Carbon Factory. Sichuan 5-Continent Imp & Exp Co., Ltd. Sichuan Dechang Shida Carbon Co., Ltd. Sichuan GMT International Inc. Sichuan Guanghan Shida Carbon Co., Ltd. Sichuan Shida Trading Co., Ltd. Sinicway International Logistics Ltd. Sino Industries Enterprise Ltd. Sinosteel Anhui Co., Ltd. Sinosteel Jilin Carbon Co., Ltd. Sinosteel Jilin Carbon Imp. & Exp. Co. Ltd. Sinosteel Sichuan Co., Ltd. SMMC Group Co., Ltd. Suncheon Electrode Co., Ltd. Sure Mega (Hong Kong) Ltd. T.H.I. Global Holdings Corp. T.H.I. Group (Shanghai), Ltd. Tangshan Kimwan Special Carbon & Graphite Co., Ltd. Tianjin (Teda) Iron & Steel Trade Co., Ltd. Tianjin Kimwan Carbon Technology and Development Co., Ltd. Tianjin Muzi Carbon International. Tianjin Yue Yang Industrial & Trading Co., Ltd. Tianzhen Jintian Graphite Electrodes Co., Ltd. Tielong (Chengdu) Carbon Co., Ltd. UK Carbon & Graphite. United Trade Resources, Inc. Weifang Lianxing Carbon Co., Ltd. World Trade Metals & Minerals Co., Ltd. XC Carbon Group. Xinghe County Muzi Carbon Co., Ltd. Xinghe County Muzi Carbon Plant. Xinghe Xingyong Carbon Co., Ltd. Xinghe Xinyuan Carbon Products Co., Ltd. Xinyuan Carbon Co., Ltd. Xuanhua Hongli Refractory and Mineral Company. Xuchang Minmetals & Industry Co., Ltd. Xuzhou Carbon Co., Ltd. Xuzhou Electrode Factory. Xuzhou Jianglong Carbon Products Co., Ltd. Yangzhou Qionghua Carbon Trading Ltd. Yixing Huaxin Imp & Exp Co. Ltd. Youth Industry Co., Ltd. Zhongping Energy & Chemical Group.	

	Period to be reviewed
Zibo Continent Carbon Factory.	
Zibo DuoCheng Trading Co., Ltd.	
Zibo Lianxing Carbon Co., Ltd.	
Zibo Wuzhou Tanshun Carbon Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Truck and Bus Tires, A–570–040	2/1/21–1/31/22
Giti Tire (Fujian) Company Ltd.	
Giti Tire (Anhui) Company Ltd.	
Giti Tire Global Trading Pte. Ltd.	
Qingdao Awesome International Trade Co., Ltd.	
Qingdao Fullrun Tyre Corp. Ltd.	
Shandong Haohua Tire Co., Ltd.	
Shandong Kaixuan Rubber Co., Ltd.	
Shandong Transtone Tyre Co., Ltd.	
Zhongce Rubber Group Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Uncovered Innerspring Units, A–570–928	2/1/21–1/31/22
Bomei Tex Ltd.	
Saffron Living Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Wood Mouldings and Millwork Products, A–570–117	8/12/20–1/31/22
Anji Golden Elephant Bamboo Wooden Industry Co., Ltd.	
Anji Huaxin Bamboo & Wood Products Co., Ltd.	
Aventra, Inc.	
Baixing Import and Export Trading Co., Ltd. Youxi Fujian.	
Bel Trade Wood Industrial Co., Ltd. Youxi Fujian.	
Cao County Hengda Wood Products Co., Ltd.	
China Cornici Co. Ltd.	
Evermark (Yantai) Co., Ltd.	
Fotiou Frames Limited.	
Fujian Hongjia Craft Products Co., Ltd.	
Fujian Jinquan Trade Co., Ltd.	
Fujian Nanping Yuanqiao Wood Industry Co., Ltd.	
Fujian Province Youxi County Baiyuan Wood Machining Co., Ltd.	
Fujian Province Youxi County ChangSheng Wood Machining Co., Ltd.	
Fujian Province Youxi City Mangrove Wood Machining Co., Ltd.	
Fujian Ruisen International Industrial Co., Ltd.	
Fujian Sanming City Donglai Wood Co., Ltd.	
Fujian Shunchang Shengsheng Wood Industry Limited Company.	
Fujian Wangbin Decorative Material Co., Ltd.	
Fujian Yinfeng Imp & Exp Trading Co., Ltd.	
Fujian Youxi Best Arts & Crafts Co., Ltd.	
Fujian Zhangping Kimura Forestry Products Co., Ltd.	
Gaomi Hongtai Home Furniture Co., Ltd.	
Heze Huasheng Wooden Co., Ltd.	
Homebuild Industries Co., Ltd.	
Huaan Longda Wood Industry Co., Ltd.	
Jiangsu Chen Sheng Forestry Development Co., Ltd.	
Jiangsu Wenfeng Wood Co., Ltd.	
Jim Fine Wooden Products Co., Ltd.	
Lanzhou Xinyoulian Industrial Co., Ltd.	
Lianyungang Tianke New Energy Technology Co., Ltd.	
Longquan Jiefeng Trade Co., Ltd.	
Nanping Huatai Wood & Bamboo Co., Ltd.	
Nanping Qiangmei Import & Export Co., Ltd.	
Omni One, Co., Limited.	
Oppein Home Group Inc.	
Pucheng County Qiangmei Wood Company, Ltd.	
Putian Yihong Wood Industry Co., Ltd.	
Qimen Jianxing Bamboo and Wood Goods Co., Ltd.	
Qingdao Sanhe Dacheng International Trade Co., Ltd.	
Raoping HongRong Handicrafts, Co., Ltd.	
Rizhao Duli Trade Co., Ltd.	
Rizhao Forest International Trading Co., Ltd.	
Rizhao Guantong Woodworking Co., Ltd.	
Rizhao Jiayue Industry & Trading Co., Ltd.	
Sanming Lingtong Trading Co., Ltd.	
Sanming Shitong Wood Industry Co., Ltd.	
Shandong Jicheng Decorative Material Co., Ltd.	
Shandong Miting Household Co., Ltd.	
Shaxian Hengtong Wood Industry Co., Ltd.	
Shaxian Shiyiwood, Ltd.	
Shenzhen Xinjintai Industrial Co., Ltd.	
Shouguang Luli Wood Industry Co., Ltd.	
Shuyang Kevin International Co., Ltd.	
Shuyang Zhongding Decoration Materials Co., Ltd.	
Sun Valley Shade Co., Ltd.	

	Period to be reviewed
Suqian Sulu Import & Export Trading Co., Ltd.	
The Ancientree Cabinet Co., Ltd.	
Tim Feng Manufacturing Co., Ltd.	
TL Wood Products Inc.	
Wuxi Boda Bamboo & Wood Industrial Co., Ltd.	
Xiamen Jinxi Building Material Co., Ltd.	
Xiamen Oubai Industry & Trade Co., Ltd.	
Xuzhou Goodwill Resource Co., Ltd.	
Xuzhou Hexi Wood Co., Ltd.	
Yongan Tenlong Bamboo & Wood Products Co., Ltd.	
Zhangping San Chuan Industrial & Trade Co., Ltd.	
Zhangzhou City Jinxi Building Material Co., Ltd.	
Zhangzhou Fukangyuan Industry and Trade Co., Ltd.	
Zhangzhou Green Wood Industry and Trade Co., Ltd.	
Zhangzhou Wangjiamei Industry and Trade Co., Ltd.	
Zhangzhou Yihong Industrial Co., Ltd.	
Zhejiang Senya Board Industry Co., Ltd.	
TURKEY: Prestressed Concrete Steel Wire Strand, A–489–842	9/30/20–1/31/22
Celik Halat ve Tel Sanayi A.S.	
CVD Proceedings Period to be Reviewed	
CANADA: Certain Softwood Lumber Products, C–122–858 [32]	1/1/21–12/31/21
Terminal Forest Products Ltd.	
Commonwealth Plywood Co. Ltd. [33]	
INDIA: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, C–533–874	1/1/21–12/31/21
Goodluck India Limited.	
Lal Baba Seamless Tubes Pvt. Ltd.	
Metamorphosis Engitech India Pvt. Ltd.	
Tube Investments of India Limited.	
REPUBLIC OF KOREA: Certain Cut-To-Length Carbon-Quality Steel Plate, C–580–837	1/1/21–12/31/21
BDP International.	
Dongkuk Steel Mill Co., Ltd.	
Hyundai Steel Company.	
Sung Jin Steel Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Common Alloy Aluminum Sheet, C–570–074	1/1/21–12/31/21
Alcha International Holdings Limited.	
Jiangsu Alcha Aluminium Co., Ltd.	
Yinbang Clad Material Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Crystalline Silicon Photovoltaic Products, C–570–011	1/1/21–12/31/21
Trina Solar (Changzhou) Science & Technology Co. Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Truck and Bus Tires, C–570–041	1/1/21–12/31/21
Bridgestone (Shenyang) Tire Co., Ltd.	
Chongqing Hankook Tire Co., Ltd.	
Double Coin Group (Jiangsu) Tire Co., Ltd. [34]	
Double Coin Tyre Group (Shanghai) Imp & Exp Co., Ltd.	
Giti Tire (Anhui) Company Ltd.	
Giti Tire (Fujian) Company Ltd.	
Giti Tire Global Trading Pte. Ltd.	
Goodyear (Dalian) Tire Company Limited.	
Jiangsu Hankook Tire Co., Ltd.	
Joyall (Weihai) Tire Co., Ltd.	
Qingdao Awesome International Trade Co., Ltd.	
Qingdao Fullrun Tyre Corp. Ltd.	
Qingdao Ge Rui Da Rubber Co., Ltd. [35]	
Shandong Haohua Tire Co., Ltd.	
Shandong Kaixuan Rubber Co., Ltd.	
Shandong Transtone Tyre Co., Ltd.	
Triangle Tyre Co., Ltd.	
Weifang Shunfuchang Rubber And Plastic Products Co., Ltd.	
Zhongce Rubber Group Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Wood Mouldings and Millwork Products, C–570–118	6/12/20–12/31/21
Anji Golden Elephant Bamboo Wooden Industry Co., Ltd.	
Anji Huaxin Bamboo & Wood Products Co., Ltd.	
Aventra Inc.	
Baixing Import and Export Trading Co., Ltd Youxi Fujian.	
Bel Trade Wood Industrial Co.	
Bel Trade Wood Industrial Co., Ltd Youxi Fujian.	
Cao County Hengda Wood Products Co., Ltd.	
China Cornici Co. Ltd.	
Evermark (Yantai) Co., Ltd.	
Fotiou Frames Limited.	
Fujian Hongjia Craft Products Co., Ltd.	
Fujian Jinquan Trade Co., Ltd.	

	Period to be reviewed
Fujian Province Youxi City Mangrove Wood Machining Co., Ltd.	
Fujian Province Youxi County Baiyuan Wood Machining Co., Ltd.	
Fujian Province Youxi County Chang Sheng Wood Machining Co., Ltd.	
Fujian Ruisen International Industrial Co., Ltd.	
Fujian Sanming City Donglai Wood Co., Ltd.	
Fujian Shunchang Shengsheng Wood Industry Limited Company.	
Fujian Wangbin Decorative Material Co., Ltd.	
Fujian Yinfeng Imp & Exp Trading Co., Ltd.	
Fujian Youxi Best Arts & Crafts Co., Ltd.	
Fujian Zhangping Kimura Forestry Products Co., Ltd.	
Gaomi Hongtai Home Furniture Co., Ltd.	
Heze Huasheng Wooden Co., Ltd.	
Homebuild Industries Co., Ltd.	
Huaan Longda Wood Industry Co., Ltd.	
Jiangsu Chensheng Forestry Development Co., Ltd.	
Jiangsu Wenfeng Wood Co., Ltd.	
Lanzhou Xinyoulian Industrial Co., Ltd.	
Lianyungang Tianke New Energy Technology Co., Ltd.	
Longquan Jiefeng Trade Co., Ltd.	
Nanping Huatai Wood & Bamboo Co., Ltd.	
Nanping Qiangmei Import & Export Co., Ltd.	
Omni One Co., Limited.	
Oppein Home Group Inc.	
Pucheng County Qiangmei Wood Company, Ltd.	
Putian Yihong Wood Industry Co., Ltd.	
Qimen Jianxing Bamboo and Wood Goods Co., Ltd.	
Qingdao Sanhe Dacheng International Trade Co., Ltd.	
Raoping HongRong Handicrafts Co., Ltd. (d.b.a. Chen Chui Global Corp.).	
Rizhao Duli Trade Co., Ltd.	
Rizhao Forest International Trading Co., Ltd.	
Rizhao Guantong Woodworking Co., Ltd.	
Rizhao Jiayue Industry & Trading Co., Ltd.	
Sanming Lingtong Trading Co., Ltd.	
Sanming Lintong Trading Co., Ltd.	
Sanming Shitong Wood Industry Co., Ltd.	
Shandong Jicheng Decorative Material Co., Ltd.	
Shandong Miting Household Co., Ltd.	
Shaxian Hengtong Wood Industry Co., Ltd.	
Shaxian Shiyiwood, Ltd.	
Shenzhen Xinjintai Industrial Co., Ltd.	
Shouguang Luli Wood Industry Co., Ltd.	
Shuyang Kevin International Co., Ltd.	
Shuyang Zhongding Decoration Materials Co., Ltd.	
Suqian Sulu Import & Export Trading Co., Ltd.	
The Ancientree Cabinet Co., Ltd.	
Wuxi Boda Bamboo & Wood Industrial Co., Ltd.	
Xiamen Jinxi Building Material Co., Ltd.	
Xiamen Oubai Industry & Trade Co., Ltd.	
Xuzhou Goodwill Resource Co., Ltd.	
Xuzhou Hexi Wood Co., Ltd.	
Yongan Tenlong Bamboo & Wood Products Co., Ltd.	
Zhangping San Chuan Industrial & Trade Co., Ltd.	
Zhangzhou City Jinxi Building Material Co., Ltd.	
Zhangzhou Fukangyuan Industry and Trade Co., Ltd.	
Zhangzhou Green Wood Industry and Trade Co., Ltd..	
Zhangzhou Wangjiamei Industry & Trade Co., Ltd.	
Zhangzhou Yihong Industrial Co., Ltd.	
Zhejiang Senya Board Industry Co., Ltd.	
TURKEY: Prestressed Concrete Steel Wire Strand, C–489–843	9/21/20–12/31/21
Celik Halat ve Tel Sanayi A.S.	

	Period to be reviewed
Suspension Agreements	
None.	

Duty Absorption Reviews

During any administrative review covering all or part of a period falling

[5] Shrimp produced and exported by Devi Sea Foods Limited (Devi) was excluded from the order effective February 1, 2009. *See Certain Frozen Warmwater Shrimp from India: Final Results of the Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part,* 75 FR 41813, 41814 (July 19, 2010). Accordingly, we are initiating this administrative review with respect to Devi only for shrimp produced in India where Devi acted as either the manufacturer or exporter (but not both).

[6] In the notice of initiation for April anniversary orders, published in the **Federal Register** on June 11, 2021 (86 FR 31282), Commerce inadvertently omitted one company for which a review was requested. Commerce hereby corrects that omission.

[7] Where interested parties requested review of a company name combined with an abbreviation of the company name or alternative (*i.e.,* doing-business-as) name, Commerce treated the company names separately from those abbreviations/alternatives for review initiation purposes.

[8] Shrimp produced and exported by Minh Phu Hau Giang Seafood were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review for this exporter only with respect to subject merchandise produced by another entity.

[9] Shrimp produced and exported by Minh Phu Seafood Corporation were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review for this exporter only with respect to subject merchandise produced by another entity.

[10] Shrimp produced and exported by Minh Qui Seafood Co., Ltd. were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review for this exporter only with respect to subject merchandise produced by another entity.

[11] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; 2015–2016,* 82 FR 30836 (July 3, 2017) (*2015–2016 AR Final*). Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[12] Shrimp produced and exported by Chanthaburi Frozen Food Co., Ltd. (Chanthaburi Frozen) were excluded from the order effective January 16, 2009. *See Implementation of the Findings of the WTO Panel in United States-Antidumping Measure on Shrimp from Thailand: Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand,* 74 FR 5638 (January 30, 2009) (*Section 129 Determination*). Accordingly, we are initiating this administrative review with respect to Chanthaburi Frozen only for shrimp produced in Thailand where Chanthaburi Frozen acted as either the manufacturer or exporter (but not both).

[13] Shrimp produced and exported by Chanthaburi Seafoods Co., Ltd. (Chanthaburi Seafoods) were excluded from the order effective January 16, 2009. *See Section 129 Determination.* Accordingly, we are initiating this administrative review with respect to Chanthaburi Seafoods only for shrimp produced in Thailand where Chanthaburi Seafoods acted as either the manufacturer or exporter (but not both).

[14] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[15] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; 2006–2007,* 73 FR 50933 (August 29, 2008) (*2006–2007 AR Final*). Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[16] Shrimp produced and exported by Marine Gold Products Ltd. (Marine Gold) were excluded from the order effective February 1, 2012. *See Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of the Order (in Part); 2011–2012,* 78 FR 42497 (July 16, 2013). Accordingly, we are initiating this administrative review with respect to Marine Gold only for shrimp produced in Thailand where Marine Gold acted as either the manufacturer or exporter (but not both).

[17] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[18] Shrimp produced and exported by Phatthana Frozen Food Co., Ltd. (Phatthana Frozen) were excluded from the order effective January 16, 2009. *See Certain Frozen Warm Water Shrimp from Thailand: Final Results of Antidumping Duty Changed Circumstances Review and Notice of Revocation in Part,* 74 FR 52452 (October 13, 2009) (*CCR Final and Partial Revocation*). Accordingly, we are initiating this administrative review with respect to Phatthana Frozen only for shrimp produced in Thailand where Phatthana Frozen acted as either the manufacturer or exporter (but not both).

[19] Shrimp produced and exported by Phatthana Seafood Co., Ltd. (Phatthana Seafood) were excluded from the order effective January 16, 2009. *See Section 129 Determination.* Accordingly, we are initiating this administrative review with respect to Phatthana Seafood only for shrimp produced in Thailand where Phatthana Seafood acted as either the manufacturer or exporter (but not both).

[20] Shrimp produced and exported by Sea Wealth Frozen Food Co., Ltd. (Sea Wealth) were excluded from the order effective January 16, 2009. *See CCR Final and Partial Revocation.* Accordingly, we are initiating this administrative review with respect to Sea Wealth only for shrimp produced in Thailand where Sea Wealth acted as either the manufacturer or exporter (but not both).

[21] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[22] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purposes of this administrative review.

[23] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2006–2007 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[24] Shrimp produced and exported by Thai I-Mei Frozen Foods Co., Ltd. (Thai I-Mei) were excluded from the order effective January 16, 2009. *See Section 129 Determination.* Accordingly, we are initiating this administrative review with respect to Thai I-Mei only for shrimp produced in Thailand where Thai I-Mei acted as either the manufacturer or exporter (but not both).

[25] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[26] Allied Pacific Food (Dalian) Co., Ltd., Allied Pacific (HK) Co., Ltd., Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd; and Allied Pacific Aquatic Products (Zhongshan) Co., Ltd. comprise the single entity Allied Pacific. *See Certain Frozen Warmwater Shrimp from the People's Republic of China and Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders,* 78 FR 18958, 18959 (March 28, 2013) (*China Shrimp Exclusion*). Additionally, this *Order* was revoked with respect to merchandise exported by Allied Pacific (HK) Co., Ltd., or Allied Pacific Food (Dalian) Co., Ltd., and manufactured by Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd., or Allied Pacific Aquatic Products (Zhongshan) Co., Ltd., or Allied Pacific Food (Dalian) Co., Ltd. *See China Shrimp Exclusion,* 78 FR at 18959. Accordingly, we are initiating this review for these exporters only with respect to subject merchandise produced by entities other than the aforementioned producers.

[27] Shantou Red Garden Food Processing Co., Ltd. and Shantou Red Garden Foodstuff Co., Ltd. comprise the single entity Shantou Red Garden Foods. *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and*

Continued

between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[36] available at *www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[37]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule*.[38] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[39] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions

Final Determination of No Shipments; 2018–2019, 85 FR 83891 (December 23, 2020).

[28] This *Order* was revoked with respect to subject merchandise produced and exported by Zhanjiang Guolian Aquatic Products Co., Ltd. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the People's Republic of China,* 70 FR 5149, 5152 (February 1, 2005). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by another entity.

[29] This *Order* was revoked with respect to subject merchandise produced and exported by Zhanjiang Regal Integrated Marine Resources Co., Ltd. *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results of Administrative Review; 2011–2012,* 78 FR 56209, 56210 (September 12, 2013). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by another entity.

[30] Where interested parties requested review of a company name combined with an alternative name (*i.e.,* an a.k.a. name that is not an abbreviation) or a former company name, Commerce treated the different versions of the company name separately for review initiation purposes.

[31] Beijing Fangda Carbon Tech Co., Ltd., Chengdu Rongguang Carbon Co., Ltd., Fangda Carbon New Material Co., Ltd., Fushun Carbon Co., Ltd., and Hefei Carbon Co., Ltd. comprise a single entity: The Fangda Group. *See Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part,* 73 FR 49408, 49411 12 (August 21, 2008), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 2049 (January 14, 2009). Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[32] Terminal Forest Products Ltd. was inadvertently omitted from the initiation notice that published on March 9, 2022 (87 FR 13261). This omission is corrected in this notice.

[33] Commonwealth Plywood Co. Ltd. was inadvertently included with the company above it in 87 FR 13261. It is listed here separately for clarification.

[34] Commerce previously found the following companies to be cross-owned with Double Coin Group (Jiangsu) Tyre Co., Ltd: Shanghai Huayi Group Corporation Limited; Double Coin Group (Chongqing) Tyre Co., Ltd.; Double Coin Group (Xinjiang) Kunlun Tyre Co., Ltd.; Double Coin Group Shanghai Donghai Tyre Co. Ltd.; and Double Coin Holdings Ltd. *See Truck and Bus Tires from the People's Republic of China: Amended Final Determination and Countervailing Duty Order,* 84 FR 4434 (February 15, 2019).

[35] Commerce previously found the following companies to be cross-owned with Qingdao Ge Rui Da Rubber Co., Ltd.: Cooper Tire (China) Investment Co. Ltd.; Cooper (Kunshan) Tire Co., Ltd.; Qingdao Yiyuan Investment Co., Ltd. *See Truck and Bus Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2019,* 86 FR 72921 (December 23, 2021).

[36] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[37] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[38] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[39] *See* 19 CFR 351.302.

which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: April 5, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–07766 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[OMB Control Number: 0625–0143]

Renewal of the United States Manufacturing Council

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of charter renewal and recruitment.

SUMMARY: On March 23, 2022, the charter of the United States Manufacturing Council (Council) was renewed for a two-year period, ending March 23, 2024. The Council is a federal advisory committee under the Federal Advisory Committee Act. For further information on the Council charter renewal, please visit: *https://www.facadatabase.gov/FACA/apex/FACAPublicCommittee?id=a10t0000001gzmbAAA.*

DATES: All applications for immediate consideration of appointment must be received by 5:00 p.m. Eastern Daylight Time (EDT) on May 27, 2022. After this deadline, applications will be accepted under this notice on a rolling basis for the remainder of the charter term to fill any vacancies that may arise.

ADDRESSES: Please submit applications by email to *usmc@trade.gov,* United States Manufacturing Council Designated Federal Officer.

FOR FURTHER INFORMATION CONTACT: Jaron Bass—telephone: 202–839–2357, email: *Jaron.Bass@trade.gov* or Amanda Lawrence—telephone: 202–322–9146, email: *Amanda.Lawrence@trade.gov.*

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of Commerce (Secretary) on matters relating to the United States manufacturing sector and provides a means of ensuring regular input from the manufacturing sector to the United States Government. The Council advises the Secretary on government policies and programs that affect the global competitiveness of U.S. manufacturing and proposes solutions to industry-related problems. The Council also may act as a liaison among the stakeholders represented by the membership on current and emerging issues in the manufacturing sector. The Council recommends to the Secretary ways to ensure the United States remains the preeminent destination for investment in manufacturing throughout the world.

The Council consists of approximately thirty members appointed by the Secretary. Members are to represent companies and organizations operating in the U.S. manufacturing space, including:

a. Firms that manufacture goods in the United States, including manufacturing firms that produce advanced manufacturing technologies;
b. Associations representing manufacturers in the United States;
c. standards development organizations; and
d. labor unions

Members shall represent a broad range of products, company sizes, demographics, and geographic locations and be drawn from large, medium, and small manufacturing companies, as well as from organizations including labor unions. Members also may come from academia.

Members of the Council are selected, in accordance with applicable Department of Commerce guidelines, based on their ability to carry out the objectives of the Council as set forth above and in a manner that ensures that the Council is balanced in terms of points of view, industry subsector, geography, and company size. The diverse membership of the Council assures perspectives and expertise reflecting the full breadth of the Council's responsibilities, and, where possible, the Department of Commerce will also consider the ethnic, racial, and gender diversity and various abilities of the United States population.

Other than members from academia, members serve in a Representative capacity, representing the views and interests of their particular business sector, and not as Special Government Employees (SGEs). Members from academia serve as experts, in their personal capacities, and therefore serve as Special Government Employees (SGEs). 18 U.S.C. 202. SGEs are subject to conflict-of-interest laws and regulations, including (but not limited to) the obligation to annually file a New Entrant Confidential Financial Disclosure Report (OGE Form 450) and complete ethics training. Members will be individually advised of the capacity in which they will serve through their appointment letters.

Once selected, members will be appointed for a term of two years and serve at the pleasure of the Secretary. The Secretary may at her discretion reappoint any member to an additional term or terms, provided that the member proves to work effectively on the Council and their knowledge and advice continues to further the objectives of the Council.

Application Instructions

To be considered for membership, candidates should submit the following information:

1. Name and title of the individual requesting consideration.

2. A sponsor letter from the applicant on the sponsoring entity's letterhead containing a brief statement of why the applicant should be considered for membership on the Council. This sponsor letter should also address the applicant's experience and leadership related to the manufacturing sector.

3. The applicant's personal resume and short bio (less than 300 words).

4. An affirmative statement that the applicant meets all eligibility criteria, including an affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

5. Information regarding the ownership and control of the sponsoring entity, including its stock ownership as appropriate.

6. The sponsoring entity's total number of full-time employee's place of incorporation, product or service lines, major markets in which the entity operates, and the entity's experience in manufacturing.

7. All relevant contact information, including mailing address, fax, email, phone number, and support staff information where relevant.

Dated: April 5, 2022.

Barton Meroney,

Executive Director for Manufacturing, Office of Manufacturing, Industry & Analysis.

[FR Doc. 2022–07713 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Civil Nuclear Trade Advisory Committee

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of an open meeting; cancellation.

SUMMARY: This notice sets forth the cancellation of a meeting of the Civil Nuclear Trade Advisory Committee (CINTAC). The meeting was cancelled due to members not yet being ready to discuss a proposed recommendation on civil nuclear financing.

DATES: The meeting scheduled for Wednesday, March 23, 2022 from 11:00 a.m. to 12:00 p.m. Eastern Daylight Time (EDT) was cancelled.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration (Phone: 202–482–1297; email: *jonathan.chesebro@trade.gov*).

Dated: April 6, 2022.

Man Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2022–07712 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–819]

Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Results of Countervailing Duty Administrative Review and Rescission, in Part; 2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain producers/exporters of steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey) received countervailable subsidies during the period of review (POR) January 1, 2019, through December 31, 2019. Additionally, we are rescinding the review for 21 companies with no shipments of subject merchandise to the United States during the POR.

DATES: Applicable April 12, 2022.

FOR FURTHER INFORMATION CONTACT: Brontee Jefferies or Konrad Ptaszynski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4656 or (202) 482–6187, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* on December 6, 2021,[1] and invited comments from interested parties. For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2]

Scope of the Order [3]

The merchandise covered by the *Order* is steel concrete reinforcing bar (rebar). For a complete description of the scope, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by interested parties in this review are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum. 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 *http://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 a review of the record and comments received from interested parties regarding our *Preliminary Results,* and as explained in the Issues and Decision Memorandum, we made no changes for the final results of review.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a description of the methodology underlying all of Commerce's conclusions, *see* the Issues and Decision Memorandum.

Rescission of Administrative Review, in Part

It is Commerce's practice to rescind an administrative review of a countervailing duty order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.[5] Normally, upon completion of an administrative review, the suspended entries are liquidated at the countervailing duty assessment rate calculated for the review period.[6] Therefore, for an administrative review of a company to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the countervailing duty assessment rate calculated for the review period.[7]

According to the CBP import data, except for the two mandatory respondents and the non-selected company, the remaining 21 companies subject to this review did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended.[8] Because

[1] *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review and Intent To Rescind in Part; 2019,* 86 FR 69009 (December 6, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey; 2019,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Countervailing Duty Order,* 79 FR 65926 (November 6, 2014) (*Order*).

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See, e.g., Lightweight Thermal Paper from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review; 2015,* 82 FR 14349 (March 20, 2017); and *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2017,* 84 FR 14650 (April 11, 2019).

[6] *See* 19 CFR 351.212(b)(2).

[7] *See* 19 CFR 351.213(d)(3).

[8] The 21 companies are: A G Royce Metal Marketing; Acemar International Limited; Agir Haddecilik A.S.; Ans Kargo Lojistik Tas ve Tic; As Gaz Sinai ve Tibbi Gazlar A.S.; Asil Celik Sanayi ve Ticaret A.S.; Bastug Metalurji Sanayi AS; Baykan Dis Ticaret; Demirsan Haddecilik Sanayi Ve Ticaret AS; Diler Dis Ticaret AS; Duferco Celik Ticaret Limited; Duferco Investment Services SA; Ege Celik Endustrisi Sanayi ve Ticaret A.S.; Izmir Demir Celik Sanayi A.S.; Kocaer Haddecilik Sanayi Ve Ticar

there is no evidence on the record of this segment of the proceeding to indicate that these companies had entries, exports, or sales of subject merchandise to the United States during the POR, we are rescinding the administrative review with respect to these companies consistent with 19 CFR 351.213(d)(3).

Rate for Non-Selected Companies Under Review

There is one remaining company, Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas), for which a review was requested but which was not selected as a mandatory respondent or found to be cross-owned with a mandatory respondent. Because the subsidy rate calculated for mandatory respondent Kaptan was above *de minimis* and not based entirely on facts available, we are applying that rate to Icdas. This methodology for establishing the subsidy rate for the non-selected companies is consistent with our practice and with section 705(c)(5)(A) of the Act.

Final Results of the Administrative Review

We find the following net countervailable subsidy rates for the POR January 1, 2019, through December 31, 2019:

Company	Subsidy rate (percent *ad valorem*)
Kaptan Demir Celik Endustrisi ve Ticaret A.S., Kaptan Metal Dis Ticaret ve Nakliyat A.S., and their cross-owned affiliates [9]	1.75
Colakoglu Dis Ticaret A.S., Colakoglu Metalurji A.S. [10]	* 0.07
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S., and its cross-owned affiliates [11]	1.75

* *De minimis.*

Disclosure

Commerce intends to disclose the calculations and analysis performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Requirements

In accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after 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

In accordance with section 751(a)(1) of the Act, we also intend to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown above for the above-listed companies with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of review. For all non-reviewed firms, CBP will continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

The final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4) and 19 CFR 351.221(b)(5).

Dated: April 5, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–07720 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–DS–P

A.S.; Meral Makina Iml Ith Ihr Gida; Mettech Metalurji Madencilik Muhendislik Uretim Danismanlik ve Ticaret Limited Sirketi; MMZ Onur Boru Profil A.S; Ozkan Demir Celik Sanayi A.S.; Sami Soybas Demir Sanayi ve Ticaret; and Wilmar Europe Trading BV.

[9] Commerce finds the following companies to be cross-owned with Kaptan: Martas Marmara Ereglisi Liman Tesisleri A.S.; Aset Madencilik A.S.; Kaptan Is Makinalari Hurda Alim Satim Ltd. Sti.; Efesan Demir San. Ve Tic. A.S.; and Nur Gemicilik ve Tic. A.S.

[10] Commerce finds Colakoglu Dis Ticaret A.S. and Colakoglu Metalurji A.S to be cross-owned companies.

[11] In the last review Commerce found the following companies to be cross-owned with Icdas: Mardas Marmara Deniz Isletmeciligi A.S.; Oraysan Insaat Sanayi ve Ticaret A.S.; Artim Demir Insaat Turizm Sanayi Ticaret Ltd. Sti.; Anka Entansif Hayvancilik Gida Tarim Sanayi ve Ticaret A.S.; Karsan Gemi Insaa Sanayi Ticaret A.S.; Artmak Denizcilik Ticaret Ve Sanayi A.S.; and Eras Tasimacilik Taahhut Ins.Tic A.S. *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Results of Countervailing Duty Administrative Review and Rescission, in Part; 2018,* 86 FR 53279 (September 27, 2021).

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2022–0001]

Expanded Collaborative Search Pilot Program—New Combined Petition Option For Participation; Withdrawal

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice; withdrawal.

SUMMARY: On March 29, 2022, the United States Patent and Trademark Office (USPTO) published a **Federal Register** Notice concerning a new petition option for participation in the Expanded Collaborative Search Pilot (CSP) Program. The notice is hereby withdrawn.

DATES: The document published at 87 FR 17995 on March 29, 2022, is withdrawal as of April 12, 2022.

FOR FURTHER INFORMATION CONTACT: Please direct inquiries regarding any specific application participating in the pilot to Jessica Patterson; Senior Advisor and Director; International Worksharing, Planning, and Implementation; Office of International Patent Cooperation; at 571–272–8828 or *Jessica.Patterson@uspto.gov.* Please send any inquiries regarding this pilot program and the petition process to *csp@uspto.gov.* Please direct inquiries concerning this notice to Michael Arguello; Management and Program Analyst; International Worksharing, Planning, and Implementation; Office of International Patent Cooperation; at 571–270–7876 or *Michael.Arguello@uspto.gov.*

SUPPLEMENTARY INFORMATION: On March 29, 2022, the USPTO published a **Federal Register** Notice concerning a new petition option for participation in the Expanded CSP Program. *See* Expanded Collaborative Search Pilot Program—New Combined Petition Option For Participation, 87 FR 17995. The USPTO inadvertently submitted the notice for publication prematurely. Discussions are continuing with our counterpart offices (the Japan Patent Office and the Korean Intellectual Property Office) to finalize the program's new petition option. Therefore, the USPTO hereby withdraws the notice. The USPTO looks forward to completing its discussions and publishing a forthcoming notice announcing the effective date and details of the new petition option.

Andrew Hirshfeld,

Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2022–07909 Filed 4–11–22; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Amendment of Department of Defense Federal Advisory Committees—Defense Advisory Committee on Women in the Services

AGENCY: Department of Defense (DoD).

ACTION: Charter renewal of federal advisory committee.

SUMMARY: The DoD is publishing this notice to announce that it is renewing the Defense Advisory Committee on Women in the Services (DACOWITS).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, DoD Advisory Committee Management Officer, 703–692–5952.

SUPPLEMENTARY INFORMATION: The DACOWITS is being renewed in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., app.) and 41 CFR 102–3.50(d). The charter and contact information for the DACOWITS' Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The DACOWITS provides the Secretary of Defense and Deputy Secretary of Defense independent advice and recommendations on matters and policies relating to women in the Armed Forces of the United States, and on matters and policies relating to recruitment, retention, employment, integration, well-being, and treatment. All DACOWITS work, including subcommittee work, will be in response to written terms of reference or taskings approved by the Secretary of Defense or the Deputy Secretary of Defense (''the DoD Appointing Authority''), or the Under Secretary of Defense for Personnel and Readiness unless otherwise provided by statute or Presidential directive.

The DACOWITS shall be composed of no more than 20 members who have prior experience in the military or with women-related workforce issues. Members will include leaders with diverse and inclusive backgrounds, experience, and thought relating to the recruitment and retention, the employment and integration, and the well-being and treatment of women. These members will come from varied backgrounds including academia, industry, private and public sectors, and other professions.

The appointment of DACOWITS members shall be approved by the DoD Appointing Authority for a term of service of one-to-four years, with annual renewals, in accordance with DoD policy and procedures. No member, unless approved by the DoD Appointing Authority, may serve more than two consecutive terms of service on the DACOWITS, to include its subcommittees, or serve on more than two DoD federal advisory committees at one time. DACOWITS members who are not full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services, shall be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee (SGE) members. DACOWITS members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services, shall be appointed pursuant to 41 CFR 102–3.130(a) to serve as RGE members. The DoD Appointing Authority shall appoint the DACOWITS' leadership from among the membership previously appointed in accordance with DoD policy and procedures, for a term of service of one-to-two years, with annual renewal, not to exceed the member's approved appointment.

All members of the DACOWITS are appointed to exercise their own best judgment, without representing any particular point of view, and to discuss and deliberate in a manner that is free from conflict of interest. With the exception of reimbursement of official DACOWITS-related travel and per diem, DACOWITS members serve without compensation.

The public or interested organizations may submit written statements to the DACOWITS membership about the DACOWITS' mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the DACOWITS. All written statements shall be submitted to the DFO for the DACOWITS, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: April 6, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–07796 Filed 4–11–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Board of Actuaries; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Department of Defense Board of Actuaries will take place.

DATES: Open to the public Friday, June 24, 2022, from 10:00 a.m. to 1:00 p.m.

ADDRESSES: This meeting will be held virtually. For information regarding how to access the meeting, please contact Inger Pettygrove (703) 225–8803 or *Inger.m.pettygrove.civ@mail.mil* as soon as possible.

FOR FURTHER INFORMATION CONTACT: Inger Pettygrove, (703) 225–8803 (voice), *nger.m.pettygrove.civ@mail.mil* (email). Mailing address is Defense Human Resources Activity, DoD Office of the Actuary, 4800 Mark Center Drive, STE 03E25, Alexandria, VA 22350–8000. Website: *https://actuary.defense.gov/*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is for the Board to review DoD actuarial methods and assumptions to be used in the valuations of the Military Retirement Fund, the Voluntary Separation Incentive Fund, and the Education Benefits Fund in accordance with the provisions of Section 183, Section 2006, chapter 74 (10 U.S.C. 1464 et. seq), and section 1175 of Title 10, U.S.C.

Agenda

Military Retirement Fund/VSI Fund

1. Recent and Proposed Legislation
2. Briefing on Investment Experience
3. September 30, 2021, Valuation of the Military Retirement Fund *
4. Proposed Methods and Assumptions for September 30, 2022, Valuation of the Military Retirement Fund *
5. Proposed Methods and Assumptions for September 30, 2021, VSI Fund Valuation *

Education Benefits Fund

1. Fund Overview
2. Briefing on Investment Experience
3. September 30, 2021, Valuation Proposed Economic Assumptions *
4. September 30, 2021, Valuation Proposed Methods and Assumptions—Reserve Programs *
5. September 30, 2021, Valuation Proposed Methods and Assumptions—Active Duty Programs *
6. Developments in Education Benefits

* Board approval required

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public.

Written Statements: Persons desiring to attend the DoD Board of Actuaries meeting or make an oral presentation or submit a written statement for consideration at the meeting must notify Inger Pettygrove at (703) 225–8803, or *inger.m.pettygrove.civ@mail.mil,* by June 10, 2022.

Dated: April 6, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–07794 Filed 4–11–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0012]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; Private School Universe Survey (PSS) 2023–24 Data Collection, and 2023–24 and 2025–26 PSS Frame Development Activities

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before May 12, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, (202) 245–6347.

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: Private School Universe Survey (PSS) 2023–24 Data Collection, and 2023–24 and 2025–26 PSS Frame Development Activities.

OMB Control Number: 1850–0641.

Type of Review: Revision of a currently approved information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 27,553.

Total Estimated Number of Annual Burden Hours: 3,897.

Abstract: The Private School Universe Survey (PSS) is conducted by the National Center for Education Statistics (NCES) to collect basic information from the universe of private elementary and secondary schools in the United States. The PSS is designed to gather biennial data on the total number of private schools, teachers, and students, along with a variety of related data, including: Religious orientation; grade-levels taught and size of school; length of school year and of school day; total student enrollment by gender (K–12); number of high school graduates; whether a school is single-sexed or coeducational; number of teachers employed; program emphasis; and existence and type of its kindergarten program. The PSS includes all schools that are not supported primarily by public funds, that provide classroom instruction for one or more of grades K–12 or comparable ungraded levels, and that have one or more teachers. The PSS is also used to create a universe list of private schools for use as a sampling frame for NCES surveys of private schools. No substantive changes have been made to the survey or its procedures since its last approved administration. This clearance is for the 2023–24 PSS data collection, and the 2023–24 and 2025–26 PSS frame building operations.

Dated: April 6, 2022.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–07750 Filed 4–11–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Extension of the Comment Period; Proposed Priorities, Requirements, Definitions, and Selection Criteria-Expanding Opportunity Through Quality Charter Schools Program (CSP)—Grants to State Entities (SE Grants); Grants to Charter Management Organizations for the Replication and Expansion of High-Quality Charter Schools (CMO Grants); and Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools (Developer Grants)

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Proposed priorities, requirements, definitions, and selection criteria; Extension of public comment period.

SUMMARY: On March 14, 2022, the Department of Education (Department) published in the **Federal Register** a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for CSP SE Grants, CMO Grants, and Developer Grants, Assistance Listing Numbers (ALNs) 84.282A, 84.282M, 84.282B, and 84.282E. The document established a deadline date of April 13, 2022, for the submission of public comments. We extend the comment period until April 18, 2022.

DATES: We must receive your comments on or before April 18, 2022.

FOR FURTHER INFORMATION CONTACT: Porscheoy Brice, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E209, Washington, DC 20202–5970. Telephone: (202) 260–0968. Email: *charterschools@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 14, 2022, we published the NPP in the **Federal Register** (87 FR 14197). The NPP established a deadline of April 13, 2022, for the submission of public comments. We are extending the deadline date for the submission of public comments until April 18, 2022, to allow more time for interested parties to prepare and submit their comments.

Program Authority: Title IV, part C of the ESEA (20 U.S.C. 7221–7221j).

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priorities, requirements, definitions, and selection criteria. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Washington,

Deputy Assistant Secretary for Administration Office of Elementary and Secondary Education.

[FR Doc. 2022–07911 Filed 4–11–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0049]

Agency Information Collection Activities; Comment Request; Application for Approval To Participate in Federal Student Aid Programs

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 13, 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–0049. 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 6W208C Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Approval to Participate in Federal Student Aid Programs.

OMB Control Number: 1845–0012.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 7,286.

Total Estimated Number of Annual Burden Hours: 24,812.

Abstract: Section 487(c) of the Higher Education Act (HEA) of 1965, as amended, requires that the Secretary of Education prescribe regulations to ensure that any funds postsecondary institutions receive under the HEA are used solely for the purposes specified in and in accordance with the provision of the applicable programs. The concept of this federal gatekeeping has a long history, originating in 1952. Part H, Subpart 3, Section 498 of the HEA of 1965, as amended, gives the Secretary the responsibility for determining qualifications of institutions of higher education to participate in programs under the HEA. To comply with this requirement Section 498(b) of the HEA specified that the Secretary prepare and prescribe a single application form. The Department of Education (the Department) developed the Application for Approval to Participate in the Federal Student Financial Aid Programs to comply with the statutory requirements of collecting necessary information under the HEA. An institution must use this Application to apply for approval to be determined to be eligible and if the institution wishes, to participate; to expand its eligibility; or to continue to participate in the Title IV programs. An institution must also use the Application to report certain required data as part of its recordkeeping requirements contained in the regulations under 34 CFR part 600 (Institutional Eligibility under the Higher Education Act of 1965, as amended). The Department uses the information reported on the Application in its determination of whether an institution meets the statutory and regulatory requirements. This request is for a revision of the current information collection. The Department is transitioning the current Application to an electronic webform housed within the FSA Partner Connect system (*fsapartners.ed.gov*).

Dated: April 7, 2022.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–07812 Filed 4–11–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–436–A]

Application To Export Electric Energy; MAG Energy Solutions, Inc.

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: MAG Energy Solutions, Inc. (Applicant or MAG) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before May 12, 2022.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

FOR FURTHER INFORMATION CONTACT: Matt Aronoff, 202–586–5863, *matthew.aronoff@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On March 22, 2022, MAG filed an application with DOE (Application or App.) for ''authorization for renewal of authority to transmit electric energy from the United States to Mexico for a period of five (5) years.'' App. at 1. MAG states that it ''is an independent Canadian corporation with its principal place of business in Montreal, Quebec.'' *Id.* at 2. MAG adds that ''[t]he U.S. Federal Energy Regulatory Commission (''FERC'') authorized MAG to engage in wholesale sales of electric energy, capacity and ancillary services at market-based rates.'' *Id.* MAG represents that it ''does not have any affiliates or upstream owners that possess any ownership interest or have involvement in any other company that is a

traditional utility or that owns, operates, or controls any electric generation, transmission or distribution facilities, nor do[es it] have any direct involvement with the energy industry other than through the ownership of MAG.'' *Id.*

MAG further claims that it would ''purchase power to be exported from a variety of sources such as power marketers, independent power producers, or U.S. electric utilities and federal power marketing entities as those terms are defined in Sections 3(22) and 3(19) of the [Federal Power Act].'' App. at 3. MAG contends that its proposed exports ''on either a firm or interruptible basis will not impair the sufficiency of the electric power supply within the U.S.'' *Id.*

The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the FERC Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning MAG's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–436–A. Additional copies are to be provided directly to Ruta Kalvaitis Skučas, 1601 K St. NW, Washington, DC 20006, *ruta.skucas@klgates.com;* Maeve Tibbetts, 1601 K St., NW, Washington, DC 20006, *maeve.tibbetts@klgates.com;* and Simon Pelletier, 999 de Maisonneuve Boulevard West, Suite 875, Montreal, Quebec H3A 3L4, Canada, *spelletier@magenergysolutions.com.*

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of the Application will be made available, upon request, by accessing the program website at *https://energy.gov/node/11845,* or by emailing Matt Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on April 7, 2022.

Christopher Lawrence,

Management and Program Analyst, Electricity Delivery Division, Office of Electricity.

[FR Doc. 2022–07800 Filed 4–11–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–211–E]

Application To Export Electric Energy; DTE Energy Trading, Inc.

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: DTE Energy Trading, Inc. (DTE Energy Trading or Applicant) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before May 12, 2022.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

FOR FURTHER INFORMATION CONTACT: Matt Aronoff, 202–586–5863, *matthew.aronoff@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On March 30, 2022, DTE Energy Trading filed an application with DOE (Application or App.) to ''transmit and export electricity from the United States to Canada . . . for a period of ten years or such period as the Department may authorize for similarly situated power marketers.'' App. at 1. DTE Energy Trading states that it ''is a corporation organized under the laws of Michigan with its principal place of business in Detroit, Michigan.'' *Id.* at 2. DTE Energy Trading adds that it ''is a wholly-owned affiliate of DTE Energy Resources, LLC d/b/a DTE Vantage, which is wholly-owned by DTE Energy Company.'' *Id.* DTE Energy Trading represents that it ''does not own or control electric generation or transmission facilities and does not have a franchised electric power area within the U.S. or Canada.'' *Id.*

DTE Energy Trading further claims that it would ''purchase the power it plans to export voluntarily from electric utilities, wholesale generators, power marketers and other parties and thus such power will be surplus to the needs of the selling parties.'' App. at 4–5. DTE Energy Trading contends that its proposed exports would ''not impair or tend to impede the sufficiency of electric power supplies in the United States or the regional coordination of electric utility planning or operation.'' *Id.* at 5.

The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning DTE Energy Trading's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–211–E. Additional copies are to be provided directly to Geoffrey M. Goodale, 505 9th Street NW, Suite 100, Washington, DC 20004, *gmgoodale@duanemorris.com;* and Cynthia M. Klots, One Energy Plaza, 400 WCB, Detroit, MI 48226 Vincenzo Franco, *cynthia.klots@dteenergy.com.*

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of the Application will be made available, upon request, by accessing the program website at *https://energy.gov/node/11845,* or by emailing Matt Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on April 7, 2022.

Christopher Lawrence,

Management and Program Analyst, Electricity Delivery Division, Office of Electricity.

[FR Doc. 2022–07799 Filed 4–11–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its collection, titled Technology Partnerships Ombudsmen Reporting Requirements, OMB Control Number 1910–5118. The proposed collection will identify the number and nature of complaints received and resolved by technology partnership ombuds related to technology partnerships, patents, and licenses.

DATES: Comments regarding this collection must be received on or before May 12, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 881–8585.

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: Phillip Harmonick, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, (202) 287–1594, *Phillip.Harmonick@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* 1910–5118;

(2) *Information Collection Request Title:* Technology Partnerships Ombudsmen Reporting Requirements;

(3) *Type of Request:* Extension;

(4) *Purpose:* DOE's Alternative Dispute Resolution Office is one of four entities that collects reports required by the Technology Transfer Commercialization Act of 2000 from technology partnership ombuds at each DOE national laboratory. These reports are intended to demonstrate the extent to which each national laboratory has incorporated alternative dispute resolution techniques into its respective technology transfer program;

(5) *Annual Estimated Number of Respondents:* 17;

(6) *Annual Estimated Number of Total Responses:* 68;

(7) *Annual Estimated Number of Burden Hours:* 17;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $1,230.

Statutory Authority: Section 11 of the Technology Transfer Commercialization Act of 2000, Public Law 106–404, codified at 42 U.S.C. 7261c(c)(3)(C).

Signing Authority: This document of the Department of Energy was signed on April 7, 2022, by Poli A. Marmolejos, Director, Office of Hearings and Appeals, 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 April 7, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–07782 Filed 4–11–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–42–000]

Northern Natural Gas Company; Notice of Schedule for the Preparation of an Environmental Assessment for the Ogden to Ventura A-Line Abandonment and Capacity Replacement Project

On January 21, 2022, Northern Natural Gas Company (Northern) filed an application in Docket No. CP22–42–000 requesting a Certificate of Public Convenience and Necessity pursuant to Sections 7(b) and 7(c) of the Natural Gas Act to construct, operate, and abandon certain natural gas pipeline facilities. The proposed project is known as the Ogden To Ventura A-Line Abandonment and Capacity Replacement Project (Project). Northern proposes to abandon in-place two segments of its A-line system, totaling 82.7 miles, in Boone, Webster, Wright, and Hancock Counties, Iowa and replace the abandoned capacity by extending the D-line in Wright County, Iowa. Northern states the Project would not result in a loss of service to its customers and would have no impact on Northern's ability to serve markets on its system.

On February 4, 2022, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1]

Schedule for Environmental Review

Issuance of EA	July 15, 2022.
90-day Federal Authorization Decision Deadline[2]	October 13, 2022.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Northern proposes to abandon in-place 82.7 miles of 20-inch-diameter pipeline and appurtenances on its IAM60601 A-line system (referred to as the A-Line) from Ogden to Ventura, Iowa. Ground disturbances would be required at three locations to expose and to cut and cap the pipeline prior to abandonment. Additionally, Northern proposes to install temporary compression at three mainline valve locations to allow for the evacuation of

[1] 40 CFR 1501.10 (2020)

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

gas in the A-line to other existing mainlines on Northern's system. Northern also proposes to construct and operate a 6.04-mile-long extension of its 30-inch-diameter Ogden to Ventura IAM60604 D-line (referred to as the D-Line) and appurtenances to replace the capacity associated with the abandoned A-line. According to Northern, its Project would enhance the safety, reliability, security, and operational efficiency of its pipeline system.

The Project would consist of the following facilities:

- Disconnecting the 20-inch-diameter A-Line near the Ogden Compressor Station in Boone County, Iowa;
- disconnecting the 20-inch-diameter A-Line at the Eagle Grove branch line take-off in Wright County, Iowa;
- installing temporary compression at three discrete locations (one 300 horsepower unit within Boone, Webster, and Hancock Counties) to evacuate gas from the A-Line to the IAM60602 B-line;
- disconnecting the 20-inch-diameter A-Line at the Ventura Compressor Station in Hancock County, Iowa; and
- installing a pipeline extension of the D-Line consisting of 6.04 miles of 30-inch-diameter pipeline and an associated aboveground pig receiver [3] in Wright County, Iowa.

Background

On March 4, 2022, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Ogden to Ventura A-Line Abandonment and Capacity Replacement Project* (Notice of Scoping). The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the Notice of Scoping, the Commission received comments from six landowners. The primary issues raised by the commenters are impacts on agricultural land; final disposition of the pipeline; and an objection to the Project pending the applicant provide additional information to identify affected properties. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' (*i.e.,* CP22–42), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: April 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07807 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

[3] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9690–000]

Eagle Creek Hydro Power, LLC, Eagle Creek Water Resources, LLC, Eagle Creek Land Resources, LLC; Notice of Authorization for Continued Project Operation

On March 31, 2020, Eagle Creek Hydro Power, LLC, Eagle Creek Water Resources, LLC, and Eagle Creek Land Resources, LLC, (collectively referred to as Eagle Creek) co-licensees for the Rio Hydroelectric Project No.9690, filed an application for a new major license. The Rio Hydroelectric Project is located on the Mongaup River in Sullivan and Orange Counties, New York

The license for Project No.9690 was issued for a period ending March 31, 2022. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No.9690 is issued to Eagle Creek for a period effective April 1, 2022 through March 31, 2023 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before March 23, 2023, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Eagle Creek is authorized to continue operation of the Rio Hydroelectric Project, until such time as the Commission takes final action on the application for a new major license.

Dated: April 5, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07732 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5362–000]

Kennebec Light and Power District; Notice of Authorization for Continued Project Operation

On March 31, 2021, Kennebec Light and Power District, licensee for the Lower Mousam Hydroelectric Project No. 5362, filed an application for Surrender of License. The Lower Mousam Hydroelectric Project is located on the Mousam River in York County, Maine.

The license for Project No. 5362 was issued for a period ending March 31, 2022. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 5362 is issued to the Kennebec Light and Power District for a period effective April 1, 2022 through March 31, 2023 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before March 31, 2023, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the Kennebec Light and Power District is authorized to continue operation of the Lower Mousam Hydroelectric Project, until such time as the Commission takes final action on the application for Surrender of License.

Dated: April 5, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07731 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI22–1–000]

Donald Higgins; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI22–1–000.

c. *Date Filed:* November 1, 2021.

d. *Applicant:* Donald Higgins.

e. *Name of Project:* Hydrokinetic Floating Generator.

f. *Location:* The proposed Hydrokinetic Floating Generator would be located on the Rocky River near the town of Concord, in Cabarrus County, North Carolina.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Donald Higgins; 3721 Mill Bridge Rd., Concord, NC 28025; telephone: (704) 420–0477; email: *dihjcm@msn.com*.

i. *FERC Contact:* Jennifer Polardino, (202) 502–6437, or *Jennifer.Polardino@ferc.gov*.

j. Deadline for filing comments, protests, and motions to intervene is: May 6, 2022.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number DI22–1–000. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Project:* The proposed Hydrokinetic Floating Generator would consist of: (1) An anchored floating platform supported by two pontoons; (2) two partially immersed paddle wheels mounted on the platform; (3) a drive train consisting of a chain and sprockets, intermediate shaft, and a belt and pulleys; (4) a 12-volt, 400-watt generator running between 60 and 180 revolutions per minute; (5) a transmission line to a private residence; and (6) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified

comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07804 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–811–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Rate Schedule S–2 Interim ASA Tracker to be effective 3/1/2022.

Filed Date: 4/5/22.

Accession Number: 20220405–5130.

Comment Date: 5 p.m. ET 4/18/22.

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: April 6, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07764 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–139–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on March 29, 2022 ANR Pipeline Company (ANR), 700 Louisiana Street, Houston, Texas 77002–2700, filed a prior notice request for authorization, in accordance with 18 CFR 157.205 and 157.216 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act and ANR's blanket certificate issued in Docket No. CP82–480–000, to abandon six injection/withdrawal wells and related pipelines and appurtenances in the Goodwell and Reed City Storage Fields in Newaygo and Osceola Counties, Michigan. ANR states that the abandonments are required to reduce integrity risk at the storage fields in alignment with the Pipeline and Hazardous Materials Safety Administration Final Storage Rule (Docket 2016–0016). ANR states that the cost of the proposed abandonment will be $2,784,125, 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 each of the following: David A. Alonzo, Manager, Project Authorizations, ANR Pipeline Company, 700 Louisiana Street, Suite 1300, Houston, Texas, 77002–27001, at (832) 320–5477 or *david_alonzo@tcenergy.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: Complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on June 6, 2022. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the

[1] 18 CFR (Code of Federal Regulations) 157.9.

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is June 6, 2022. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person 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 [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is June 6, 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.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). 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. 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.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before June 6, 2022. 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.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP22–139–000 in your submission.

(1) You may file your protest, motion to intervene, and comments 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 ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP22–139–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: David A. Alonzo, Manager, Project Authorizations, ANR Pipeline Company, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–27001 or *david_alonzo@tcenergy.com.*

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

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.*

Dated: April 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07806 Filed 4–11–22; 8:45 am]

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[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

[7] Additionally, 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.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10482–000]

Eagle Creek Hydro Power, LLC, Eagle Creek Water Resources, LLC, Eagle Creek Land Resources, LLC; Notice of Authorization for Continued Project Operation

On March 31, 2020, Eagle Creek Hydro Power, LLC, Eagle Creek Water Resources, LLC, and Eagle Creek Land Resources, LLC, (collectively referred to as Eagle Creek) co-licensees for the Swinging Bridge Hydroelectric Project No. 10482, filed an application for a new major license. The Swinging Bridge Hydroelectric Project is located on the Mongaup River and Black Lake Creek in Sullivan County, New York.

The license for Project No. 10482 was issued for a period ending March 31, 2022. Section 15(a)(1) of the FPA, 16

U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 10482 is issued to Eagle Creek for a period effective April 1, 2022 through March 31, 2023 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before March 23, 2023, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Eagle Creek is authorized to continue operation of the Swinging Bridge Hydroelectric Project, until such time as the Commission takes final action on the application for a new major license.

Dated: April 5, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07734 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10481–000]

Eagle Creek Hydro Power, LLC, Eagle Creek Water Resources, LLC, Eagle Creek Land Resources, LLC; Notice of Authorization for Continued Project Operation

On March 31, 2020, Eagle Creek Hydro Power, LLC, Eagle Creek Water Resources, LLC, and Eagle Creek Land Resources, LLC, (collectively referred to as Eagle Creek) co-licensees for the Mongaup Falls Hydroelectric Project No. 10481, filed an application for a new major license. The Mongaup Falls Hydroelectric Project is located on the Mongaup River and Black Brook in Sullivan County, New York.

The license for Project No. 10481 was issued for a period ending March 31, 2022. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 10481 is issued to Eagle Creek for a period effective April 1, 2022 through March 31, 2023 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before March 23, 2023, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Eagle Creek is authorized to continue operation of the Mongaup Falls Hydroelectric Project, until such time as the Commission takes final action on the application for a new major license.

Dated: April 5, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07736 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–10–000]

Commission Information Collection Activities (Ferc–606 and Ferc–607) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

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 collection FERC–606, (Notification of Request for Federal Authorization and Requests for Further Information), and FERC–607, (Report on Decision or Action on Request for Federal Authorization).

DATES: Comments on the collection of information are due June 13, 2022.

ADDRESSES: You may submit your comments (identified by Docket No. IC22–10–000) 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, Office of the Secretary, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All 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 *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–606, Notification of Request for Federal Authorization and Requests for Further Information; FERC–607, Report on Decision or Action on Request for Federal Authorization.

OMB Control No.: 1902–0241.

Type of Request: Three-year extension of these information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the other.

Abstract: FERC–606 requires agencies and officials responsible for issuing, conditioning, or denying requests for federal authorizations necessary for a proposed natural gas project to report to the Commission regarding the status of an authorization request. This reporting requirement is intended to allow agencies to assist the Commission to make better informed decisions in establishing due dates for agencies' decisions.

FERC–607 requires agencies or officials to submit to the Commission a copy of a decision or action on a request for federal authorization and an accompanying index to the documents and materials relied on in reaching a conclusion.

The information collections can neither be discontinued nor collected less frequently because of statutory requirements. The consequences of not collecting this information are that the Commission would be unable to fulfill its statutory mandate under the Energy Policy Act of 2005 to:

- Establish a schedule for agencies to review requests for federal authorizations required for a project, and
- Compile a record of each agency's decision, together with the record of the Commission's decision, to serve as a consolidated record for the purpose of appeal or review, including judicial review.

Type of Respondent: Agencies with federal authorization responsibilities.

Estimate of Annual Burden: [1] The Commission estimates the annual public reporting burden [2] and cost [3] (rounded) for the information collection as follows:

FERC–606 (NOTIFICATION OF REQUEST FOR FEDERAL AUTHORIZATION AND REQUESTS FOR FURTHER INFORMATION), AND FERC–607 (REPORT ON DECISION OR ACTION ON REQUEST FOR FEDERAL AUTHORIZATION)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hours & cost per response	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FERC–606	1	1	1	4 hrs.; $348	4 hrs.; $348	$348
FERC–607	1	1	1	1 hr.; $87	1 hr.; $87	87
Total	2		2		5 hrs.; $435	

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: April 5, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07735 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–84–000.

Applicants: WPL North Rock Solar, LLC.

Description: WPL North Rock Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 4/5/22.

Accession Number: 20220405–5148.

Comment Date: 5 p.m. ET 4/26/22.

Docket Numbers: EG22–85–000.

Applicants: Concho Valley Solar, LLC.

Description: Concho Valley Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 4/6/22.

Accession Number: 20220406–5177.

Comment Date: 5 p.m. ET 4/27/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1106–003.

Applicants: Kestrel Acquisition, LLC.

[1] 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.

[2] Annual public reporting burden based on respondents over the last three-year period.

[3] The estimates for cost per response are derived using the formula: Average Burden Hours per Response * 87.00 per hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary plus benefits of $180,703 per year (or $87.00/hour). These estimates were updated in May 2021. This figure is being used because the staff thinks industry is similarly situated in terms of average hourly cost.

Description: Compliance filing: Compliance to 1 to be effective 4/7/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5182.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER21–2496–002.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2022–04–06 NAESB Compliance Filing to be effective 5/1/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5045.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER21–2525–002.

Applicants: Alabama Power Company.

Description: Compliance filing: OATT Attachment O Order No. 676–I Second Compliance Filing to be effective 5/1/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5088.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER21–2526–002.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: NYISO Compliance re: 03/07/22 Order on Compliance for NAESB WEQ Standards to be effective 5/1/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5118.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1023–001.

Applicants: Florida Power & Light Company.

Description: Tariff Amendment: FPL Amendments to Filing to be effective 3/1/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5171.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1151–001.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: Compliance filing: Alabama Power Company submits tariff filing per 35: OATT Attachment O Order No. 676–J Cyber and PFV Updated Compliance Filing to be effective 12/31/9998.

Filed Date: 4/6/22.

Accession Number: 20220406–5092.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1394–000.

Applicants: California Independent System Operator Corporation.

Description: Report Filing: 2022–04–06 Supplemental Filing to Amendment No. 1 of JOU Pilot Agreement to be effective N/A.

Filed Date: 4/6/22.

Accession Number: 20220406–5054.

Comment Date: 5 p.m. ET 4/18/22.

Docket Numbers: ER22–1580–000.

Applicants: Wisconsin Power and Light Company, Alliant Energy Corporate Services, Inc.

Description: Request for Waiver of Affiliate Rules, et al. of Wisconsin Power and Light Company.

Filed Date: 4/5/22.

Accession Number: 20220405–5103.

Comment Date: 5 p.m. ET 4/26/22.

Docket Numbers: ER22–1582–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Update the Competitive Upgrade Re-Evaluation Process to be effective 6/6/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5033.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1583–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Update Transmission Owner Selection Criteria and Scoring to be effective 6/6/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5034.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1584–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, SA No. 6398; Queue No. AG1–029 to be effective 3/8/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5049.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1585–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Second Amendment of ISA SA No. 5548; Queue No. AC1–076/AE2–134 to be effective 12/16/2019.

Filed Date: 4/6/22.

Accession Number: 20220406–5052.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1586–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: OATT Attachment T Amendment Filing to be effective 5/1/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5089.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1587–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to OA, Schedule 2—Enhancements to Fuel Cost Policy Requirements to be effective 6/7/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5097.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1588–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3293R3 Thunderhead Wind Energy GIA to be effective 3/9/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5114.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1589–000.

Applicants: Traverse Wind Energy LLC.

Description: Tariff Amendment: Traverse Wind Energy LLC—Cancellation of Tariff to be effective 4/6/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5154.

Comment Date: 5 p.m. ET 4/27/22.

Docket Numbers: ER22–1590–000.

Applicants: El Paso Electric Company.

Description: § 205(d) Rate Filing: Service Agreement No. 368, Nonconforning LGIA with NextEra Energy to be effective 6/6/2022.

Filed Date: 4/6/22.

Accession Number: 20220406–5178.

Comment Date: 5 p.m. ET 4/27/22

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM22–9–000.

Applicants: Allegheny Electric Cooperative, Inc.

Description: Application of Allegheny Electric Cooperative Inc. to Terminate Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978 under QM22–9.

Filed Date: 4/4/22.

Accession Number: 20220404–5327.

Comment Date: 5 p.m. ET 5/02/22.

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: April 6, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07763 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–11–000]

Commission Information Collection Activities (Ferc–538) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

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 collection FERC–538 (Gas Pipeline Certificates: Section 7(a) Mandatory Initial Service).

DATES: Comments on the collection of information are due June 13, 2022.

ADDRESSES: You may submit your comments (identified by Docket No. IC22–11–000) 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:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission,12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All 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 *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: Gas Pipeline Certificates: Section 7(a) Mandatory Initial Service.

OMB Control No.: 1902–0061.

Type of Request: Three-year extension of the FERC–538 information collection requirements with no changes to the current reporting requirements.

Abstract: The purpose of FERC–537 is to implement the information collections pursuant to sections 7(a), 10(a) and 16 of Natural Gas Act (NGA),[1] and part 156 of the Commission Regulations.[2] These statutes and regulations upon application by a person or municipality authorized to engage in the local distribution of natural gas, allow for the Commission to order a natural gas company to extend or improve its transportation facilities and sell natural gas to the municipality or person and, for such purpose, to extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by the natural gas pipeline company. The Commission uses the application data in order to be fully informed concerning the applicant, and the service the applicant is requesting.

Type of Respondents: Persons or municipalities authorized to engage in the local distribution of natural gas.

Estimate of Annual Burden:[3] The Commission estimates the annual reporting burden and cost for the information collection as:

FERC–538—GAS PIPELINE CERTIFICATES: SECTION 7(a) MANDATORY INITIAL SERVICE

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hrs. & cost ($) per response[4]	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Gas Pipeline Certificates	1	1	1	240 hrs.; $20,880	240 hrs.; $20,880	$20,880

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: April 5, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07730 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5261–023]

Green Mountain Power Corporation; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed

[1] 15 U.S.C. 717f–w.

[2] 18 CFR 156.

[3] ''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, reference 5 CFR 1320.3.

[4] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $87.00/hour = Average cost/response. The figure is the 2021 FERC average hourly cost (for wages and benefits) of $87.00 (and an average annual cost of $180,703/year). Commission staff is using the FERC average salary plus benefits because we consider people completing the FERC–538 to be compensated at rates similar to FERC employees.

with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 5261–023.

c. *Date Filed:* August 27, 2021.

d. *Applicant:* Green Mountain Power Corporation.

e. *Name of Project:* Newbury Hydroelectric Project.

f. *Location:* On the Wells River, in the town of Newbury, Orange County, Vermont. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John Greenan, Green Mountain Power Corporation, 2152 Post Road, Rutland, VT 05701; Phone at (802) 770–2195, or email at *John.Greenan@greenmountainpower.com.*

i. *FERC Contact:* Adam Peer, (202) 502–8449 or *adam.peer@ferc.gov.*

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–5261–023.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is ready for environmental analysis at this time.

The Council on Environmental Quality (CEQ) issued a final rule on July 15, 2020, revising the regulations under 40 CFR parts 1500–1518 that federal agencies use to implement the National Environmental Policy Act (NEPA) (see Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 FR 43,304). The Final Rule became effective on and applies to any NEPA process begun after September 14, 2020. Commission staff intends to conduct its NEPA review in accordance with CEQ's new regulations.

l. The Newbury Project consists of: (1) An 11.4-acre impoundment at a normal water surface elevation of 463.9 feet mean sea level; (2) a 26 foot-high by 90-foot-long concrete gravity dam that includes a 73.3-foot-long spillway topped with 5-foot-high pneumatic crest gates; (3) a seasonally installed, 8-foot-long by 4-foot-wide steel sluice box on the south side of the spillway to provide downstream fish passage; (4) an 11.2-foot-wide, 9-foot-long intake structure that includes trash racks with 1-inch clear bar spacing, connected to a 5-foot-diameter, 435-foot-long underground steel penstock; (5) a powerhouse containing a single 315-kilowatt turbine-generator unit (unit 1); (6) a second 50-kilowatt turbine-generator unit (unit 2) located outside of the powerhouse approximately 75-feet downstream of the dam along the bypassed reach; (7) a 125-foot-long tailrace that receives discharges from unit 1; (8) a 130-foot-long underground generator lead from unit 1 and a 410-foot-long generator lead from unit 2 that connect to three above-ground pole mounted 167 kilovolt-ampere step-up transformers; (9) a 3-phase, 7-foot-long transmission line; and (10) appurtenant facilities. The project creates a 590-foot-long bypassed reach of the Wells River.

The current license requires Green Mountain Power Corporation to: (1) Operate the project in run-of-river mode; (2) release a continuous bypassed reach minimum flow of 50 cubic feet per second (cfs) from April 15 to June 10 and 5 cfs during the remainder of the year; (3) release a year-round, continuous aesthetic flow of 5 cfs over the dam; and (4) operate the fish passage chute from April 1 to June 1 and September 1 to November 15 with flows of 20 cfs and 10 cfs, respectively. The average annual generation of the project is approximately 882 megawatt-hours.

Green Mountain Power Corporation proposes to: (1) Continue operating the project in run-of-river mode; (2) release a new bypassed reach minimum flow of 35 cfs from May 15 to October 15 and 30 cfs from October 16 to May 14; (3) release a new aesthetic flow of 10 cfs over the dam from May 15 to October 15 during daytime hours and no aesthetic flow the remainder of the year; (4) operate the fish passage chute from April 1 to June 1 and September 1 to November 15 with new flows of 10 cfs during both operating periods; (5) construct a hand-carry access area for recreational boaters; and (6) consult with the resource agencies prior to conducting maintenance and repairs that have the potential to affect water quality.

m. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

All filings must: (1) Bear in all capital letters the title ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *https://www.ferc.gov/ferc-online/overview* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. The applicant must file no later than 60 days following the date of issuance of this notice either: (1) Evidence of the date on which the certifying agency received the certification request; (2) a copy of the water quality certification; or (3)

evidence of waiver of water quality certification.

o. *Procedural Schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Deadline for filing comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	June 2022.
Deadline for filing reply comments.	July 2022.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: April 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07808 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3267–000]

ECOsponsible, LLC; Notice of Authorization for Continued Project Operation

The license for the Ballard Mill Hydroelectric Project No. 3267, located on the Salmon River, in the Town of Malone, Franklin County, New York, was issued for a period ending March 31, 2022.[1] Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If, as is the case here, the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(b), if the licensee has not filed an application for a subsequent license, the Commission may issue an order requiring the licensee to continue to operate the project, in accordance with the terms and conditions of the license, until the Commission either acts on any applications for subsequent license timely filed by another entity or takes action pursuant to 18 CFR 16.25 or 16.26.

ECOsponsible, LLC, licensee for the project, has failed to file an acceptable license application.[2]

Accordingly, notice is hereby given that ECOsponsible, LLC., is authorized to continue operation of the Ballard Mill Hydroelectric Project, until such time as the Commission either acts on any applications for subsequent license timely filed by another entity, takes action pursuant to 18 CFR 16.25 or 16.26, or other disposition under the FPA.

Dated: April 5, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07733 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

[1] *Greater Malone Community Council, Inc.,* 19 FERC ¶ 62,086 (1982).

[2] On March 31, 2020, ECOsponsible filed an Application for a Subsequent Minor License. On April 7, 2021, the Director, Division of Hydropower Licensing rejected the license application. ECOsponsible did not seek rehearing of that order. On September 23, 2021, Commission staff directed the licensee to file a surrender application within 60 days, noting that its subsequent license application was rejected. On March 15, 2022, Commission staff again requested the licensee to file a surrender application. The licensee has not filed a surrender application.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–142–000]

Florida Gas Transmission Company, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on March 30, 2022, Florida Gas Transmission Company, LLC (FGT), 1300 Main St., Houston, Texas 77002, filed in the above referenced docket a prior notice pursuant to sections 157.205, 157.208, 157.210, and 157.211 of the Commission's regulations under the Natural Gas Act (NGA) and its blanket certificate issued in Docket No. CP82–553–000 requesting authorization to: (1) Construct the approximately 2.0-mile, 12-inch-diameter Brazoria County Lateral in Brazoria County, Texas; (2) the new Rosharon—Brotman meter and regulation station in Brazoria County, Texas; (3) various appurtenances in Brazoria County, Texas; and (4) modify and uprate an existing reciprocating compressor unit from 2,000 horsepower (hp) to 2,700 hp at its Compressor Station 4 in Matagorda County, Texas (Brazoria County Project). FGT states the project will enable it to deliver up to 68,000 million British thermal units per day of new firm transportation service to Brotman Generating, LLC. FGT estimates the cost of the Brazoria County Project to be approximately $11 million, all as more fully set forth in the request 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 request should be directed to Blair Lichtenwalter, Senior Director of Certificates, Florida Gas Transmission Company, LLC, 1300 Main St., Houston, Texas 77002, by telephone at (713) 989–2605, by fax at (713) 989–1205, or by email at *blair.lichtenwalter@energytransfer.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on June 6, 2022. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is June 6, 2022. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person 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 June 6, 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.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). 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. 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.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before June 6, 2022. 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.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP22–142–000 in your submission. The Commission encourages electronic filing of submissions.

(1) You may file your protest, motion to intervene, and comments 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 ''Protest'', ''Intervention'', or ''Comment on a Filing.''

The Commission's eFiling staff are available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(2) You can file a paper copy of your submission. Your submission must reference the Project docket number CP22–142–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 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: *blair.lichtenwalter@energytransfer.com,* 1300 Main St., Houston, Texas 77002. 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.

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.*

Dated: April 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–07805 Filed 4–11–22; 8:45 am]

BILLING CODE 6717–01–P

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9672–01–R9]

Revision of Approved State Primacy Program for the State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval.

SUMMARY: Notice is hereby given that the State of Nevada revised its approved State primacy program under the Federal Safe Drinking Water Act (SDWA) by adopting regulations that effectuate the Federal Consumer Confidence Report Rule (CCR). The Environmental Protection Agency (EPA) has determined that Nevada's revision request meets the applicable SDWA program revision requirements and the regulations adopted by Nevada are no less stringent than the corresponding Federal regulations. Therefore, EPA approves this revision to Nevada's approved State primacy program. However, this determination on Nevada's request for approval of a program revision shall take effect in accordance with the procedures described below in the **SUPPLEMENTARY INFORMATION** section of this notice after

the opportunity to request a public hearing.

DATES: A request for a public hearing must be received or postmarked before May 12, 2022.

ADDRESSES: Documents relating to this determination that were submitted by Nevada as part of its program revision request are available for public inspection online at *https://ndep.nv.gov/posts.* In addition, these documents are available by appointment between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except official State or Federal holidays, at the following address: Nevada Division of Environmental Protection, Administration Office, 901 South Stewart Street, Suite 4001, Carson City, NV 89701. Please contact the Bureau of Safe Drinking Water at (775) 687–9521 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Samantha Bishop, EPA Region 9, Drinking Water Section; via telephone at 415–972–3411 or via email address at *bishop.samantha@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background. EPA approved Nevada's initial application for primary enforcement authority (''primacy'') of drinking water systems on February 27, 1978 (43 FR 8030). Since initial primacy approval, EPA has approved various revisions to Nevada's primacy program. For the revision covered by this action, EPA promulgated the CCR at 40 CFR 141.151–141.155 on August 19, 1998 (63 FR 44512). EPA promulgated the CCR to give consumers information regarding their drinking water so that they are able to make personal health-based decisions regarding their drinking water consumption. EPA has determined that the CCR requirements were adopted into the Nevada Administrative Code (NAC) Title 40 Chapter 445A, in a manner that Nevada's regulations are comparable to and no less stringent than the Federal requirements. EPA has also determined that the State's program revision request meets all of the regulatory requirements for approval, as set forth in 40 CFR 142.12, including a side-by-side comparison of the Federal requirements demonstrating the corresponding State authorities, additional materials to support special primacy requirements of 40 CFR 142.16, a review of the requirements contained in 40 CFR 142.10 necessary for States to attain and retain primary enforcement responsibility, and a statement by the Nevada Attorney General certifying that Nevada's laws and regulations to carry out the program revision were duly adopted and are enforceable. The Attorney General's statement also affirms that there are no environmental audit privilege and immunity laws that would impact Nevada's ability to implement or enforce the Nevada laws and regulations pertaining to the program revision. Therefore, EPA approves this revision of Nevada's approved State primacy program. The Technical Support Document, which provides EPA's analysis of Nevada's program revision request, is available by submitting a request to the following email address: *R9dw-program@epa.gov*. Please note ''Technical Support Document'' in the subject line of the email.

Public Process. Any interested person may request a public hearing on this determination. A request for a public hearing must be received or postmarked before May 12, 2022 and addressed to the Regional Administrator of EPA Region 9, via the following email address: *R9dw-program@epa.gov,* or by contacting the EPA Region 9 contact person listed above in this notice by telephone if you do not have access to email. Please note ''Nevada Program Revision Determination'' in the subject line of the email. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. If a timely request for a public hearing is made, then EPA Region 9 may hold a public hearing. Any request for a public hearing shall include the following information: 1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; 2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and 3. The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA Region 9 does not receive a timely request for a hearing or a request for a hearing was denied by the Regional Administrator for being frivolous or insubstantial, and the Regional Administrator does not elect to hold a hearing on their own motion, EPA's approval shall become final and effective on May 12, 2022, and no further public notice will be issued.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g–2 (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: April 1, 2022.

Martha Guzman Aceves,

Regional Administrator, EPA Region 9.

[FR Doc. 2022–07858 Filed 4–8–22; 4:15 pm]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue, NW, Washington, DC 20551–0001, not later than May 12, 2022.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Maverick Bancshares, Inc., Fort Worth, Texas;* to acquire Fort Davis Bancshares, Inc., and thereby indirectly acquire Fort Davis Bank, both of Fort Davis, Texas.

Board of Governors of the Federal Reserve System, April 7, 2022.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2022–07811 Filed 4–11–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10465 and CMS–10495]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by June 13, 2022.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10465 Minimum Essential Coverage

CMS–10495 Data Collection and Submission, Registration, Attestation, Dispute and Resolution, Record Retention, and Assumptions Document Submission, for Open Payments

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Minimum Essential Coverage; *Use:* The final rule titled ''Patient Protection and Affordable Care Act; *Exchange Functions:* Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage Provisions,'' published July 1, 2013 (78 FR 39494) designates certain types of health coverage as minimum essential coverage. Other types of coverage, not statutorily designated and not designated as minimum essential coverage in regulation, may be recognized by the Secretary of Health and Human Services (HHS) as minimum essential coverage if certain substantive and procedural requirements are met. To be recognized as minimum essential coverage, the coverage must offer substantially the same consumer protections as those enumerated in the Title I of the Affordable Care Act relating to non-grandfathered, individual health insurance coverage to ensure consumers are receiving adequate coverage. The final rule requires sponsors of other coverage that seek to have such coverage recognized as minimum essential coverage to adhere to certain procedures. Sponsoring organizations must submit to HHS certain information about their coverage and an attestation that the plan substantially complies with the provisions of Title I of the Affordable Care Act applicable to non-grandfathered individual health insurance coverage. Sponsors must also provide notice to enrollees informing them that the plan has been recognized as minimum essential coverage. *Form Number:* CMS–10465 (OMB Control Number 0938–1189); *Frequency:* Occasionally; *Affected Public:* Public and Private sectors; *Number of Respondents:* 10; *Total Annual Responses:* 10; *Total Annual Hours:* 52.5. (For policy questions regarding this collection contact Russell Tipps at 301–492–4371.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Registration, Attestation, Dispute Resolution and Correction, Assumptions Document and Data Retention Requirements for Open Payments; *Use:* The Patient Protection and Affordable Care Act was enacted on March 23, 2010 (Pub. L. 111–148). This statute amended section 1128 of the Social Security Act (the Act) by adding a new subsection G that requires applicable manufacturers of drugs, devices, biologics, or medical supplies covered under title XVIII of the Act (Medicare) or a State plan under title XIX (Medicaid) or XXI of the Act (the Children's Health Insurance Program, or CHIP) to report annually to the Secretary certain payments or other transfers of value to physicians and teaching hospitals. Section 1128G of the Act also requires applicable manufacturers and applicable group purchasing organizations (GPOs) to report certain information regarding the ownership or investment interests held by physicians or the immediate family members of physicians in such entities,

as well as any payments provided to such physicians. The submitted information facilitates various aspects of the program. The information collected through the registration process is used by CMS to validate registration for applicable manufacturers, applicable GPOs, covered recipients, and physician owners or investors that are registering for Open Payments. Details collected during the dispute resolution and correction process allows CMS to notify applicable manufacturers and applicable GPOs that a covered recipient or physician owner or investor is initiating a dispute regarding data submitted about them and allow CMS to relay the nature of the dispute. The assumptions documents submitted by applicable manufacturers or applicable GPOs assist CMS in providing guidance (for example, determining form and nature of payment categories, calculating the value of a payment, determining the date of payment, and reporting the terms of an ownership or investment interest). *Form Number:* CMS–10495 *(*OMB control number: 0938–1237*); Frequency:* Annually*; Affected Public:* State, Local, or Tribal Governments*; Number of Respondents:* 1,612*; Total Annual Responses:* 1,612*; Total Annual Hours:* 1,920,534. (For policy questions regarding this collection contact Kathleen Ott at 410–786–4246.)

Dated: April 7, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–07760 Filed 4–11–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10377 and CMS–10036]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *May 12, 2022.*

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain* . Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Student Health Insurance Coverage; *Use:* Under the Student Health Insurance Coverage Final Rule published March 21, 2012 (77 FR 16453), student health insurance coverage is a type of individual health insurance coverage provided pursuant to a written agreement between an institution of higher education (as defined in the Higher Education Act of 1965) and a health insurance issuer, and provided to students who are enrolled in that institution and their dependents. The Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2017 Final Rule provided that, for policy years beginning on or after July 1, 2016, student health insurance coverage is exempt from the actuarial value (AV) requirements under section 1302(d) of the Affordable Care Act, but must provide coverage with an AV of at least 60 percent. This provision also requires issuers of student health insurance coverage to specify in any plan materials summarizing the terms of the coverage the AV of the coverage and the metal level (or the next lowest metal level) the coverage would otherwise satisfy under § 156.140. This disclosure will provide students with information that allows them to compare the student health coverage with other available coverage options. *Form Number:* CMS–10377 (OMB Control Number 0938–1157); *Frequency:* Annually; *Affected Public:* Private Sector; *Number of Respondents:* 48; *Total Annual Responses:* 953,541; *Total Annual Hours:* 48. (For policy questions regarding this collection contact Russell Tipps at 301–492–4371).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* IRF–PAI for the Collection of Data Pertaining to the Inpatient Rehabilitation Facility Prospective Payment System and Quality Reporting Program; *Use:* We are requesting an extension of the Inpatient Rehabilitation Facility-Patient Assessment Instrument (IRF–PAI) Version 4.0 that will be effective on October 1, 2022. On November 2, 2021, we issued a final rule (86 FR 62240) which finalized proposed modifications to the effective date for the reporting of measures and certain standardized patient assessment data in the Inpatient Rehabilitation Facility Quality

Reporting Program (IRF QRP). Per the final rule CMS will require IRFs to start collecting assessment data using IRF–PAI Version 4.0 beginning October 1, 2022.

The information collection request for IRF PAI 4.0 was re-approved on December 15, 2021 with an October 1, 2022 implementation date. CMS is asking for an extension of the approved IRF–PAI Version 4.0, which expires on December 31, 2022. The burden associated with this requirement is staff time required to complete and encode the data from the IRF–PAI. The burden associated with collecting and transmitting the data is unaffected by the proposed extension to the assessment instrument.

The IRF–PAI is required by the CMS as part of the Inpatient Rehabilitation Facility Prospective Payment System (IRF PPS). CMS uses the data to determine the payment for each Medicare Part A fee-for-service patient and Medicare Part C (Medicare Advantage) admitted to an inpatient rehabilitation unit or hospital. The IRF–PAI is also used to gather data for the IRF Quality Reporting Program (IRF QRP). *Form Number:* CMS–10036 (OMB control number: 0938–0842); *Frequency:* Annually; *Affected Public:* Private Sector: Business and for-profit and Not-for-profit, State, Local or Tribal Government and Federal Government; *Number of Respondents:* 1,122; *Total Annual Responses:* 411,622; *Total Annual Hours:* 704,747. (For policy questions regarding this collection, contact Ariel Adams at 410–786–8571.)

Dated: April 7, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–07759 Filed 4–11–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; U.S. Repatriation Program Forms (OMB#: 0970–0474)

AGENCY: Office of Human Services Emergency Preparedness and Response, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the U.S. Repatriation Program forms (OMB #0970–0474, expiration 4/30/2022). There are several changes requested to the eight forms. Burden estimates have also been updated.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

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. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The purpose of the U.S. Repatriation Program (Program) is to provide temporary assistance to eligible U.S. citizens and their dependents (repatriates) returned by the Department of State from a foreign country because of destitution, illness, war, threat of war, or a similar crisis, and who are without available resources, or (2) mental illness. Temporary assistance is provided upon their arrival in the United States and is available initially for up to 90 days from a repatriate's date of arrival in the United States. Temporary assistance is provided in the form of a service loan and is repayable to the U.S. Government.

Temporary assistance is defined in 42 U.S.C. 1313(c) as money payments, medical care, temporary lodging, transportation, and other goods and services necessary for the health or welfare of individuals, including guidance, counseling, and other welfare services provided to them within the United States upon their arrival in the United States. Other goods and services may include clothes, food, assistance with obtaining identification (driver's license, birth certificate), child care, and translation services.

The ACF Office of Human Services Emergency Preparedness and Response (OHSEPR), at the U.S. Department of Health and Human Services (HHS), administers the Program.

OHSEPR made changes to all eight forms to ensure the information collected aligns with Program statutes and regulations as well as the purpose and use of the form. Revisions include clarifying statutory authority and general instructions on completing and submitting the forms. These changes make the forms more user friendly. OHSEPR also reduced the burden hours to make them more accurate.

The following is a description of the forms and the proposed revisions:

Emergency Repatriation Eligibility Application (Form RR–01)

The purpose of this form is for U.S. citizens and their dependents to request temporary assistance during an emergency repatriation. Proposed revisions include the following:

- Changing the title of the form from 'Emergency and Group Processing Form' to 'Emergency Repatriation Eligibility Application'
- Adding the following information:
  - Date and time of applicant's entry and exit to the Emergency Repatriation Center
  - Applicant's flight information
  - Name and contact information for responsible person (if main U.S. citizen applicant is a minor)
  - Gender option (X) for applicant and dependents to align with Department of State gender information on passports
  - Option for applicants and dependents to provide alternative ID number (instead of passport number)
  - Needs assessment section to determine applicant's needs
  - Details about quantity of temporary assistance requested
  - Language to signatory block to specify the meaning of signing the form
  - Materials/information provided to the repatriate
- Removing eligibility determination question regarding availability of next of kin/friends to provide resources

Emergency Repatriation Reimbursement Request (Form RR–02)

The purpose of this form is for states to request reimbursement for emergency repatriation expenditures. Proposed revisions include the following:

- Changing the title of the form from 'Emergency and Group Repatriation Financial Form' to 'Emergency Repatriation Reimbursement Request'
- Modifying information about location of service provision
- Adding planning/training/exercise as a category for reimbursement
- Clarifying instructions on documentation for allowable costs

Loan Waiver and Deferral Application (Form RR–03)

The purpose of this form is for repatriates to request a waiver or deferral of their loan for temporary assistance received through the U.S. Repatriation Program. Proposed revisions include the following:

- Changing the title of the form from 'Repatriation Loan Waiver and Deferral Request Form' to 'Loan Waiver and Deferral Application'
- Separating fixed monthly expenses from loans and liabilities
- Adding the following information:
  - Repatriate's type of current housing
  - Employer's email address
  - Option for repatriate to include additional employment
  - Assets such as checking/savings accounts
  - Language to signatory block to specify the meaning of signing this form
  - Name, relationship to repatriate, and contact information for authorized representative
- Removing Social Security Number (SSN) for dependents

Routine Repatriation Reimbursement Request (Form RR–04)

The purpose of this form is for state and local service providers to submit reimbursement requests for providing temporary assistance to repatriates under the U.S. Repatriation Program. Proposed revisions include the following:

- Changing the title of the form from 'Non-Emergency Monthly Financial Statement Form' to 'Routine Repatriation Reimbursement Request'
- Clarifying instructions on documentation for allowable costs
- Revising language on signatory block to specify the meaning of signing this form
- Removing these items:
  - State or local provider's recommendation for waiver approval
  - SSN for dependents

Repatriation Repayment and Privacy Agreement (Form RR–05)

The purpose of this form is for repatriates to agree to accept temporary assistance under the U.S. Repatriation Program, to agree to repay HHS for temporary assistance, and to allow HHS to share personal information for benefits purposes. Proposed revisions include the following:

- Changing the title of the form from 'Privacy and Repayment Agreement Form' to 'Repatriation Repayment and Privacy Agreement'
- Revising language on signatory block to specify the meaning of signing the form
- Clarifying that the Privacy Act Statement applies to Repatriation forms that collect personal identifiable information
- Adding voluntary demographic questions to align with Executive Order 13985 (*Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*)
- Adding instructions on completing the form

Refusal of Temporary Assistance (Form RR–06)

The purpose of this form is for repatriates to refuse to accept temporary assistance under the U.S. Repatriation Program after receiving information about the Program. Proposed revisions include adding the following:

- Instructions on completing the form
- The country the repatriate returned from

Temporary Assistance Extension Request (Form RR–07)

The purpose of this form is for repatriates to request an extension of temporary assistance beyond the initial 90-day eligibility period. Proposed revisions include the following:

- Removing these items:
  - SSN for dependents
  - ''other reasons'' as an option for justification of request
- Adding these items:
  - Authorized representative information
  - Sections on household income, fixed monthly expenses, and loans and liabilities
  - Language on signatory block to specify meaning of signing this form

Emergency Repatriation Request for Cost Approval and Federal Support (Form RR–08)

The purpose of this form is for states to request pre-approval for costs or federal support for an emergency repatriation. Proposed revisions include the following:

- Changing the title of the form from 'State Request for Federal Support' to 'Emergency Repatriation Request for Cost Approval and Federal Support'
- Adding separate sections for description and justification of cost pre-approvals and federal support requests
- Modifying section on Federal official's determination of state's request

Respondents: States, territories, local social service providers, administrative staff, repatriates, and authorized representatives of repatriates.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Emergency Repatriation Eligibility Application	1,000	1	.5	500
Emergency Repatriation Reimbursement Request.	10	1	.3	3
Loan Waiver and Deferral Application	100	1	.5	50
Routine Repatriation Reimbursement Request.	25	10	.3	75
Repatriation Repayment and Privacy Agreement.	800	1	.17	136
Refusal of Temporary Assistance	300	1	.05	15
Temporary Assistance and Extension Request.	25	1	.3	8
Emergency Repatriation Request for Cost Approval and Federal Support.	5	10	.3	15

Estimated Total Annual Burden Hours: 802.

Authority: 42 U.S.C. 1313, 24 U.S.C. 321–329.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–07737 Filed 4–11–22; 8:45 am]

BILLING CODE 4184–PL–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[223A2100DD/AAKC001030/ A0A501010.999900]

Confederated Tribes of the Colville Reservation; Amendments to Colville Packaged Spirits Regulation (Ordinance)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes amendments to the Confederated Tribes of the Colville Reservation's Chapter 6–2 Packaged Spirits Regulation (Liquor Ordinance). This Regulation amends and supersedes the existing Confederated Tribes of the Colville Reservation's Title 21 Colville Tribal Code—Colville Liquor Control Code enacted by the Colville Business Council in 1983.

DATES: This ordinance shall become effective May 12, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Norton, Tribal Government Specialist, Northwest Regional Office, Bureau of Indian Affairs, 911 Northeast 11th Avenue, Portland, Oregon 97232, Telephone: (503) 231–6702, Fax: (503) 231–2201.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. On September 1, 2019, the Colville Business Council duly adopted the Confederated Tribes of the Colville Reservation's Chapter 6–2 Packaged Spirits Regulation (Liquor Ordinance), replacing the existing Confederated Tribes of the Colville Reservation's Title 21 Colville Tribal Code—Colville Liquor Control Code by enactment of Resolution 2019–542. On October 10th, 2019, the Colville Business Council duly adopted additional amendments by enactment of Resolution 2019–651. On February 8, 2022, the Colville Business Council duly adopted final amendments by enactment of Resolution 2022–75. This **Federal Register** Notice comprehensively amends and supersedes the existing Confederated Tribes of the Colville Reservation's Title 21 Colville Tribal Code—Colville Liquor Control Code enacted by the Colville Business Council, which was published in the **Federal Register** on June 30, 1983 (48 FR 30189).

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Colville Business Council of the Confederated Tribes of the Colville Reservation duly adopted these amendments to the Community's Title 14—Alcoholic Beverages Ordinance on September 1, 2019, and October 10, 2019, and February 8, 2022.

Wizipan Garriott,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising by delegation the authority of the Assistant Secretary—Indian Affairs.

Chapter 6–2 Packaged Spirits Regulation

6–2–1 Name

This Chapter shall be known as the Colville Packaged Spirits Regulation Chapter, and shall replace Title 21 of the Colville Tribal Code, ''Liquor Control Code''.

6–2–2 Constitutional Authority

The Colville Business Council, under Article V of the Constitution of the Confederated Tribes of the Colville Indian Reservation, and the Colville Tribal Code (CTC) possesses the authority to adopt this Chapter.

6–2–3 Findings

(a) The introduction, possession, and sale of liquor on Indian reservations has been clearly recognized as a matter of special concern to Indian tribes and to the United States for more than 150 years. *United States* v. *Sandoval*, 231 U.S. 28 (1913); 18 U.S.C. 1161; 18 U.S.C. 1154.

(b) In 1953 the Business Council of the Colville Confederated Tribes acting under its inherent powers as the government of the Colville Indian Reservation and under powers delegated to it by the United States adopted a resolution permitting the sale and possession of alcoholic beverages within the boundaries of the reservation, subject to the laws of the State of Washington.

(c) Under present conditions the Business Council of the Colville Confederated Tribes finds it necessary to more closely control the sale, distribution, and possession of alcoholic beverages within the boundaries of the Colville Indian Reservation. The sale, distribution, and possession of such beverages has become a major or sole portion of the trade of many businesses which have been established on the Colville Indian Reservation affecting the people of the reservation and the schools, churches, and other agencies of social betterment which have been established on the reservation.

(d) Federal policy has supported the Tribes' long term goal of self-governance and self-determination. Given that policy, and in light of the Tribes' unique geographical challenges and its experience regulating other highly regulated areas, such as gambling and cigarette sales, the Tribes is well suited to effectively regulate and enforce liquor laws in its Indian Country, in collaboration with the Washington State Liquor Cannabis Board (WSLCB), consistent with 18 U.S.C. 1161.

(e) The Business Council finds that the present system of regulation by adoption of State law has been found to be inadequate to the needs of the members of the Colville Confederated Tribes and the residents of the Colville Indian Reservation, and has failed to provide sufficient prevention, treatment, and ancillary services to treat alcohol abuse on the Reservation and to address its negative impacts on those who abuse alcohol as well as their families and children.

(f) The Business Council finds that Tribal regulation of the introduction, sale, distribution, and possession of packaged spirits on the reservation is necessary to protect the health, security, and welfare of all persons and property on the reservation.

(g) The Colville Business Council finds that alcohol related criminal and family problems are the single greatest cause of social conflict among the people of the Colville Indian Reservation.

(h) The Business Council further finds it necessary to raise additional revenues for the prevention and treatment of alcohol abuse and Tribal Law Enforcement agencies and to provide for their expansion and increased efficiency.

(i) A Memorandum of Agreement (MOA) with the State of Washington governing packaged liquor sales and distribution on the reservation will increase the ability of the tribal government to control the reservation liquor distribution, sale, and possession, and at the same time will provide an important source of revenue for the

continued operation of governmental services to the residents of the reservation.

(j) The Business Council further finds that taxation of packaged spirits sold to non-Indian purchasers by licensed Tribal Enterprises in the Tribes' Indian Country is a matter separate from liquor licensure and shall be governed by a duly-executed MOA between the Tribes and the State Department of Revenue (DOR).

(k) For these reasons, the Business Council finds it necessary to enact this Chapter establishing a Tribal Liquor Administrator and regulating the introduction, sale, taxation, distribution, and possession of packaged spirits on the Colville Indian Reservation.

6–2–4 Introduction, Sale, Distribution, and Possession of Packaged Spirits

The introduction, sale, distribution, and possession of liquor shall be lawful within the Indian country under the jurisdiction of the Confederated Tribes of the Colville Indian Reservation and within the exterior boundaries of the Colville Indian Reservation only when such activities are in conformity with this Chapter. Such introduction, sale, distribution, and possession shall be in conformity with the laws of the State of Washington when required by 18 U.S.C. 1161, enacted August 15, 1953, and as provided in this Chapter.

6–2–5 Conformity With Federal Laws

This Chapter shall govern the introduction, sale, distribution, and possession of packaged spirits within the Colville Indian Reservation pursuant to federal law; Resolution 1953–50 passed on October 9, 1953, by the Colville Business Council and published in the **Federal Register**, Volume 18, No. 230, on November 25, 1953, and shall supersede and amend all prior enactments of the Business Council inconsistent with this Chapter.

6–2–6 Conflict With Prior Resolutions

This Chapter shall supersede and amend all Resolutions of the Business Council inconsistent with this Chapter.

6–2–7 Definitions

(a) ''Administrator'' or ''Liquor Administrator'' means the Tribal Liquor Administrator of the Packaged Spirits Code in the Accounting Department of the Colville Tribes.

(b) ''Distribute'' means to deliver or sell liquor products prior to retail sale.

(c) ''Employee'' means any person employed by the Liquor Administrator.

(d) ''Enforcement officer'' means the administrator or any other enforcement personnel authorized to administer or enforce this Chapter.

(e) ''Indian Country'' consistent with the definition in 18 U.S.C. 1151, means:

(1) All land within the exterior boundaries of the Colville Reservation, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; and

(2) all Indian allotments or other lands held in trust for a Colville tribal member or the Colville Tribes, or otherwise subject to a restriction against alienation imposed by the United States, the Indian titles to which have not been extinguished, including rights-of-way running through the same, wherever located.

(f) ''Liquor'' means the four varieties of liquor (alcohol, spirits, wine, and beer) and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquor or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

(g) ''Liquor Account'' means the account established by the Liquor Administrator for the collection of fees and taxes on the sale of packaged spirits on the Colville Reservation or in the Tribes' Indian country pursuant to the approved Memorandum of agreement.

(h) ''Liquor Tax Compact'' means any packaged spirits tax compact the Tribes may enter into pursuant to applicable law.

(i) ''Memorandum of Agreement'' means the approved Agreement entered into between the Colville Tribes and the Washington state Liquor Cannabis Board concerning the authorization of liquor sales on the Colville Reservation.

(j) ''Package'' means any container or receptacle used for holding liquor.

(k) ''Packaged Spirits'' means spirits sold to the consumer in an unopened container for consumption off the premises of the seller.

(l) ''Public place'' means streets and alleys of incorporated cities and towns; state, county, township or tribal highways or roads; buildings and grounds used for school purposes; rodeo grounds; parks; tribal ceremonial grounds; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this Chapter, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly-owned bathing beaches, parks or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(m) ''Regulations'' means regulations made by the Administrator under the power conferred by this Chapter.

(n) ''Reservation'' means the Colville Indian Reservation, including all land and waters within the exterior boundaries thereof, and off-Reservation lands held in trust for the Tribes or individual Indians.

(o) ''Sale'' and ''Sell'' means exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of packaged spirits.

(p) ''Spirits'' means any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen (17%) percent of alcohol by weight.

(u) ''Tribal Court'' means the Tribal Court of the Colville Tribes.

(v) ''Tribes'' means the Confederated Tribes of the Colville Indian Reservation, Washington.

6–2–8 Sale of Liquor

(a) *Minimum Age of 21:* Except as otherwise provided by tribal or state law, an employee in a licensed outlet or tavern may sell liquor to any person twenty-one (21) years of age or older for beverage purposes. Violation of this section is a Class B offense pursuant to section 3–1–94 of this Code.

(b) *Proof of Minimum Age:* Where there may be a question of a person's right to purchase liquor by reason of his age, such person shall be required to present any one of the following officially issued cards of identification which shows his correct age, bears his signature, and bears his or her photograph:

(1) Colville Tribal identification card;

(2) Washington State Tribal Enrollment Card (no expiration date required), or other approved Tribal enrollment identification cards;

(3) ''Identicard'' issued by the Washington State Department of Licensing, or a valid Washington State Temporary Driver's License;

(4) Driver's License, Instruction Permit, or I.D. Card issued by an U.S. State, U.S. Territory and District of Columbia;

(5) Driver's License, Instruction permit, or I.D. Card issued by any Canadian Province;

(6) Official Passport, passport card, or NEXUS card;

(7) U.S. Armed Forces I.D. Card (Encrypted signature acceptable);

(8) Merchant Marine I.D. Card issued by the U.S. Coast Guard.

(c) *Regulation Regarding Identification:* The Liquor Administrator may adopt such regulations as it deems proper covering the acceptance of such identification cards.

(d) *Sealed Packages May Be Required—Exception:* The Liquor Administrator shall by regulation prescribe that any/all liquors other than malt liquor be delivered to any purchaser at a tribally licensed outlet only in a packaged sealed with the official tax stamp.

(e) *Consumption on Premises:* No employee in a licensed liquor outlet shall open or consume, or allow to be opened or consumed any liquor on the store premises.

(f) *Record of Purchases:* All records whatsoever of the Administrator showing purchases of packaged spirits shall be deemed confidential, and may only be disclosed as required pursuant to the approved Memorandum of Agreement with the State of Washington.

(g) *Intoxicated Persons:* No tribally licensed outlet or tavern shall sell liquor to any buyer when, from the physical appearance of the buyer at the time of the sale, it could be reasonably believed or understood that the buyer was intoxicated. Any owner of a liquor outlet or tavern found to have made a sale to a buyer by the Colville Tribal Court, shall be, in any action for civil damages against the buyer and owner, jointly and severally liable in damages for any injury for which the buyer is found liable, and which injury occurs within eight (8) hours after the sale by the outlet or tavern to the buyer.

6–2–9 Colville Tribal Liquor Administrator

(a) *Regulation by Administrator:* For the purpose of carrying into effect the provisions of this Chapter according to their true intent or of supplying any deficiency therein, the Administrator may make such regulations and issue such orders not inconsistent with the spirit of this Chapter as are deemed necessary or advisable. All such regulations and orders shall have the same force and effect as if incorporated in this Chapter. Without limiting the generality of the foregoing provisions it is declared that the power of the Administrator to make regulations and issue orders shall include the power to:

(1) Regulate the equipment, management, and nature of books and records and reports concerning stores and warehouses in which packaged spirits are sold or kept;

(2) Prescribe the hours during which liquor stores shall be open;

(3) Prescribe forms to be used for purposes of this Chapter or regulations;

(4) Prescribe the manner of giving and serving notices required by this Chapter or regulations, where not otherwise provided for in this Chapter;

(5) Prescribe the manner and regulation of collection of the share of licensing fees owed by each location selling packaged spirits pursuant to a license issued under the Memorandum of Agreement;

(6) Determine the localities within the Reservation where liquor stores or outlets shall be established and the number and situation of such stores within each locality pursuant to the approved Memorandum of Agreement;

(7) Execute or cause to be executed all contracts, papers, and documents in the name of the Administrator under such regulations as may apply.

(b) *Immunity from Personal Liability:* Neither the Liquor Administrator nor any employee thereof shall be personally liable in any action at law for damages sustained by any person because of any action performed or done or omitted to be done by the Liquor Administrator or any employee of the Liquor Administrator in the performance of his or her duties and the administration of this Chapter.

(c) *Preemption of Field by Tribes:* No municipality, city, town, or county, nor the State of Washington shall have power to impose an excise or any other tax upon packaged spirits as defined in this Chapter, or to govern or license the sale or distribution thereof in any manner within the Colville Indian Reservation, except as permitted in the regulations of the Liquor Administrator and/or pursuant to the Memorandum of Agreement.

(d) *Inspection of Records:* For the purpose of obtaining information concerning any matter related to the administration or enforcement of this Chapter, the Liquor Administrator, or any person appointed by it in writing for the purpose, may inspect the books and records of any licensed seller of packaged spirits doing business on the Reservation. Every person who neglects or refuses to produce or submit for inspection any records referred to in this section when requested to do so by the Liquor Administrator or a person appointed by it, shall be guilty of a violation of this Chapter.

6–2–10 Packaged Spirits Account

(a) *Creation of Account:* There shall be a ''Packaged Spirits Account'' which shall hold all taxes, fees, penalties, forfeitures, and all other monies, income or revenue received under this Chapter by the Liquor Administrator.

(b) *Custodian of Liquor Account:* The Liquor Administrator shall be custodian of the Liquor Account.

(c) *Disbursements:* Disbursements from the fund shall be on authorization of the Colville Business Council at the request of the Liquor Administrator, and may be made only for tribal programs or projects related to the prevention or treatment of alcohol abuse, including ancillary services for families and children affected by a family member's alcohol abuse.

(d) *Use of Revenue:* All revenue derived from the sale of packaged spirits shall be used in accordance with this section. All revenue shall be specially earmarked and used only for the following purposes:

(1) The prevention and treatment of alcohol abuse and related programs; and

(2) Tribal Colville Law Enforcement agencies to provide for their expansion and increased efficiency.

6–2–11 Pharmaceutical Preparations, Patent Medicines, Denatured Alcohol

Nothing in this Chapter shall apply to or prevent sale, purchase or consumption of:

(a) Any pharmaceutical preparation containing liquor which is prepared by a druggist according to a formula of the pharmacopeia of the United States, or the dispensatory of the United States; or

(b) Any proprietary or patent medicine; or

(c) Wood alcohol or denatured alcohol, except in the case of the sale, purchase, or consumption of wood alcohol or denatured alcohol for beverage purposes, either alone or combined with any other liquid or substance.

6–2–12 Distribution of Packaged Spirits on the Colville Indian Reservation

(a) All persons, businesses, or entities of any sort distributing packaged spirits to businesses or persons within the boundaries of the Colville Indian Reservation or Reservation lands held in trust for the Tribes or individual Indians are subject to the provisions of this Chapter and other applicable law or

approved Memoranda of Agreement as required.

(b) Any person or entity which does distribute packaged spirits to any person or business located within the boundaries of the Colville Indian Reservation at a time when such person or entity is not validly licensed to do business shall be in violation of this Chapter and in violation of the Memorandum of Agreement and/or other applicable law.

(c) Persons or entities holding licenses for the sale of packaged spirits under this section shall be required to subject themselves in writing to the civil jurisdiction of the Colville Confederated Tribes and its Tribal Court for the purposes of this Chapter.

6–2–13 Taxes and Fees

(a) A tax amounting to precisely the same amount of tax collected by the State of Washington on the same or similar packaged spirits item shall be assessed pursuant to the provisions of an approved Memorandum of Agreement or fully executed Liquor Compact or with the State of Washington.

(b) Taxes collected by the Liquor Administrator shall be held in the Liquor Account.

6–2–14 Sovereign Immunity Preserved

Nothing in this Chapter is intended or shall be construed as a waiver of the sovereign immunity of the Confederated Tribes of the Colville Reservation. The Administrator, its staff, any manager or employee of the Tribes, or Tribal Enterprises is specifically prohibited from attempting to waive the inherent sovereign immunity of the Colville Confederated Tribes without the express written consent of the Colville Confederated Tribes.

6–2–15 Other Business

A licensee under this Chapter may conduct other business simultaneously with the management of a liquor products outlet, subject to applicable laws and regulations. The other business may be conducted on the same premises.

6–2–16 Operating Without a License

No person shall operate a liquor product outlet or tavern within the boundaries of the Colville Indian Reservation without first obtaining a current and valid license; persons in violation of this section shall be considered to be in violation of all federal Indian liquor laws and regulations as well as in violation of this Chapter.

6–2–17 Violations

(a) Pursuant to the provisions of the Memorandum of Agreement regarding enforcement, the Administrator of the Colville Confederated Tribes shall have the authority to enforce this Chapter.

(1) Such enforcement must conform with Chapter 1–5 Colville Tribal Civil Rights Act.

(2) Such enforcement must conform with Chapter 2–1 Criminal Actions, Chapter 2–2 Civil Actions, and Chapter 2–3 Infractions; Field Bonds; Other Civil Offenses and Forfeitures.

(b) *Non-payment of Taxes:*

(1) Any person or entity within or doing business within the boundaries of the Colville Indian Reservation who does not pay the taxes required to be paid under this Chapter shall be proceeded against in the Tribal Court of the Colville Confederated Tribes.

(2) The Tribal Court of the Colville Confederated Tribes is empowered to seize, attach, and forfeit to the Colville Confederated Tribes any property belonging to any person found by the Tribal Court to have failed to pay applicable fees and taxes due and owing under this Chapter; provided that the amount of property forfeited shall not be of a wholesale value greater than the amount of applicable fees or taxes alleged or found to be due and owing.

(3) Persons sued under this Section by the Administrator shall be entitled to a full evidentiary and adversarial hearing before the Tribal Court of the Colville Confederated Tribes, in accordance with Chapter 1–1, Chapter 1–2, Chapter 2–1 (if applicable), Chapter 2–2 (if applicable), and Chapter 2–3 (if applicable) of the Colville Tribal Code, before any order or forfeiture may be issued. Persons sued under this Section shall have the burden of proving that they do not owe any fees or taxes or that they have been assessed a greater amount of fees or taxes than they lawfully owe under this Chapter.

(c) *Other Violations:* The Administrator shall bring all persons or entities suspected to have violated any provision of this Chapter, except non-payment of fees or taxes due, to the attention of appropriate tribal or state law enforcement officials. With regard to Colville Tribal members alleged to have violated a provision or provisions of this Chapter other than non-payment of fees or taxes, the Tribal Court of the Colville Confederated Tribes shall have jurisdiction over the matter.

(d) Violation of this Chapter may result in the loss of an entities liquor license, or prohibition of the individual/entity from obtaining a license in the future. The Administrator is empowered to revoke the liquor license of any entity who is in violation of this Chapter so long as due process is afforded to the individual/entity pursuant to Chapter 1–5 of this Code.

6–2–18 Other Agreements

Notwithstanding anything to the contrary, if the Colville Tribes enters into a liquor compact with the State of Washington, relating to alcohol wholesaling, distribution, or retail sales which are not subject to an existing tribal-state Memorandum of Agreement or compact, the Tribal Code will control over conflicting provisions.

6–2–19 Effective Date

This Chapter shall take effect 30 days after approval by the Secretary and publication in the **Federal Register**.

6–2–20 Severability

If one or more provisions of this Chapter is/are deemed invalid by a court of competent jurisdiction, the remainder of this Chapter will remain in full force and effect.

[FR Doc. 2022–07755 Filed 4–11–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[223A2100DD/AAKC001030/A0A501010.999900]

Indian Gaming; Approval of Forest County Potawatomi Community Tribal-State Class III Gaming Compact With the State of Wisconsin

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the 2022 Amendment and Extension to the Forest County Potawatomi Community of Wisconsin and the State of Wisconsin Class III Gaming Compact (Amendment) providing for Class III gaming between the Forest County Potawatomi Community (Tribe) and the State of Wisconsin (State).

DATES: The Amendment takes effect on April 12, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Assistant Secretary—Indian Affairs, Washington, DC 20240, *paula.hart@bia.gov,* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in

the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment provides for on-reservation remote and retail sports wagering consistent with minimum internal control standards and rules of play agreed to by the State and the Tribe; extends the term of the compact to 2061; authorizes the Tribe to offer any form of table, electronic, or mechanical game; clarifies the existing Disaster Clause to include pandemics and provides a clear formula for the calculation of the reduction in revenue sharing payments if a facility is forced to close; contains several technical changes including removing obsolete language; and includes a forward looking provision which positions the Tribe to offer state-wide hub and spoke event wagering if State law is changed to allow such gaming, another Tribe's compact with the State authorizes such gaming, and the Tribe's Compact is amended. The Amendment is approved.

Wizipan Garriott,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising by delegation the authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2022–07754 Filed 4–11–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[223A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact in the State of Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the Fourth Amendment to the Technical Standards in the Tribal-State Compact for Control of Class III Video Games of Chance on the Shakopee Mdewakanton Sioux Community Reservation in Minnesota (Amendment) between the Shakopee Mdewakanton Sioux Community of Minnesota (Tribe) and the State of Minnesota (State).

DATES: The Amendment takes effect on April 12, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, *paula.hart@bia.gov,* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment permits the Tribe to operate a cashless wagering system for video games of chance. The Amendment contains technical standards for the operation of a cashless wagering system and amends the hardware and software requirements for Video Games of Chance. The Amendment is approved.

Wizipan Garriott,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising by delegation the authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2022–07753 Filed 4–11–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK940000.L14100000.BX0000.223. LXSS001L0100]

Filing of Plats of Survey: Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), Alaska State Office, Anchorage, Alaska. The surveys, which were executed at the request of the Bureau of Indian Affairs and BLM, are necessary for the management of these lands.

DATES: The BLM must receive protests by May 12, 2022.

ADDRESSES: You may buy a copy of the plats from the BLM Alaska Public Information Center, 222 W 7th Avenue, Mailstop 13, Anchorage, AK 99513. Please use this address when filing written protests. You may also view the plats at the BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 W 7th Avenue, Anchorage, Alaska, at no cost.

FOR FURTHER INFORMATION CONTACT: Thomas B. O'Toole, Chief, Branch of Cadastral Survey, Alaska State Office, Bureau of Land Management, 222 West 7th Avenue, Anchorage, AK 99513; 907–271–4231; *totoole@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The lands surveyed are:

Copper River Meridian, Alaska

U.S. Survey No. 3826, accepted November 12, 2021, situated in T. 40 S., R. 65 E.
U.S. Survey No. 3827, accepted November 15, 2021, situated in T. 40 S., R. 65 E.
U.S. Survey No. 14036, accepted March 1, 2022, situated in T. 25 N., R. 13 E.
U.S. Survey No. 14038, accepted March 1, 2022, situated in T. 25 N., R. 13 E.
U.S. Survey No. 14040, accepted March 1, 2022, situated in T. 25 N., R. 13 E.
U.S. Survey No. 14042, accepted February 10, 2022, situated in T. 18 N., R. 11 E.
T. 30 S., R. 55 E., accepted November 8, 2021.
T. 79 S., R. 89 E., accepted February 17, 2022.
T. 80 S., R. 89 E., accepted February 17, 2022.
T. 16 S., R. 4 W., Removal of Plat Suspension, Group No. 273, dated February 10, 2022.
T. 16 S., R. 4 W., Removal of Plat Suspension, Group No. 483, dated February 10, 2022.

Fairbanks Meridian, Alaska

U.S. Survey No. 4496, Chalkyitsik Townsite, situated in T. 21 N., R. 19 E., accepted January 12, 2022.
T. 16 N., R. 7 W., accepted January 19, 2022.

Seward Meridian, Alaska

T. 20 N., R. 6 E., accepted February 24, 2022.
T. 22 N., R. 6 E., accepted February 24, 2022
T. 20 N., R. 7 E., accepted February 24, 2022.
T. 20 N., R. 8 E., accepted February 24, 2022.
T. 20 N., R. 12 E., accepted February 24, 2022.
T. 2 N., R. 19 W., Removal of Plat Suspension, Group No. 1168, dated February 11, 2022.
T. 5 S., R. 46 W., accepted January 27, 2022.
T. 5 S., R. 49 W., accepted January 27, 2022.
T. 6 S., R. 49 W., accepted January 27, 2022.
T. 10 S., R. 54 W., accepted January 27, 2022.
T. 11 S., R. 55 W., accepted January 27, 2022.
T. 11 S., R. 56 W., accepted January 27, 2022.

Umiat Meridian, Alaska

T. 16 S., R. 12 E., accepted March 1, 2022.
T. 17 S., R. 12 E., accepted March 1, 2022.
T. 15 S., R. 13 E., accepted March 1, 2022.
T. 16 S., R. 13 E., accepted March 1, 2022.
T. 17 S., R. 13 E., accepted March 1, 2022.
T. 15 S., R. 14 E., accepted March 1, 2022.
T. 16 S., R. 14 E., accepted March 1, 2022.
T. 17 S., R. 14 E., accepted March 1, 2022.
T. 14 S., R. 15 E., accepted March 1, 2022.
T. 15 S., R. 15 E., accepted March 1, 2022.
T. 16 S., R. 15 E., accepted March 1, 2022.
T. 17 S., R. 15 E., accepted March 1, 2022.
T. 16 S., R. 16 E., accepted March 1, 2022.

T. 17 S., R. 16 E., accepted March 1, 2022.
T. 14 S., R. 17 E., accepted March 1, 2022.
T. 15 S., R. 17 E., accepted March 1, 2022.
T. 16 S., R. 17 E., accepted March 1, 2022.
T. 17 S., R. 17 E., accepted March 1, 2022.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for the BLM in Alaska. The protest may be filed by mailing to BLM State Director, Alaska State Office, Bureau of Land Management, 222 West 7th Avenue, Anchorage, AK 99513 or by delivering it in person to BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 West 7th Avenue, Anchorage, Alaska. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. You must file the notice of protest before the scheduled date of official filing for the plat(s) of survey being protested. The BLM will not consider any notice of protest filed after the scheduled date of official filing. A notice of protest is considered filed on the date it is received by the State Director for the BLM in Alaska during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for the BLM in Alaska within 30 calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personally identifiable information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personally identifiable information, may be made publicly available in their entirety at any time. While you can ask the BLM to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. chap. 3.

Thomas O'Toole,

Chief Cadastral Surveyor, Alaska.

[FR Doc. 2022–07767 Filed 4–11–22; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Two Proposed Consent Decrees Under the Clean Water Act

On April 7, 2022, the Department of Justice lodged two proposed consent decrees with the United States District Court for the Northern District of Indiana in the lawsuit entitled *United States of America and the State of Indiana* v. *the Sanitary District of Highland and the Town of Griffith, Indiana,* Civil Action No. 2:22–cv–00086.

The United States and the State of Indiana filed this lawsuit under the Clean Water Act against the Sanitary District of Highland, Indiana and the Town of Griffith, Indiana. The complaint seeks injunctive relief and civil penalties for violations of the regulations that govern discharges of pollutants to waters of the State and United States. The Complaint alleges that both Highland and Griffith had numerous illegal discharges of sanitary sewage from their sanitary sewer systems and that both defendants failed to comply with an EPA administrative order under the Clean Water Act.

The United States and the State of Indiana reached two separate consent decrees with Highland and Griffith. The consent decree with Highland requires it to make improvements designed to eliminate sanitary sewer overflows by 2033 and pay a $175,000 civil penalty. The consent decree with the Town of Griffith requires it to make improvements designed to eliminate sanitary sewer overflows by 2026 and pay a $33,000 civil penalty.

The publication of this notice opens a period for public comment on each consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America and the State of Indiana* v. *the Sanitary District of Highland and the Town of Griffith, Indiana,* D.J. Ref. Nos. 90–5–1–1–3308/4 and 90–5–1–1–3308/3. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $16.75 for the Highland Consent Decree or $16.75 for the Griffith Consent Decree (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–07810 Filed 4–11–22; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Petitions for Modification of Mandatory Safety Standards

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-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 May 12, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of

the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nora Hernandez by telephone at 202–693–8633, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) and under 30 CFR 44.9, operators of mines for which there is no representative of miners must post a copy of each petition for modification concerning the mine on the mine bulletin board and maintain the posting until a ruling on the petition becomes final. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 10, 2021 (86 FR 70535).

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–MSHA.

Title of Collection: Petitions for Modification of Mandatory Safety Standards.

OMB Control Number: 1219–0065.

Affected Public: Businesses or other for-profits institutions.

Total Estimated Number of Respondents: 56.

Total Estimated Number of Responses: 56.

Total Estimated Annual Time Burden: 2,240 hours.

Total Estimated Annual Other Costs Burden: $28,545.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–07778 Filed 4–11–22; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Escape and Evacuation Plans for Surface Coal Mines, Surface Facilities and Surface Work Areas of Underground Coal Mines

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting Mine Safety and Health Administration (MSHA)-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 May 12, 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: Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines. The escape and evacuation plan required by 30 CFR 77.1101 is prepared by the mine operator and is used by mines, MSHA, and persons involved in rescue and recovery operations. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 10, 2021 (86 FR 70537).

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–MSHA.

Title of Collection: Escape and Evacuation Plans for Surface Coal Mines, Surface Facilities and Surface Work Areas of Underground Coal Mines.

OMB Control Number: 1219–0051.

Affected Public: Businesses or other for-profits institutions.

Total Estimated Number of Respondents: 35.

Total Estimated Number of Responses: 35.

Total Estimated Annual Time Burden: 150 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–07777 Filed 4–11–22; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Records of Preshift and Onshift Inspections of Slope and Shaft Areas at Coal Mines

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-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 May 12, 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: Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Accordingly, 30 CFR 77.1901 requires operators to examine slope and shaft areas for hazardous conditions, including tests for methane and oxygen deficiency, within 90 minutes before each shift, once during each shift when employees are inside any slope or shaft during development, and before and after blasting. The standard also requires that a record be kept of the results of the inspections. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 10, 2021 (86 FR 70536).

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–MSHA.

Title of Collection: Records of Preshift and Onshift Inspections of Slope and Shaft Areas at Coal Mines.

OMB Control Number: 1219–0082.

Affected Public: Businesses or other for-profits institutions.

Total Estimated Number of Respondents: 15.

Total Estimated Number of Responses: 6,600.

Total Estimated Annual Time Burden: 8,250 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2022–07779 Filed 4–11–22; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (22–029)]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, May 3, 2022, 8:00 a.m.–5:00 p.m.; and Wednesday, May 4, 2022, 8:00 a.m.–12:00 p.m., Eastern Time.

ADDRESSES: Meeting will be virtual only. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is virtual and will take place telephonically and via Webex. Any interested person must use a touch-tone phone to participate in this meeting. The Webex connectivity information for each day is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day.

On Tuesday, May 3, the event address for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m0afaa930581f437b424591c939afbe52.* The event number is 2761 111 3129 and the event password is MCkiXzM@385 (62549961 from phones). If needed, the U.S. toll conference number is 1–415–527–5035 or 1–929–251–9612 and access code is 2761 111 3129.

On Wednesday, May 4, the event address for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m3da7d2f15271487a78503d5d51db7879.* The event number is 2760 394 0075 and the event password is paPvE8PA@54 (72783872 from phones). If needed, the U.S. toll conference number is 1–415–527–5035 or 1–929–251–9612 and access code is 2760 394 0075.

The agenda for the meeting includes the following topics:

—Science Mission Directorate (SMD) Missions, Programs and Activities.

It is imperative that the meeting be held on these dates due to the

scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–07758 Filed 4–11–22; 8:45 am]

BILLING CODE 7510–13–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m., Thursday, April 21, 2022.

PLACE: Via Conference Call.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Regular Board of Directors meeting.

The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) and (4) permit closure of the following portion(s) of this meeting:

- Executive Session

Agenda

I. CALL TO ORDER
II. FY2021 External Audit
III. Sunshine Act Approval of Executive (Closed) Session
IV. Executive Session with External Auditors
V. Executive Session Report from CEO
VI. Executive Session: Report from CFO
VII. Executive Session: General Counsel Report
VIII. Executive Session: NeighborWorks Compass™ Update
IX. Executive Session: Possible Chief Information Officer Appointment
X. Action Item Approval of Minutes
XI. Action Item Resolution to Approve FY21 External Audit
XII. Action Item New York City Office Lease
XIII. Action Item Health Insurance Special Delegation of Authority
XIV. Discussion Item March 10 Audit Committee Report
XV. Discussion Item FY22 All-Sources Budget
XVI. Discussion Item Interim CIO Report
XVII. Discussion Item Capital Corporations Update and Grant Request for June
XVIII. Discussion Item DC Office Relocation Budget
XIX. Adjournment

PORTIONS OPEN TO THE PUBLIC: Everything except the Executive Session.

PORTIONS CLOSED TO THE PUBLIC: Executive Session.

CONTACT PERSON FOR MORE INFORMATION: Lakeyia Thompson, Special Assistant, (202) 524–9940; *Lthompson@nw.org.*

Lakeyia Thompson,

Special Assistant.

[FR Doc. 2022–07865 Filed 4–8–22; 11:15 am]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0044]

Information Collection: Collection of Research Code Non-Disclosure Agreement Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Collection of Research Code Non-Disclosure Agreement Information.''

DATES: Submit comments by June 13, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0044. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0044 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0044.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML22046A247. The supporting statement is available in ADAMS under Accession No. ML22045A449.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0044 in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Collection of Research Code Non-Disclosure Agreement Information.
2. *OMB approval number:* 3150–0240.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* The collection is required every time an NRC developed code is requested by users.
6. *Who will be required or asked to respond:* Users of the code from domestic and foreign licensees, universities, corporations, and members of the public, as well as foreign technical support organizations.
7. *The estimated number of annual responses:* 962.
8. *The estimated number of annual respondents:* 962.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 962.
10. *Abstract:* This information collection request is a non-disclosure agreement (NDA) used for domestic and foreign entities to obtain and use the NRC's nuclear safety analytical computer codes. NRC develops and uses computer codes to independently model and evaluate safety issues associated with the licensed use of radioactive materials. As a global leader in nuclear regulatory research and safety assessment, NRC is frequently approached by domestic and international organizations requesting copies of NRC computer codes. In general, to obtain an NRC code an individual or organization first agrees to not redistribute the code (*i.e.,* non-disclosure) through an NDA. The NDA also imposes terms and conditions for code use, and requires notification to NRC of code errors, code modifications, and updated user information. An officially signed and executed NDA of users agreeing to the terms and conditions is current NRC practice for access to NRC-developed computer codes. Once the NDA has been signed, received, reviewed, and accepted, the requesting individual or organization is given access to the requested code. The information collection enables the NRC to ensure that proper procedures and agreements are in place to guide the distribution and use of these codes according to NRC and U.S. Government policies and international agreements such as import-export restrictions and intellectual property rights. Further information collection on code errors and modifications by code users permits NRC to maintain control and quality of its codes in a timely and efficient manner.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: April 7, 2022.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–07775 Filed 4–11–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0199]

Information Collection: Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

DATES: Submit comments by May 12, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0199 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0199.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/*

adams.html. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML22047A194 and ML21341B435.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on January 18, 2022, 87 FR 2641.

1. *The title of the information collection:* ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

2. *OMB approval number:* 3150–0021.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* Environmental reports are required upon submittal of an application for a combined license, construction permit, operating license, operating license renewal, early site permit, design certification, decommissioning or license termination review, or manufacturing license, or upon submittal of a petition for rulemaking.

6. *Who will be required or asked to respond:* Licensees and applicants requesting approvals for actions proposed in accordance with the provisions of parts 30, 32, 33, 34, 35, 36, 39, 40, 50, 52, 54, 60, 61, 70, and 72 of title 10 of the *Code of Federal Regulations* (10 CFR).

7. *The estimated number of annual responses:* 18.9.

8. *The estimated number of annual respondents:* 18.9.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 68,933.

10. *Abstract:* The NRC's regulations at 10 CFR part 51 specify information to be provided in environmental reports by applicants and licensees so that the NRC can make determinations necessary to adhere to the policies, regulations, and public laws of the United States, which are interpreted and administered in accordance with the provisions set forth in the National Environmental Policy Act of 1969, as amended.

Dated: April 7, 2022.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–07776 Filed 4–11–22; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Renewal of an Approved Information Collection, Standard Form (SF) 15, Application for 10-Point Veteran Preference, OMB Control No. 3206–0001

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a renewal of an information collection request (ICR) 3206–0001, Standard Form (SF) 15, Application for 10-Point Veteran Preference.

DATES: Comments are encouraged and will be accepted until June 13, 2022.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection by one of the following means:

• *Federal Rulemaking Portal: http://www.regulations.gov.*

All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

• *Email: Employ@opm.gov.* Please put ''Standard Form 15'' in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection request, with applicable supporting documentation, may be obtained by contacting Employee Services; Talent Acquisition, Classification, and Veterans Programs; Office of Personnel Management; 1900 E Street NW, Washington, DC 20415, Attention: Roseanna Ciarlante, 202–606–7400, or via electronic mail to *Employ@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-

Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The SF 15, Application for 10-Point Veteran Preference, is used by veterans as both a request for preference and a guide to determine the appropriate documentation to submit to support their claims of 10-point veterans' preference when applying for Federal employment. The SF 15, and the accompanying documentation, is used by agencies, OPM examining offices, and agency appointing officials to adjudicate individuals' claims for veterans' preference in accordance with the Veterans' Preference Act of 1944. This notice proposes to renew a currently approved collection. Therefore, we invite comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Office of Personnel Management.

Title: Standard Form (SF) 15, Application for 10-Point Veteran Preference.

OMB Number: 3206–0001.

Frequency: Annually.

Affected Public: Veterans and spouses and parents of deceased and disabled veterans.

Number of Respondents: 37,000.

Estimated Time per Respondent: 15 Minutes.

Total Burden Hours: 9,250.

Office of Personnel Management.

Kellie Cosgrove Riley,

Director, Office of Privacy and Information Management.

[FR Doc. 2022–07803 Filed 4–11–22; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020–83; MC2022–50 and CP2022–55]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filings, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 14, 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 gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2020–83; *Filing Title:* USPS Notice of Amendment to Parcel Select Contract 37, Filed Under Seal; *Filing Acceptance Date:* April 6, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Jennaca Upperman; *Comments Due:* April 14, 2022.

2. *Docket No(s).:* MC2022–50 and CP2022–55; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 217 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 6, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* April 14, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–07784 Filed 4–11–22; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94620; File No. SR–NYSEArca–2021–53]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the Teucrium Bitcoin Futures Fund Under NYSE Arca Rule 8.200–E, Commentary .02 (Trust Issued Receipts)

April 6, 2022.

I. Introduction

On July 23, 2021, NYSE Arca, Inc. (''Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the Teucrium Bitcoin Futures Fund (''Fund'') under NYSE Arca Rule 8.200–E, Commentary .02 (Trust Issued Receipts). The proposed rule change was published for comment in the **Federal Register** on August 11, 2021.[3]

On September 15, 2021, pursuant to Section 19(b)(2) of the Exchange 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] On November 8, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act [6] to determine whether to approve or disapprove the proposed rule change.[7] On January 25, 2022, the Commission designated a longer period for Commission action on the proposed rule change.[8] On March 7, 2022, the Exchange filed partial Amendment No. 2 to the proposed rule change.[9]

When an exchange files a proposed rule change,[10] the Commission must determine whether the proposed rule change is consistent with the statutory provisions, and the rules and regulations, that apply to national securities exchanges.[11] As discussed further below, the Commission is approving the proposed rule change, as modified by Amendment No. 2. In approving this proposed rule change, however, the Commission emphasizes—as it has with previous disapprovals of bitcoin-related ETPs [12]—that its action does not rest on an evaluation of whether bitcoin, or blockchain technology more generally, has utility or value as an innovation or an investment.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 2

As described in more detail in the Notice and Amendment No. 2,[13] the Exchange proposes to list and trade the Shares of the Fund under NYSE Arca Rule 8.200–E, Commentary .02, which governs the listing and trading of Trust Issued Receipts on the Exchange.

According to the Exchange, the Chicago Mercantile Exchange, Inc. (''CME'') currently offers two bitcoin futures contracts, one contract representing five (5) bitcoins [14] (''BTC Contract'') and another contract representing one-tenth of one (0.10) bitcoin (''MBT Contract'').[15] Each BTC Contract and MBT Contract settles daily to the BTC Contract volume-weighted average price (''VWAP'') of all trades that occur between 2:59 p.m. and 3:00 p.m., Central Time, the settlement period, rounded to the nearest tradable tick.[16] BTC Contracts and MBT Contracts each expire on the last Friday of the contract month, and the final settlement value for each contract is based on the CME CF Bitcoin Reference Rate (''CME CF BRR'').[17]

The investment objective of the Fund is to have the daily changes in the net asset value (''NAV'') of the Shares reflect the daily changes in the price of a specified benchmark (''Benchmark'').[18] The Benchmark will be calculated using the closing settlement prices of BTC Contracts listed on the CME. In seeking to achieve the Fund's investment objective, the Sponsor will employ a ''neutral'' investment strategy that is intended to track the changes in the Benchmark.[19] The Fund will only invest in BTC Contracts and MBT Contracts (''Bitcoin Futures Contracts'') and in cash and cash equivalents.[20] The Fund will roll its futures positions on a regular basis and will never carry futures positions all the way to cash settlement.[21]

The NAV per Share of the Fund will be calculated by taking the current market value of its total assets, subtracting any liabilities, and dividing that total by the number of Shares. The administrator of the Fund will calculate the NAV once each trading day, as of the earlier of the close of the New York Stock Exchange or 4:00 p.m., Eastern Time.[22]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 92573 (Aug. 5, 2021), 86 FR 44062 (''Notice''). Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-nysearca-2021-53/srnysearca202153.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 92999, 86 FR 52539 (Sept. 21, 2021).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 93534, 86 FR 63082 (Nov. 15, 2021).

[8] *See* Securities Exchange Act Release No. 94054, 87 FR 4974 (Jan. 31, 2022).

[9] The Exchange filed partial Amendment No. 1 to the proposed rule change on March 4, 2022, and withdrew partial Amendment No. 1 on March 7, 2022. In Amendment No. 2, the Exchange clarified, among others things, that under no circumstances will the Fund hold and/or invest in any assets other than BTC Contracts and MBT Contracts (each as defined below), cash, and cash equivalents; and provided additional representations that are commonly made by and/or required for futures-based exchange-traded products listed under NYSE Arca Rule 8.200–E, Commentary .02 (Trust Issued Receipts). Because Amendment No. 2 does not materially alter the substance of the proposed rule change, Amendment No. 2 is not subject to notice and comment. The full text of Amendment No. 2 is available on the Commission's website at: *https://www.sec.gov/comments/sr-nysearca-2021-53/srnysearca202153-20118884-271701.pdf* (''Amendment No. 2'').

[10] Such filings are made under Section 19(b)(1) of the Exchange Act, 15 U.S.C. 78s(b)(1), and Exchange Act Rule 19b–4, 17 CFR 240.19b–4.

[11] *See* Exchange Act Section 19(b)(2)(C), 15 U.S.C. 78s(b)(2)(C).

[12] *See, e.g.,* Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) and To List and Trade Shares of the United States Bitcoin and Treasury Investment Trust Under NYSE Arca Rule 8.201–E, Securities Exchange Act Release No. 88284 (Feb. 26, 2020), 85 FR 12595, 12597 (Mar. 3, 2020) (SR–NYSEArca–2019–39) (''USBT Order''); Order Disapproving a Proposed Rule Change To List and Trade Shares of the NYDIG Bitcoin ETF Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares), Securities Exchange Act Release No. 94395 (Mar. 10, 2022), 87 FR 14932, 14934 (Mar. 16, 2022) (SR–NYSEArca–2021–57) (''NYDIG Order'').

[13] *See* Notice, *supra* note 3; Amendment No. 2, *supra* note 9.

[14] Bitcoins are digital assets that are issued and transferred via a decentralized, open-source protocol used by a peer-to-peer computer network through which transactions are recorded on a public transaction ledger known as the ''bitcoin blockchain.'' The bitcoin protocol governs the creation of new bitcoins and the cryptographic system that secures and verifies bitcoin transactions. *See, e.g.,* Notice, 86 FR at 44063.

[15] BTC Contracts began trading on the CME Globex trading platform on December 15, 2017, and are cash-settled in U.S. dollars. MBT Contracts began trading on the CME Globex trading platform on May 3, 2021, under the ticker symbol ''MBT'' and are also cash-settled in U.S. dollars. *See id.* at 44062.

[16] *See id.* at 44073.

[17] *See id.* The CME CF BRR aggregates the trade flow of major bitcoin spot platforms during a specific calculation window into a once-a-day reference rate of the U.S. dollar price of bitcoin. *See id.* at 44067 n.59.

[18] The Fund is a series of Teucrium Commodity Trust (''Trust''). The Fund is managed and controlled by Teucrium Trading, LLC (''Sponsor''). *See id.* at 44062.

[19] *See id.* at 44062–63.

[20] *See* Amendment No. 2, *supra* note 9, at 3.

[21] *See* Notice, 86 FR at 44062.

[22] *See id.* at 44073–74.

The Fund will create and redeem Shares from time to time, but only in one or more blocks of 12,500 Shares (''Creation Baskets''). The purchase and redemption price for Creation Baskets will be based on the NAV calculated at the end of the business day when a request for a purchase or redemption is received by the Fund.[23] Shares will generally be created and redeemed in cash.[24]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the Exchange Act and rules and regulations thereunder applicable to a national securities exchange.[25] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Exchange Act,[26] which requires, among other things, that the Exchange's rules be designed to ''prevent fraudulent and manipulative acts and practices,'' to ''promote just and equitable principles of trade,'' to ''remove impediments to and perfect the mechanism of a free and open market and a national market system,'' and, ''in general, to protect investors and the public interest.'' The Commission also finds, with respect to the dissemination of quotation and last-trade information for the proposed ETP, that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[27] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

When considering whether Arca's proposal to list and trade the Shares is designed to prevent fraudulent and manipulative acts and practices, the Commission applies the same standard it used in orders considering previous proposals to list bitcoin-based commodity trusts and bitcoin-based trust issued receipts.[28] As the Commission has explained, an exchange that lists bitcoin-based exchange-traded products (''ETPs'') can meet its obligations under Exchange Act Section 6(b)(5) by demonstrating that the exchange has a comprehensive surveillance-sharing agreement with a regulated market of significant size related to the underlying or reference bitcoin assets.[29] The Winklevoss Order applied this standard to a commodity-trust ETP based on spot bitcoin, and the Commission has found that this standard is also appropriate for, and has applied the standard to, proposed ETPs based on bitcoin futures.[30]

In the analysis below, the Commission examines whether the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Exchange Act by addressing: In Section III.A whether Arca has entered into a comprehensive surveillance-sharing agreement with a regulated market of significant size related to the underlying bitcoin assets (here, CME bitcoin futures contracts); in Section III.B assertions that allowing investors to obtain exposure to bitcoin futures contracts through a bitcoin futures-based ETP would be beneficial; in Section III.C other assertions rasied by commenters; and in Section III.D whether the proposed ETP is consistent with other standards for commodity-futures ETPs. Based on its analysis, the

[23] *See id*. at 44074.

[24] *See* Amendment No. 2, *supra* note 9, at 3.

[25] In approving this proposed rule change, as modified by Amendment No. 2, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[28] *See* Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, To List and Trade Shares of the Winklevoss Bitcoin Trust, Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (Aug. 1, 2018) (SR–BatsBZX–2016–30) (''Winklevoss Order''); USBT Order, 85 FR 12595; Order Disapproving a Proposed Rule Change To List and Trade Shares of the WisdomTree Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 93700 (Dec. 1, 2021), 86 FR 69322 (Dec. 7, 2021) (SR–CboeBZX–2021–024) (''WisdomTree Order''); Order Disapproving a Proposed Rule Change To List and Trade Shares of the Kryptoin Bitcoin ETF Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 93860 (Dec. 22, 2021), 86 FR 74166 (Dec. 29, 2021) (SR–CboeBZX–2021–029) (''Kryptoin Order''); Order Disapproving a Proposed Rule Change To List and Trade Shares of the Valkyrie Bitcoin Fund Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares), Securities Exchange Act Release No. 93859 (Dec. 22, 2021), 86 FR 74156 (Dec. 29, 2021) (SR–NYSEArca–2021–31) (''Valkyrie Order''); Order Disapproving a Proposed Rule Change To List and Trade Shares of the First Trust SkyBridge Bitcoin ETF Trust Under NYSE Arca Rule 8.201–E, Securities Exchange Act Release No. 94006 (Jan. 20, 2022), 87 FR 3869 (Jan. 25, 2022) (SR–NYSEArca–2021–37) (''Skybridge Order''); Order Disapproving a Proposed Rule Change To List and Trade Shares of the Wise Origin Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 94080 (Jan. 27, 2022), 87 FR 5527 (Feb. 1, 2022) (SR–CboeBZX–2021–029) (''Wise Origin Order''); NYDIG Order, 87 FR 14932; Order Disapproving a Proposed Rule Change To List and Trade Shares of the Global X Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 94396 (Mar. 10, 2022), 87 FR 14912 (Mar. 16, 2022) (SR–CboeBZX–2021–052) (''Global X Order''); Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the ARK 21Shares Bitcoin ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 94571 (Mar. 31, 2022), 87 FR 20014 (Apr. 6, 2022) (SR–CboeBZX–2021–051). *See also* Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the SolidX Bitcoin Trust Under NYSE Arca Equities Rule 8.201, Securities Exchange Act Release No. 80319 (Mar. 28, 2017), 82 FR 16247 (Apr. 3, 2017) (SR–NYSEArca–2016–101) (''SolidX Order''). The Commission also notes that orders were issued by delegated authority on the following matters: Order Disapproving a Proposed Rule Change To List and Trade the Shares of the ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF, Securities Exchange Act Release No. 83904 (Aug. 22, 2018), 83 FR 43934 (Aug. 28, 2018) (SR–NYSEArca–2017–139) (''ProShares Order''); Order Disapproving a Proposed Rule Change To List and Trade the Shares of the GraniteShares Bitcoin ETF and the GraniteShares Short Bitcoin ETF, Securities Exchange Act Release No. 83913 (Aug. 22, 2018), 83 FR 43923 (Aug. 28, 2018) (SR–CboeBZX–2018–001) (''GraniteShares Order''); Order Disapproving a Proposed Rule Change To List and Trade Shares of the VanEck Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 93559 (Nov. 12, 2021), 86 FR 64539 (Nov. 18, 2021) (SR–CboeBZX–2021–019) (''VanEck Order'').

[29] *See* USBT Order, 85 FR at 12596. In the context of derivative securities products such as commodity-trust ETPs, the Commission has long recognized the importance of comprehensive surveillance-sharing agreements to detect and deter fraudulent and manipulative activity. *See, e.g.,* streetTRACKS Gold Shares, Securities Exchange Act Release No. 50603 (Oct. 28, 2004), 69 FR 64614, 64618–19 (Nov. 5, 2004) (SR–NYSE–2004–22); iShares Silver Trust, Securities Exchange Act Release No. 53521 (Mar. 20, 2006), 71 FR 14967, 14968, 14973–74 (Jan 26, 2005) (SR–Amex–2004–38); JPM XF Physical Copper Trust, Securities Exchange Act Release No. 68440 (Dec. 14, 2012), 77 FR 75468, 75469–70, 75272, 75485–86 (Dec. 20, 2012) (SR–NYSEArca–2012–28). *See also* Winklevoss Order, 83 FR at 37592 n.202 and accompanying text (discussing previous Commission approvals of commodity-trust ETPs). And the Commission's approval orders for commodity-futures ETPs consistently note the ability of an ETP listing exchange to share surveillance information either through surveillance-sharing agreements or through membership by the listing exchange and the relevant futures exchange in the Intermarket Surveillance Group. *See, e.g.,* Securities Exchange Act Release No. 53105 (Jan. 11 2006), 71 FR 3129, 3136 (Jan. 19, 2006) (SR–Amex–2005–059); Securities Exchange Act Release No. 53582 (Mar. 31, 2006), 71 FR 17510, 17518 (Apr. 6, 2006) (SR–Amex–2005–127); Securities Exchange Act Release No. 54013 (June 16, 2006), 71 FR 36372, 36378–79 (June 26, 2006) (SR–NYSE–2006–17). *See also* GraniteShares Order, 83 FR at 43925–27 nn.35–39 and accompanying text (discussing previous Commission approvals of commodity-futures ETPs). Listing exchanges have also attempted to demonstrate that other means besides surveillance-sharing agreements will be sufficient to prevent fraudulent and manipulative acts and practices, including that the bitcoin market as a whole or the relevant underlying bitcoin market is ''uniquely'' and ''inherently'' resistant to fraud and manipulation. *See* USBT Order, 85 FR at 12597. The Exchange, however, does not make any such arguments with respect to this proposal.

[30] *See* ProShares Order, 83 FR at 43936; GraniteShares Order, 83 FR at 43925.

Commission concludes that the proposed rule change, as modified by Amendment No. 2, is consistent with the statutory requirements of Exchange Act Sections 6(b)(5) and 11A(a)(1)(C)(iii).

As discussed in more detail below, the approval is based on a finding that the CME is a ''significant market'' *related to CME bitcoin futures contracts,* which would be the exclusive non-cash holdings of the proposed ETP. The Commission emphasizes that its approval of this proposal is based on the specific facts and circumstances of the proposal.[31]

A. Comprehensive Surveillance-Sharing Agreement With a Regulated Market of Significant Size Related to CME Bitcoin Futures Contracts

As stated above, an exchange that lists a bitcoin-based ETP can meet its obligations under Exchange Act Section 6(b)(5) by demonstrating that the exchange has a comprehensive surveillance-sharing agreement with a regulated market of significant size related to the underlying bitcoin assets.[32] When disapproving the earliest proposals for bitcoin-based ETPs, the Commission recognized that ''regulated bitcoin-related markets are in the early stages of their development,'' but that ''[o]ver time, regulated bitcoin-related markets may continue to grow and develop'' in a way that would make it possible for a bitcoin-based ETP to satisfy the requirements of the Exchange Act.[33] The Commission previously stated that, for example, ''existing or newly created bitcoin futures markets'' that are regulated may achieve significant size, and an ETP listing exchange may be able to demonstrate in a proposed rule change that it will be able to address the risk of fraud and manipulation by entering into a surveillance-sharing agreement with a regulated market of significant size.[34] Since the early stages of bitcoin futures trading on a regulated market, however, the Commission has not had the opportunity to consider whether a proposal for a bitcoin futures-based ETP is consistent with the Exchange Act.[35]

With respect to the proposed ETP, the underlying bitcoin assets are CME bitcoin futures contracts. The relevant analysis, therefore, is whether Arca has a comprehensive surveillance-sharing agreement with a regulated market of significant size related to CME bitcoin futures contracts. As discussed below, taking into consideration the direct relationship between the regulated market with which Arca has a surveillance-sharing agreement and the assets held by the proposed ETP, as well as developments with respect to the CME bitcoin futures market—including the launch of exchange-traded funds registered under the Investment Company Act of 1940 (''1940 Act'') that hold CME bitcoin futures (''Bitcoin Futures ETFs'')—the Commission concludes that the Exchange has the requisite surveillance-sharing agreement.

Comprehensive Surveillance-Sharing Agreements With the CME, a Regulated Market

The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance-sharing agreement with markets trading the underlying assets for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules.[36] Comprehensive surveillance-sharing agreements ''provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' [37] The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.[38]

As the Commission has stated, it considers two markets to have a comprehensive surveillance-sharing agreement with one another if they are both members of the Intermarket Surveillance Group (''ISG''), even if they do not have a separate bilateral surveillance-sharing agreement.[39] Accordingly, based on the common membership of Arca and the CME in the ISG,[40] Arca has the equivalent of a comprehensive surveillance-sharing agreement with the CME. Moreover, as the Commission has previously recognized, the Commodity Futures Trading Commission (''CFTC'') regulates the CME futures market, including the CME bitcoin futures market, and thus that market is ''regulated.'' [41]

Whether the CME Is a Market of Significant Size Related to CME Bitcoin Futures Contracts

In the Winklevoss Order, the Commission stated that the term ''significant market'' or ''market of significant size'' includes a market (or group of markets) as to which (1) 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, so that a surveillance-sharing agreement would assist in detecting and deterring misconduct, and (2) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[42] The Commission explained that this definition is illustrative and not exclusive, and that there could be other types of ''significant markets'' and ''markets of significant size.'' [43]

(1) Prong 1

The first prong of the analysis addresses whether the surveillance-sharing agreement on which the ETP-listing exchange proposes to rely would assist in detecting and deterring fraudulent or manipulative misconduct related to the assets held by the ETP.

In the present proposal, the proposed ETP's only non-cash holdings will be CME bitcoin futures contracts. Moreover, the proposed ''significant'' regulated market (*i.e.,* the CME) with which the listing exchange has a surveillance-sharing agreement is the

[31] The Commission is not suggesting that either the development of the CME bitcoin futures market or the approval of this proposal would require the Commission to approve a proposed rule change seeking to list and trade shares of an ETP holding spot bitcoin as an asset or ETPs related to other digital assets. *See, e.g.,* GraniteShares Order, 83 FR at 43931. Other proposed ETPs will continue to be assessed on their particular facts and circumstances and on whether those proposals are consistent with the requirements of the Exchange Act.

[32] *See supra* note 29 and accompanying text.

[33] *See* Winklevoss Order, 83 FR at 37580.

[34] *See id.;* USBT Order, 85 FR at 12598.

[35] *See* ProShares Order, 83 FR at 43941; GraniteShares Order, 83 FR at 43931.

[36] *See* Amendment to Rule Filing Requirements for Self-Regulatory Organizations Regarding New Derivative Securities Products, Securities Exchange Act Release No. 40761 (Dec. 8, 1998), 63 FR 70952, 70959 (Dec. 22, 1998).

[37] *Id. See also* Winklevoss Order, 83 FR at 37594; ProShares Order, 83 FR at 43936; GraniteShares Order, 83 FR at 43924; USBT Order, 85 FR at 12596.

[38] *See* Winklevoss Order, 83 FR at 37592–93 (discussing Letter from Brandon Becker, Director, Division of Market Regulation, Commission, to Gerard D. O'Connell, Chairman, Intermarket Surveillance Group (June 3, 1994), available at *https://www.sec.gov/divisions/marketreg/mr-noaction/isg060394.htm*).

[39] *See id.* at 37580 n.19.

[40] *See* Notice, 86 FR at 44070–71.

[41] *See, e.g.,* WisdomTree Order, 86 FR at 69330; Wise Origin Order, 87 FR at 5534.

[42] *See* Winklevoss Order, 83 FR at 37594.

[43] *See id.*

same market on which these assets trade. The Commission agrees with Arca that the CME, as a CFTC-regulated futures exchange, has ''the requisite oversight, controls, and regulatory scrutiny necessary to maintain, promote, and effectuate fair and transparent trading of its listed products, including the BTC Contracts and MBT Contracts.'' [44] As Arca states, as a Designated Contracts Market (''DCM''), the CME ''comprehensively surveils futures market conditions and price movements on a real-time and ongoing basis in order to detect and prevent price distortions, including price distortions caused by manipulative efforts.'' [45] Thus the CME's surveillance can reasonably be relied upon to capture the effects on the CME bitcoin futures market caused by a person attempting to manipulate the proposed futures ETP by manipulating the price of CME bitcoin futures contracts, whether that attempt is made by directly trading on the CME bitcoin futures market or indirectly by trading outside of the CME bitcoin futures market. As such, when the CME shares its surveillance information with Arca, the information would assist in detecting and deterring fraudulent or manipulative misconduct related to the non-cash assets held by the proposed ETP.[46] Accordingly, for the present proposal, it is unnecessary for Arca to establish a reasonable likelihood that the would-be manipulator would have to trade on the CME itself to manipulate the proposed ETP.[47]

Arca makes several arguments in support of its assertion that a person manipulating the proposed ETP would be reasonably likely to trade on the CME bitcoin futures market.[48] First, Arca argues that the CME bitcoin futures market is the ''primary [b]itcoin price discovery'' market.[49] Second, Arca asserts that the CME bitcoin futures market ''compares favorably with other markets that were deemed to be markets of significant size'' in various prior Commission approval orders for the listing of commodity and commodity futures-based ETPs.[50] Arca asserts that, like gold, wheat, and other futures, bitcoin futures have grown in size to such a degree that they cannot be effectively or precisely manipulated by trading in other bitcoin interests.[51] Third, Arca argues that, ''due to the unique structure of the Fund,'' it is unlikely that price manipulation or fraud on spot bitcoin trading platforms will have a measurable impact on the NAV of the Fund.[52] Arca reasons that, ''[b]ecause the Fund calculates daily NAV based on Bitcoin Futures Contracts' settlement prices and does not calculate NAV based directly on the underlying spot [b]itcoin market . . . the only practicable way for a bad actor to manipulate the NAV of the Fund is through manipulating the first and second to expire Bitcoin Futures Contracts; there is simply no material connection between those two futures contracts and the underlying [b]itcoin spot market.'' [53] Arca further states that ''the market for BTC Contracts and MBT Contracts stands alone within the overall global [b]itcoin ecosphere,'' and is now of such size and scale that ''[b]itcoin futures prices are not specifically materially influenced by other [b]itcoin markets.'' [54] Fourth, Arca asserts that because of this ''lack of connection'' between the CME bitcoin futures contracts and spot bitcoin trading platforms, establishing a ''lead-lag'' relationship between the two is ''unnecessary and irrelevant.'' [55] Fifth, Arca states that recent—and continuing—growth in the CME bitcoin futures market (discussed further below) establishes that CME is a market of significant size and ''the primary, if not the lone determinant, of its valuation.'' [56] Sixth, Arca asserts that a would-be manipulator of bitcoin prices would be reasonably likely to do so through the CME bitcoin futures market, rather than any spot market, in order to take advantage of the ''inherent leverage'' in bitcoin futures; and that a would-be manipulator would be much more likely to attempt to manipulate a ''limited number of futures markets'' rather than attempt simultaneous executions on ''potentially dozens'' of different platforms.[57] Finally, Arca states that, based on an analysis of past Commission orders, the Sponsor believes that the relevant standard for a surveillance-sharing agreement should be whether it is ''adequate to monitor'' for abuses in the trading of the Fund's Shares, and Arca emphasizes that the Commission's two-pronged definition for a ''significant'' market in the Winklevoss Order was illustrative and not exclusive.[58]

The Commission disagrees with much of Arca's reasoning. The evidence in the record does not support a finding that the CME leads bitcoin price discovery.[59] Rather, the Commission has found that the ''mixed results'' of price discovery analyses, including the two studies cited by Arca in its filing,[60] fail to demonstrate that the CME bitcoin futures market constitutes a market of significant size vis-à-vis the bitcoin spot market.[61] As the Commission has also

[44] Notice, 86 FR at 44063.

[45] *Id.* at 44072 & n.85.

[46] This reasoning, however, does not extend to spot bitcoin ETPs. Spot bitcoin markets are not currently ''regulated.'' *See, e.g.,* USBT Order, 85 FR at 12604; NYDIG Order, 87 FR at 14936 nn.65–67. If an exchange seeking to list a spot bitcoin ETP relies on the CME as the regulated market with which it has a comprehensive surveillance-sharing agreement, because the assets held by a spot bitcoin ETP would not be traded on the CME, that proposal would be significantly different from the current proposal. Because of this important difference, with respect to a spot bitcoin ETP, there would be reason to question whether a surveillance-sharing agreement with the CME would, in fact, assist in detecting and deterring fraudulent and manipulative misconduct affecting the price of the spot bitcoin held by that ETP. If, however, an exchange proposing to list and trade a spot bitcoin ETP identifies the CME as the regulated market with which it has a comprehensive surveillance-sharing agreement, the exchange could overcome the Commission's concern by demonstrating that there is a reasonable likelihood that a person attempting to manipulate the spot bitcoin ETP would have to trade *on the CME* in order to manipulate the ETP, because such demonstration would help establish that the exchange's surveillance-sharing agreement with the CME would have the intended effect of aiding in the detection and deterrence of fraudulent and manipulative misconduct related to the spot bitcoin held by the ETP.

[47] In addition, when considering past proposals for spot bitcoin ETPs, the Commission has discussed whether there is a lead-lag relationship between the regulated market (*e.g.,* the CME) and the market on which the assets held by the ETP would have traded (*i.e.,* spot bitcoin platforms), as part of an analysis of whether a would-be manipulator of the spot bitcoin ETP would need to trade on the regulated market to effect such manipulation. *See, e.g.,* USBT Order, 85 FR at 12612. For the present proposal, because of the direct relationship between the regulated market (*i.e.,* the CME) and the only non-cash assets held by the proposed ETP (*i.e.,* CME bitcoin futures contracts), establishing a ''lead-lag'' relationship between the CME and non-CME markets is also unnecessary.

[48] *See* Notice, 86 FR at 44071–73.

[49] *See id.* at 44071.

[50] *See id.*

[51] *See id.* at 44072.

[52] *See id.* at 44071.

[53] *Id.*

[54] *Id.*

[55] *See id.* at 44072.

[56] *See id.*

[57] *See id.* at 44072–73.

[58] *See id.* at 44072.

[59] *See also* USBT Order, 85 FR at 12612; WisdomTree Order, 86 FR at 69331; Wise Origin Order, 87 FR at 5535.

[60] *See* Notice, 86 FR at 44071 n.76. The Exchange includes weblinks to papers by: B. Kapar & J. Olmo, *An analysis of price discovery between Bitcoin futures and spot markets,* 174 Econ. Letters 62 (2019) (''Kapar & Olmo''); and A. Chang, W. Herrmann & W. Cai, *Efficient Price Discovery in the Bitcoin Markets,* Wilshire Phoenix, Oct. 14, 2020 (''Wilshire Phoenix'').

[61] *See, e.g.,* USBT Order, 85 FR at 12613 n. 244 (discussing that studies such as Kapar & Olmo that use daily price data, as opposed to intraday prices, may not be able to distinguish which market incorporates new information faster); WisdomTree Order, 86 FR at 69331 n.143 (concluding that the papers cited by a commenter, including the

Continued

previously stated, citations to academic studies about the interrelationship of spot and futures markets for *other* asset classes (such as gold) are not persuasive, and do not help the Exchange to meet its burden with respect to a bitcoin-based ETP.[62] In addition, the Commission is not persuaded that the market for CME bitcoin futures contracts ''stands alone;'' has a ''lack of connection'' with, and is ''not specifically materially influenced'' by, other bitcoin markets; nor that it is ''the primary, if not the lone determinant, of its valuation.'' Nor is the Commission persuaded that the Fund's calculation of NAV based on the daily settlement price insulates the NAV from activity in other bitcoin markets, given that there is nothing that prevents the trade prices that contribute to the daily settlement price [63] from themselves being influenced by activity in other bitcoin markets. Moreover, while it may be plausible that a would-be manipulator may attempt their scheme through a leveraged position on a ''limited number of futures markets,'' it is not clear from the record why, as Arca asserts, such a would-be manipulator would choose to use a *regulated* futures market with limited leverage, such as the CME, to perpetrate its fraud or manipulation, rather than unregulated futures platforms that permit higher leverage.[64]

However, none of these deficiencies in Arca's arguments concerning whether there is a reasonable likelihood that a would-be manipulator of the proposed ETP would have to trade on the CME conflicts with the Commission's determination that, because the only non-cash assets held by the proposed ETP (*i.e.,* CME bitcoin futures contracts) are traded on the CME itself, Arca's surveillance-sharing agreement with the CME can reasonably be relied upon to assist in detecting and deterring fraudulent or manipulative misconduct related to those assets. Thus the first prong of the standard for ''market of significant size'' has been established.

(2) Prong 2

As discussed above, in determining whether the CME bitcoin futures market constitutes a ''market of significant size'' related to CME bitcoin futures contracts, the Commission has also considered as a second prong of the analysis whether trading in the proposed ETP would be unlikely to be the predominant influence on prices in the CME bitcoin futures market.[65] Based on the facts and circumstances here, the Commission finds that this second prong has been satisfied.

Arca asserts that trading in the Shares would not be the predominant force on prices in the CME bitcoin futures market (or spot market) because of the significant volume in and size of the CME bitcoin futures market, and the significant liquidity available in the spot market.[66] Arca states that, since the USBT Order was issued, there has been significant growth in CME bitcoin futures across each of trading volumes ($433 million on February 26, 2020, compared to $4.321 billion on April 7, 2021) and open interest ($238 million on February 26, 2020, compared to $2.582 billion on April 7, 2021).[67]

Arca also states that the growth of the CME bitcoin futures market has coincided with similar growth in the bitcoin spot market, and that the market for bitcoin futures is rapidly approaching the size of markets for other commodity interests.[68] Arca states that, as the bitcoin futures market continues to develop and more closely resemble other commodity futures markets, it can be reasonably expected that ''the relationship between the [b]itcoin futures market and [b]itcoin spot market will behave similarly to other future/spot market relationships, where the spot market may have no relationship to the futures market.'' [69]

Arca also argues that the significant liquidity in the bitcoin spot market and the impact of market orders on the overall price of bitcoin have made attempts to move the price of bitcoin increasingly expensive over the past year.[70] According to Arca, in January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in February 2021) with a market impact of 50 basis points (compared to 30 basis points in February 2021). For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in February 2021) with a market impact of 80 basis points (compared to 50 basis points in February 2021). Arca contends that as the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease.[71] Arca concludes that, to the extent that the bitcoin spot market can be used to move the CME bitcoin futures market (which it does not believe is the case), this would make it even more likely that a person attempting to manipulate the price of the Shares would have to do so by manipulating the CME bitcoin futures market.[72]

The Commission has considered and rejected nearly identical arguments in past disapproval orders of spot bitcoin ETPs.[73] Moreover, the Commission finds arguments centered around the relationship between the bitcoin spot market and the CME bitcoin futures market to be inapposite where, as here, the proposed ''significant'' market (*i.e.,* the CME bitcoin futures market) is the same as the market on which the proposed ETP's only non-cash assets (*i.e.,* CME bitcoin futures contracts) trade.

Nonetheless, for the reasons discussed below, the Commission concludes that it is unlikely that trading in the proposed ETP would be the predominant influence on prices in the CME bitcoin futures market. In past orders approving commodity-futures ETPs, the Commission relied on the proposing exchanges' representations regarding the trading volume of the underlying futures markets, and the Commission was in each of those cases dealing with a large futures market that had been trading for a number of years before an exchange proposed an ETP based on those futures.[74]

With respect to the present proposal, the Commission observes that the CME bitcoin futures market has ''progressed and matured significantly.'' [75] CME began offering trading in BTC Contracts in 2017 and in MBT Contracts in 2021.[76] As Arca states, nearly every measurable metric related to BTC Contracts has trended consistently up since launch and/or accelerated upward in the past year.[77] As Arca notes, trading in BTC Contracts has increased from $737 million in December 2017, to $1.4

Wilshire Phoenix working paper, evidence the unsettled nature of the academic literature).

[62] *See* USBT Order, 85 FR at 12613; Wise Origin Order, 87 FR at 5540.

[63] *See supra* note 16 and accompanying text.

[64] *See* NYDIG Order, 87 FR at 14939 n.105.

[65] *See* Winklevoss Order, 83 FR at 37594; USBT Order, 85 FR at 12596–97.

[66] *See* Notice, 86 FR at 44073.

[67] *See id.*

[68] *See id.*

[69] *Id.*

[70] *See id.*

[71] *See id.*

[72] *See id.*

[73] *See* VanEck Order, 86 FR at 64548–49; WisdomTree Order, 86 FR at 69332–33; Kryptoin Order, 86 FR at 74177; Skybridge Order, 87 FR at 3878–79; Wise Origin Order, 87 FR at 5536–37; NYDIG Order, 87 FR at 14939–40; Global X Order, 87 FR at 14920–21.

[74] *See, e.g.,* GraniteShares Order, 83 FR at 43925–27 & nn.36–37. And where the Commission has considered a proposed ETP based on futures that had only recently begun trading, the Commission specifically addressed whether the futures on which the ETP was based—which were futures on an index of well-established commodity futures—were illiquid or susceptible to manipulation. *See id.* at 43927 & nn.38–39.

[75] *See* Notice, 86 FR at 44064.

[76] *See id.* at 44067.

[77] *See id.*

billion in December 2018, $3.9 billion in December 2019, and $28 billion in December 2020.[78] In December 2021, trading in BTC Contracts was $44.6 billion.[79] Arca also notes that the BTC Contracts and MBT Contracts are highly liquid,[80] and that BTC Contracts traded more than $1.2 billion per day in December 2020 and represented $1.6 billion in open interest, compared to $115 million in December 2019.[81] Arca states that there is a ''clear trend in year-over-year growth'' in the CME bitcoin futures market, which is ''still growing in size.'' [82]

Significantly, evidence from the recent introduction of 1940 Act-registered Bitcoin Futures ETFs also supports the Commission's conclusion that it is unlikely that trading in the proposed ETP would be the predominant influence on prices in the CME bitcoin futures market. Since October 2021, three such ETFs have launched holding exclusively CME bitcoin futures contracts: ProShares Bitcoin Strategy ETF (''BITO''), Valkyrie Bitcoin Strategy ETF (''BTF''), and VanEck Bitcoin Strategy ETF (''XBTF''). BITO, which launched first on October 19, 2021, obtained $1.21 billion in assets under management (''AUM'') within three days of launch.[83] As of March 31, 2022, BITO had AUM of approximately $1.31 billion, constituting approximately 49.6 percent of open interest in the front two month BTC Contracts.[84] BTF and XBTF, which launched second and third, had AUM as of March 31, 2022, of approximately $47.8 million and $29.1 million, respectively.[85]

Since the launch of Bitcoin Futures ETFs, the Commission has neither observed any disruption to the CME bitcoin futures market, nor any evidence that the Bitcoin Futures ETFs have exerted a dominant influence on CME bitcoin futures prices. For example, based on CME data,[86] the Commission has not observed any disruption to, or dominant influence from the Bitcoin Futures ETFs on, settlement prices, spreads, or roll costs of CME bitcoin futures contracts. The Commission thus concludes that the CME bitcoin futures market has sufficiently developed to support ETPs seeking exposure to bitcoin by holding CME bitcoin futures contracts.[87]

Taken together, the maturation of the CME bitcoin futures market since its inception in 2017—including, but not limited to, the overall size, volume, liquidity, and number of years of trading in the CME bitcoin futures market—and evidence from the 1940 Act-registered Bitcoin Futures ETFs persuade the Commission that trading in the proposed ETP is not likely to be the predominant influence on prices in the CME bitcoin futures market. Thus the second prong of the standard for ''market of significant size'' has been established.

Therefore, the Commission concludes that the CME is a ''significant market'' related to CME bitcoin futures contracts, and thus that the Exchange has entered into the requisite surveillance-sharing agreement.

B. Exposure to Bitcoin Futures Contracts Through a Bitcoin Futures-Based ETP

Arca contends that, if approved, the proposed ETP would protect investors and the public interest. Arca asserts that, with the growth of U.S. investor exposure to bitcoin through over-the-counter (''OTC'') bitcoin funds, so too has grown the potential risk to U.S. investors.[88] Specifically, Arca argues that premium and discount volatility, high fees, insufficient disclosures, and technical hurdles are exposing U.S. investors to risks that could potentially be eliminated through access to a bitcoin futures-based ETP.[89] The Exchange believes that the Fund represents an opportunity for U.S. investors to gain price exposure to bitcoin futures contracts in a regulated and transparent exchange-traded vehicle that limits risks by: (i) Reducing premium and discount volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure; and (iv) avoiding regulatory concerns regarding custody and valuation posed by ETFs and ETPs that invest directly in bitcoin rather than in bitcoin futures contracts.[90]

According to Arca, OTC bitcoin funds are generally designed to provide exposure to bitcoin in a manner similar to the Shares. However, unlike the Shares, Arca states that OTC bitcoin funds are unable to freely offer creation and redemption in a way that incentivizes market participants to keep their shares trading in line with their NAV and, as such, frequently trade at a price that is out-of-line with the value of their assets held.[91] Arca represents that, historically, OTC bitcoin funds have traded at a significant premium to NAV.[92] Although the Exchange concedes that trading at a premium or a discount is not unique to OTC bitcoin funds and not itself problematic, Arca believes that it raises certain investor protections issues. First, according to Arca, investors may be buying shares of a fund for a price that is not reflective of the per share value of the fund's underlying assets.[93] Second, according to Arca, because only accredited investors, generally, are able to purchase shares from the issuing fund and can buy such shares directly from the fund at NAV (in exchange for either cash or

[78] *See id.*

[79] In March 2022, trading in BTC Contracts was $38.9 billion. Source: Bloomberg. At the time the Commission last considered bitcoin-futures based ETPs (August 2018), publicly available data showed that the median daily notional trading volume, from inception of the CME bitcoin futures market through August 10, 2018, had been 14,185 bitcoins; and that the median daily notional value of open interest in CME during the same period had been 10,145 bitcoins. *See, e.g.,* GraniteShares Order, 83 FR at 43930 & n.88. In addition, the CFTC Chairman at that time characterized the volume of the bitcoin futures markets as ''quite small.'' *See id.* at 43930 & n.90.

[80] *See* Notice, 86 FR at 44063.

[81] *See id.* at 44067.

[82] *See id.* at 44072. The Commission notes that Arca provided only data showing *absolute* growth in the size of the CME bitcoin futures market, but provides no data *relative* to the concomitant growth in either the bitcoin spot markets or other bitcoin derivative markets (including unregulated futures markets). However, given the direct relationship between the CME and the proposed ETP's bitcoin-related holdings (CME bitcoin futures contracts), such comparisons are unnecessary.

[83] Source: Bloomberg.

[84] Source: Bloomberg.

[85] Source: Bloomberg.

[86] Source: CME Globex MDP 3.0 (Market Data Platform).

[87] By contrast, at the time the Commission last considered bitcoin-futures based ETPs (August 2018), the President and COO of Cboe Global Markets had acknowledged in a letter to Commission staff that ''the current bitcoin futures trading volumes on Cboe Futures Exchange and CME may not currently be sufficient to support ETPs seeking 100% long or short exposure to bitcoin.'' *See, e.g.,* GraniteShares Order, 83 FR at 43930 & n.91.

[88] *See* Notice, 86 FR at 44066.

[89] *See id.* Arca states that while it understands the Commission's previous focus in prior disapproval orders on potential manipulation of a bitcoin ETP holding actual bitcoin, Arca believes that ''such concerns have been sufficiently mitigated by the use of futures contracts in the proposed ETP.'' *Id.*

[90] *See id.*

[91] *See id.* Arca also states that, unlike the Shares, because OTC bitcoin funds are not listed on an exchange, they are not subject to the same transparency and regulatory oversight by a listing exchange. Arca further asserts that the existence of a surveillance-sharing agreement between Arca and the CME results in increased investor protections for the Shares compared to OTC bitcoin funds. *See id.* at 44066 n.47.

[92] *See id.* at 44066. Arca further represents that the inability to trade in line with NAV may at some point result in OTC bitcoin funds trading at a discount to their NAV. According to Arca, while that has not historically been the case, prolonged, significant trading at a discount would give rise to nearly identical potential issues related to trading at a premium. *See id.* at 44066 n.48.

[93] *See id.* at 44066.

bitcoin) without having to pay the premium or sell into the discount, these investors that are able to hedge their bitcoin exposure as needed to satisfy holding requirements and collect on the premium or discount opportunity. Arca argues, therefore, that the premium in OTC bitcoin funds essentially creates a transfer of value from retail investors to more sophisticated investors.[94]

Arca also asserts that a number of operating companies engaged in unrelated businesses have announced investments as large as $1.5 billion in bitcoin.[95] Arca argues that, without access to bitcoin ETPs, retail investors seeking investment exposure to bitcoin may purchase shares in these companies in order to gain the exposure to bitcoin that they seek.[96] Arca contends that such operating companies, however, are imperfect bitcoin proxies and provide investors with partial bitcoin exposure paired with additional risks associated with whichever operating company they decide to purchase. Arca concludes that investors seeking bitcoin exposure through publicly traded companies are gaining only partial exposure to bitcoin and are not fully benefitting from the risk disclosures and associated investor protections that come from the securities registration process.[97]

Arca also states that investors in many other countries, including Canada, are able to use more traditional exchange-listed and traded products to gain exposure to bitcoin.[98]

Arca further asserts that exposure to bitcoin through a bitcoin futures-based ETP like the Fund also presents advantages for retail investors compared to buying spot bitcoin directly.[99] Arca asserts that the most notable advantage is that the BTC Contracts and MBT Contracts in which the Fund will invest do not require special, potentially complex and untested, custody procedures. Arca states that the Fund will have no ownership interests of any kind in actual bitcoin[100] and, unlike physical bitcoin ETPs, the Fund will not be required to use a bitcoin custodian because it will not be holding bitcoin.[101] Arca asserts that an ETP whose holdings consist exclusively of BTC Contracts and MBT Contracts would have all the benefits enjoyed by investors currently holding approved and listed futures-based ETPs without the risks associated with ETPs that hold actual bitcoin.[102] Arca asserts that, by contrast, an individual retail investor holding bitcoin through a cryptocurrency exchange lacks these protections; and that a retail investor holding spot bitcoin directly in a self-hosted wallet may suffer from inexperience in private key management (*e.g.,* insufficient password protection, lost key, etc.), which could cause them to lose some or all of their bitcoin holdings. Arca states that, in addition, retail investors will be able to hold the Shares in traditional brokerage accounts which provide SIPC protection if the brokerage firm fails.[103]

In essence, Arca asserts that the risky nature of direct investment in spot bitcoin or a spot bitcoin ETP and the unregulated markets on which bitcoin and OTC bitcoin funds trade compels approval of the proposed ETP. The Commission disagrees.[104] Pursuant to Section 19(b)(2) of the Exchange Act, the Commission must approve a proposed rule change filed by a national securities exchange if it finds that the proposed rule change is consistent with the applicable requirements of the Exchange Act, and it must disapprove the filing if it does not make such a finding.[105] Thus, even if a proposed rule change purports to protect investors from a particular type of investment risk—such as the susceptibility of an asset to loss or theft—the proposed rule change may still fail to meet the requirements under the Exchange Act.[106]

Regardless of Arca's assertions and for the reasons discussed herein—including that Arca has demonstrated that it has a comprehensive surveillance-sharing agreement with a regulated market of significant size related to CME bitcoin futures contracts that will help prevent fraudulent and manipulative acts and practices,[107] and that core aspects of the proposed ETP will be consistent with other commodity-futures ETPs that the Commission has approved, including with respect to the availability of pricing information, transparency of portfolio holdings, and types of surveillance procedures[108]—the Commission finds that the proposal is also consistent with the requirement under Section 6(b)(5) that the Exchange's rules be designed to protect investors and the public interest.[109]

C. Other Comments Related to Bitcoin ETPs

Counsel for the Sponsor submitted a letter that argues that the Commission should be equally receptive to 1940 Act-registered Bitcoin Futures ETFs and the proposed ETP.[110] The Sponsor Letter also argues that there are ''compelling equitable bases'' to put the review and approval process for the proposed ETP ''on parity'' with Bitcoin Futures ETFs.[111] The Commission has considered and, for the reasons discussed above, is approving the proposed rule change, as modified by Amendment No. 2, on its own merits and under the standards applicable to it; namely, the standards provided by Section 6(b)(5) and Section 11A(a)(1)(C)(iii) of the Exchange Act.[112]

One comment letter also mentions risks of bitcoin adoption and the bitcoin network's effect on the environment.[113] Ultimately, however, additional discussion of these topics is unnecessary, as they do not bear on the basis for the Commission's decision to approve the proposal.

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[94] *See id.*

[95] *See id.* at 44067.

[96] *See id.*

[97] *See id.*

[98] *See id.* at 44065. Arca represents that the Purpose Bitcoin ETF, a retail bitcoin-based ETP launched in Canada, reportedly reached $421.8 million in AUM in two days, and $993 million in AUM as of April 2021, demonstrating the demand for a North American market-listed bitcoin ETP. Arca contends that the Purpose Bitcoin ETF also offers a class of units that is U.S. dollar bitcoin denominated, which could appeal to U.S. investors. Arca also argues that without an approved bitcoin ETP in the U.S. as a viable alternative, U.S. investors will seek to purchase these shares in order to get access to bitcoin exposure, leaving them without the protections of U.S. securities laws. Arca believes that, given the separate regulatory regime and the potential difficulties associated with any international litigation, such an arrangement would create more risk exposure for U.S. investors than they would otherwise have with a U.S. exchange-listed ETP. *See id.* Arca also states that regulators in other countries have either approved or otherwise allowed the listing and trading of bitcoin-based ETPs. *See id.* at 44065 n.42. Arca further asserts that, with the addition of more bitcoin ETPs in non-U.S. jurisdictions expected to grow, such risks will only continue to grow. *See id.* at 44065.

[99] *See id.* at 44067.

[100] *See id.* at 44063.

[101] *See id.* at 44067.

[102] *See id.* at 44063.

[103] *See id.* at 44067.

[104] The Commission has disagreed with similar arguments made in the context of spot bitcoin ETPs. *See, e.g.,* WisdomTree Order, 86 FR at 69333–34; Wise Origin Order, 87 FR at 5537–38.

[105] *See* Exchange Act Section 19(b)(2)(C), 15 U.S.C. 78s(b)(2)(C).

[106] *See* SolidX Order, 82 FR at 16259; WisdomTree Order, 86 FR at 69334; Wise Origin Order, 87 FR at 5538.

[107] *See supra* Section III.A.

[108] *See infra* Section III.D.

[109] The Commission acknowledges that, compared to trading in unregulated spot bitcoin markets, trading a CME bitcoin futures-based ETP on a national securities exchange may provide some additional protection to investors. *See* GraniteShares Order, 83 FR at 43931; USBT Order, 85 FR at 12615.

[110] *See* letter from W. Thomas Conner, Shareholder, VedderPrice, dated September 1, 2021 (''Sponsor Letter''), at 6–9.

[111] *See* Sponsor Letter at 4–6.

[112] 15 U.S.C. 78f(b)(5); 15 U.S.C. 78k–1(a)(1)(C)(iii).

[113] *See* letter from Donna Jean Ryder, dated November 8, 2021.

D. Other Standards for Commodity-Futures ETPs

Arca's proposal sets forth aspects of the proposed ETP, including the availability of pricing information, transparency of portfolio holdings, and types of surveillance procedures, that are consistent with the other commodity-futures ETPs that the Commission has approved.[114]

According to Arca,[115] quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association. Quotation information for cash equivalents and the Bitcoin Futures Contracts may be obtained from brokers and dealers who make markets in such instruments. The intra-day, closing, and settlement prices of the Bitcoin Futures Contracts will be readily available from the applicable futures exchange websites, automatic quotation systems, published or other public sources, or major market data vendors. Complete real-time data for the Bitcoin Futures Contracts will be available by subscription through online information services. ICE Futures U.S. and the CME also provide delayed futures and options on futures information on current and past trading sessions and market news free of charge on their respective websites. The specific contract specifications for Bitcoin Futures Contracts will also be available on such websites, as well as other financial information sources. Intra-day price and closing price level information for the Benchmark will be available from major market data vendors. The Benchmark value will be disseminated once every 15 seconds.

The Fund's website will display the applicable end of day closing NAV. The daily holdings of the Fund will be available on the Fund's website. The Fund's website will also include a form of the Fund's prospectus that may be downloaded. The website will include the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis.[116] The website disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the name, quantity, price, and market value of the Fund's holdings; (ii) the counterparty to and value of forward contracts and any other financial instruments tracking the Benchmark; and (iii) the total cash and cash equivalents held in the Fund's portfolio, if applicable. The Fund's website will be publicy available at the time of the public offering of the Shares and accessible at no charge.

The Fund's NAV will be calculated once each trading day, as of the earlier of the close of the New York Stock Exchange or 4:00 p.m. Eastern Time (''ET''). In order to provide updated information relating to the Fund for use by investors and market professionals, ICE Data Indices, LLC will calculate an updated indicative fund value (''IFV''), which will be calculated by using the prior day's closing NAV per Share of the Fund as a base and updated throughout the Core Trading Session of 9:30 a.m. ET to 4:00 p.m. ET to reflect changes in the value of the Fund's holdings during the trading day. During the Exchange's Core Trading Session, the IFV will be disseminated on a per Share basis every 15 seconds and will be widely disseminated by one or more major market data vendors. The NAV for the Shares will be disseminated daily to all market participants at the same time.[117]

The proposal also is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading in the Shares when a reasonable degree of transparency cannot be assured. If the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. Further, the Exchange may halt trading during the day in which an interruption to the dissemination of the IFV or the value of the Benchmark occurs. If the interruption to the dissemination of the IFV, or to the value of the Benchmark, persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[118] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.[119] Moreover, trading of the Shares will be subject to NYSE Arca Rule 8.200–E, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit Holders (''ETP Holders'') acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance.[120]

The Commission notes that the Exchange or the Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and the Fund's holdings with other markets and entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and the Fund's holdings from such markets and entities. In addition, the Exchange may obtain information regarding trading in the Shares and the Fund's holdings from markets and entities that are members of the ISG or with which the Exchange has in place a comprehensive surveillance-sharing agreement (''CSSA'').[121] The Exchange is also able to obtain information regarding trading in the Shares and the physical commodities underlying the futures contracts through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions (including transactions in futures contracts) occurring on U.S. futures exchanges, which are members of the ISG.[122]

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.[123] In support of this

[114] *See, e.g.,* ProShares UltraPro 3X Natural Gas ETF and ProShares UltraPro 3X Short Natural Gas ETF, Securities Exchange Act Release No. 86532 (July 31, 2019), 84 FR 38312 (Aug. 6, 2019) (SR–NYSEArca–2019–02).

[115] *See* Notice, 86 FR at 44075.

[116] The Fund's website will include: (1) The prior business day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the bid/ask spread at the time of the NAV calculation (''Bid/Ask Price'') against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. *See id.*

[117] *See id.* at 44074–75.

[118] *See id.* at 44075.

[119] *See id.* at 44076.

[120] *See id.* at 44075.

[121] For a list of the current members of ISG, *see www.isgportal.org.* According to the Exchange, not all components of the Fund may trade on markets that are members of the ISG or with which the Exchange has in place a CSSA. *See* Notice, 86 FR at 44076 n.95.

[122] *See id.* at 44076. For additional discussion of the CME bitcoin futures market and how surveillance-sharing between the Exchange and the CME via common membership in the ISG would assist in detecting and deterring manipulative conduct related to the Shares, *see* Section III.A above.

[123] *See* Notice, 86 FR at 44075.

proposal, the Exchange represented that:[124]

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.200–E.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to the Exchange.

(4) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an information bulletin (''Information Bulletin'') of the special characteristics and risks associated with trading in the Shares. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Shares during the Early and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (c) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the IFV is disseminated; (e) how information regarding portfolio holdings is disseminated; (f) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (g) trading information.

(5) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Exchange Act,[125] and the Trust will rely on the exception contained in Rule 10A–3(c)(7).

(6) Under no circumstances will the Fund hold and/or invest in any assets other than BTC Contracts and MBT Contracts, cash and cash equivalents. The Fund will not invest in or hold spot bitcoin. Cash equivalents only include short-term Treasury bills, money market funds, demand deposit accounts and commercial paper.

(7) The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage, and therefore the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2Xs, 3Xs, –2Xs, and –3Xs) of the Fund's Benchmark.

(8) The Fund will only hold Bitcoin Futures Contracts that are listed on an exchange that is a member of the ISG or is a market with which the Exchange has a CSSA.

(9) A minimum of 50,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

(10) The Exchange represents that all statements and representations made in the filing regarding (a) the description of the Benchmark, portfolio, or reference asset; (b) limitations on Benchmark or portfolio holdings or reference assets; or (c) applicablilty of Exchange listing rules specified in the filing will constitute continued listing requirements for the Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will monitor for compliance with the continued listing requirements.[126] If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

IV. Conclusion

This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in Amendment No. 2. The Commission notes that the Shares must comply with the requirements of NYSE Arca Rule 8.200–E and Commentary .02 thereto to be listed and traded on the Exchange on an initial and continuing basis.

For the reasons set forth above, the Commission finds, pursuant to Section 19(b)(2) of the Exchange Act,[127] that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) and Section 11A(a)(1)(C)(iii) of the Exchange Act.[128]

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[129] that proposed rule change SR–NYSEArca–2021–53, as modified by Amendment No. 2, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[130]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–07748 Filed 4–11–22; 8:45 am]

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[124] *See id.* at 44075–76 and Amendment No. 2.

[125] 17 CFR 240.10A–3.

[126] The Commission notes that certain other proposals for the listing and trading of exchange-traded products include a representation that the exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 77499 (Apr. 1, 2016), 81 FR 20428 (Apr. 7, 2016) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the SPDR DoubleLine Short Duration Total Return Tactical ETF of the SSgA Active Trust). In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of the Fund's compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[127] 15 U.S.C. 78f(b)(2).

[128] 15 U.S.C. 78f(b)(5); 15 U.S.C. 78k–1(a)(1)(C)(iii).

[129] 15 U.S.C. 78f(b)(2).

[130] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94617; File No. SR–CboeEDGX–2022–022]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

April 6, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 1, 2022, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''EDGX Equity'') to modify the criteria of Growth Tier 4. The Exchange proposes to implement this change effective April 1, 2022.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 17% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that add liquidity and assesses a fee of $0.0030 per share for orders that remove liquidity. For orders in securities priced below $1.00, the Exchange provides a standard rebate of $0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of the total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Modification to Growth Volume Tier 4

Under footnote 1 of the Fee Schedule, the Exchange currently offers various Add/Remove Volume Tiers. In particular, the Exchange offers four Growth Tiers that each provide an enhanced rebate for Members' qualifying orders yielding fee codes B,[4] V,[5] Y,[6] 3 [7] or 4,[8] where a Member reaches certain add volume-based criteria, including ''growing'' its volume over a certain baseline month. Currently, Growth Tier 4 provides an enhanced rebate of $0.0034 per share to MPIDs that (1) add a Step-Up ADAV [9] from October 2021 equal to or greater than 0.10% of the TCV [10] or MPIDs that add a Step-Up ADAV from October 2021 equal to or greater than 15 million shares; and (2) MPIDs that add an ADV [11] equal to or greater than 0.30% of TCV or MPIDs that add an ADV equal to or greater than 30 million shares. The Exchange now proposes to amend the criteria of Growth Tier 4 to provide the rebate to MPIDs that (1) add a Step-Up ADAV from October 2021 equal to or greater than 0.10% of the TCV or MPIDs that add a Step-Up ADAV from October 2021 equal to or greater than 16 million shares (instead of 15 million shares); and (2) and MPID that adds an ADV equal to or greater than 0.30% of TCV or MPIDs that add an ADV equal to order great than 30 million shares.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the objectives of Section 6 of the Securities and Exchange Act of 1933 [sic] (the ''Act''),[12] in general, and furthers the objectives of Section 6(b)(4),[13] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [14] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

The Exchange believes that its proposed change to Growth Tier 4 is reasonable, equitable and not unfairly

[3] See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (March 25, 2022), available at *https://www.cboe.com/us/equities/market_statistics/*.

[4] Orders yielding Fee Code ''B'' are orders adding liquidity to EDGX (Tape B).

[5] Orders yielding Fee Code ''V'' are orders adding liquidity to EDGX (Tape A).

[6] Orders yielding Fee Code ''Y'' are orders adding liquidity to EDGX (Tape C).

[7] Orders yielding Fee Code ''3'' are orders adding liquidity to EXGX in the pre and post market (Tapes A or C).

[8] Orders yielding Fee Code ''4'' are orders adding liquidity to EDGX in the pre and post market (Tape B).

[9] ''Step-Up ADAV'' means ADAV in the relevant baseline month subtracted from current ADAV. ''ADAV'' means average daily volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

[10] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[11] ''ADV'' means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78f(b)(5).

discriminatory. The Exchange's proposal to amend Growth Tier 4 is reasonable because the tier will continue to be available to all MPIDs and will continue to provide MPIDs an opportunity to receive an enhanced rebate. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[15] including the Exchange,[16] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels or liquidity provision and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange. The Exchange also believes that the existing rebate under Growth Tier 4 continues to be commensurate with the existing and proposed criteria. That is, the rebate reasonably reflects the difficulty in achieving the corresponding criteria as amended.

The Exchange believes that the change to Growth Tier 4 will benefit all market participants by incentivizing continuous liquidity and, thus, deeper more liquid markets as well as increased execution opportunities. Particularly, the proposal is designed to incentivize liquidity, which further contributes to a deeper, more liquid market and provide even more execution opportunities for active market participants at improved prices. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors.

The Exchange also believes that the proposed amendment to Growth Tier 4 represents an equitable allocation of rebates and is not unfairly discriminatory because all MPIDs are eligible for the tier and would have the opportunity to meet the tier's criteria and would receive the proposed rebate if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any MPIDs qualifying for the proposed tiers. While the Exchange has no way of predicting with certainty how the proposed tier will impact MPID activity, the Exchange anticipates that at least one MPID will be able to compete for and reach the proposed criteria in Growth Tier 4. The Exchange also notes all MPIDs are eligible to satisfy the revised criteria of Growth Tier 4 and further believes the proposed change will provide a reasonable means to encourage future overall growth in Members' order flow to the Exchange by offering an enhanced rebate on qualifying orders. Moreover the proposed criteria will not adversely impact any MPID or Member's ability to qualify for other reduced fee or enhanced rebate tiers. Should any MPID not meet the proposed criteria under Growth Tier 4, the MPID will merely not receive the corresponding enhanced rebate.

As noted above, the Exchange operates in a highly competitive market. The Exchange in only one of 16 equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several maker-taker exchanges. Competing equity exchanges offer similar rates and tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change to Growth Tier 4 will apply to all Members equally in that all Members are eligible for the tier, have a reasonable opportunity to meet the tier's criteria and will receive the enhanced rebate on their qualifying orders if such criteria is met. The Exchange does not believe the proposed changes burdens competition, but rather, enhances competition as it is intended to increase the competitiveness of EDGX by amending an existing pricing incentive in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 17% of the market share.[17] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is

[15] *See* BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[16] *See* EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[17] *Supra* note 3.

[18] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .''.[19]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2022–022 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–CboeEDGX–2022–022. 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–CboeEDGX–2022–022, and should be submitted on or before May 3, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–07746 Filed 4–11–22; 8:45 am]

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[19] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[20] 15 U.S.C. 78s(b)(3)(A)(ii).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94616; File No. SR–ICC–2022–003]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Governance Playbook

April 6, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 4, 2022, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICC Governance Playbook. These revisions do not require any changes to the ICC Clearing Rules (the ''Rules'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes revisions to the Governance Playbook, which consolidates governance arrangements set forth in ICC's Rules, operating agreement, and other ICC policies and procedures. The Governance Playbook contains information regarding the governance structure at ICC, which includes the Board, committees, and management. ICC believes the proposed changes will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes following Commission approval of the proposed rule change. The proposed rule change is described in detail as follows.

The proposed changes consist of clarifications and updates regarding the roles and responsibilities of the ICC Legal Department (''Legal'') and internal committees involved in the governance process. ICC proposes to amend Section I, which describes the purpose of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

document. ICC proposes to specify that Legal will review and amend the Governance Playbook as needed when there are circumstances that may impact the governance procedures of ICC, such as regulatory changes or changes in ICC's structure or practices.

ICC proposes to amend Section III.H, which contains information on disclosures that ICC is required to make to regulators, Clearing Participants, and the public. ICC maintains a public Disclosure Framework that describes its material rules, policies, and procedures regarding its legal, governance, risk management, and operating framework. ICC proposes additional details on the process of updating the Disclosure Framework. Under the amendments, Legal would determine when changes to the Disclosure Framework are necessary. ICC proposes to include regulations applicable to Disclosure Framework updates and a related change to spell out an abbreviated term for consistency. ICC also proposes to define a material change that would require a Disclosure Framework update. Furthermore, the proposed revisions incorporate procedures for reporting Disclosure Framework changes pursuant to applicable regulations.

ICC proposes to amend Section IV, which contains information regarding the roles and responsibilities of the various committees at ICC. Specifically, ICC proposes to update the membership composition of the Steering Committee, including amended titles and positions in order to be consistent with the membership composition set out in the Steering Committee's charter. These revisions are intended for consistency and transparency and would remove outdated information regarding the Steering Committee's membership composition from the Governance Playbook. They would not change the function of the Steering Committee, which continues to review, approve and oversee the implementation of CDS product launches and initiatives. Additionally, ICC proposes to incorporate the CDS Service Review, including its description, membership composition, meeting frequency, and relevant documents. This committee discusses and reviews the status of active ICC initiatives to report on the delivery process and technology delivery related activities (*e.g.,* development, testing). This addition is proposed for transparency and completeness, as the CDS Service Review is not new to ICC, in order to ensure that the Governance Playbook includes all groups relevant to ICC's governance process.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[3] and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad–22.[4] In particular, Section 17A(b)(3)(F) of the Act[5] requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest. The proposed amendments consist of clarifications and updates regarding the roles and responsibilities of Legal and internal committees involved in the governance process. Additional procedures are assigned to Legal to ensure that the Governance Playbook and the Disclosure Framework remain up-to-date and that ICC remain in compliance with applicable regulatory requirements. Moreover, the proposed changes update the membership composition of the Steering Committee, including amended titles and positions as necessary to reflect the membership composition in the Steering Committee's charter. The proposed changes also add the CDS Service Review, which is not a new committee, to promote completeness and ensure that the Governance Playbook includes all groups relevant to ICC's governance process. In ICC's view, the proposed amendments would ensure that the Governance Playbooks clearly and accurately sets out the functions and responsibilities of all relevant individuals and groups to remain effective and to ensure such individuals and groups carry out their required functions. ICC believes that the proposed changes promote an up-to-date, transparent, and comprehensive Governance Playbook, thereby promoting governance of ICC that is effective and efficient and ensuring that ICC has clear and transparent governance arrangements that promote its safety and efficiency. As such, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions; to contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible; and, in general, to protect investors and the public interest within the meaning of Section 17A(b)(3)(F) of the Act.[6]

The amendments would also satisfy relevant requirements of Rule 17Ad–22.[7] Rule 17Ad–22(e)(2)[8] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that, among other matters, are (i) clear and transparent; (iii) support the public interest requirements in Section 17A of the Act[9] applicable to clearing agencies, and the objectives of owners and participants; and (v) specify clear and direct lines of responsibility. The Governance Playbook documents the role of the Board, relevant committees, and management in the governance process to provide for clear and transparent governance arrangements that specify clear and direct lines of responsibility. As described above, the proposed changes more clearly set out the responsibilities of Legal and include updates with respect to relevant internal individuals and committees involved in the governance process, which ensures that these individuals and groups carry out their required functions. Moreover, these governance arrangements set out in the document continue to promote the safety and efficiency of ICC and support the public interest requirements in Section 17A of the Act[10] applicable to clearing agencies, and the objectives of owners and participants, by describing the roles, responsibilities, and required skills of relevant individuals and groups, thereby ensuring that they have the appropriate knowledge and skills to discharge their responsibilities and that ICC continues to provide safe and sound central counterparty services. As such, ICC believes that the proposed rule change is consistent with the requirements of Rule 17Ad–22(e)(2).[11]

Rule 17Ad–22(e)(23)[12] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for, among other matters, (i) publicly disclosing all relevant rules and material procedures, including key aspects of its default rules and procedures; (iv) a comprehensive public disclosure that describes its material

[3] 15 U.S.C. 78q–1.

[4] 17 CFR 240.17Ad–22.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] *Id.*

[7] 17 CFR 240.17Ad–22.

[8] 17 CFR 240.17Ad–22(e)(2).

[9] 15 U.S.C. 78q–1.

[10] *Id.*

[11] 17 CFR 240.17Ad–22(e)(2).

[12] 17 CFR 240.17Ad–22(e)(23).

rules, policies, and procedures regarding its legal, governance, risk management, and operating framework, accurate in all material respects at the time of publication; and (v) updating the public disclosure every two years, or more frequently following changes to its system or the environment in which it operates to the extent necessary to ensure statements previously provided remain accurate in all material respects. The Governance Playbook contains procedures regarding required disclosures to ensure that ICC publicly discloses relevant rules and material procedures. The proposed changes assign responsibility, reference applicable regulations, and include additional information and procedures regarding maintaining and updating the Disclosure Framework in accordance with relevant regulations. Such changes would ensure that the Disclosure Framework is updated accordingly and remains accurate in all material respects in compliance with applicable regulatory requirements. Therefore, ICC believes the proposed rule change is consistent with the requirements of Rule 17ad–22(e)(23).[13]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes to the Governance Playbook will apply uniformly across all market participants. The changes consist of clarifications and updates regarding the roles and responsibilities of Legal and internal committees involved in the governance process to promote clarity, consistency, and completeness in respect of the information provided in the Governance Playbook. Moreover, ICC does not believe these amendments would affect the costs of clearing or the ability of market participants to access clearing. Therefore, ICC does not believe the proposed rule change would impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change, From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

[13] *Id.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–ICC–2022–003 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2022–003. 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 filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.*

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–ICC–2022–003 and should be submitted on or before May 3, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–07747 Filed 4–11–22; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 11712]

Notice of Public Meeting

SUMMARY: As required by the Federal Advisory Committee Act, the Department of State gives notice of a meeting of the Advisory Committee on International Postal and Delivery Services. This Committee will meet virtually on Wednesday, April 27, 2022, from 1:00 p.m. to 5:00 p.m. Eastern Time, hosted on a Zoom platform, as follows:

Meeting

https://statedept.zoomgov.com/j/1617289259?pwd=VnA1Q1ZIS0IrNlZFN0FHV2FGT0l5QT09

Meeting ID: 161 728 9259

Passcode: 123456

One tap mobile

+16692545252, 1617289259# US (San Jose)

+16468287666, 1617289259# US (New York)

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

+1 669 216 1590 US (San Jose)

+1 551 285 1373 US

Members of the public interested in providing input to the meeting should contact Mr. Tom Moore, whose contact information is listed below (see the **FOR FURTHER INFORMATION** section of this notice). Individuals providing oral input are requested to limit their comments to five minutes. Requests to be added to the speakers list must be received in writing (by email) prior to the close of

business on Wednesday, April 20; written comments from members of the public for distribution at this meeting must reach Mr. Moore by email on this same date. Requests received after that date, including any requests for reasonable accommodation, will be considered but might not be able to be fulfilled.

The agenda of the meeting will include discussion of the outcome of the Abidjan Congress and an overview of issues that are being addressed in the current Congress cycle, in particular the U.S. approach to the Universal Postal Union (UPU) Task Force on opening to the wider postal sector, in preparation for 2023 UPU Extraordinary Congress, expected in late summer 2023.

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Tom Moore of the Office of Specialized and Technical Agencies (IO/STA), Bureau of International Organization Affairs, U.S. Department of State, at tel. (202) 538–1474 or by email at *MooreTH@state.gov*.

Stuart Smith,

Designated Federal Officer, Advisory Committee on International Postal and Delivery Services, Office of Specialized and Technical Agencies, Bureau of International Organization Affairs, Department of State.

[FR Doc. 2022–07765 Filed 4–11–22; 8:45 am]

BILLING CODE 4710–19–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Continuation and Request for Nominations for the Industry Trade Advisory Committees

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for applications.

SUMMARY: The U.S. Trade Representative and the Secretary of Commerce (Secretary) have established a new four-year charter term ending in February 2026 for the Industry Trade Advisory Committees (ITACs) and are accepting applications from qualified individuals interested in serving as members. The ITACs provide detailed policy and technical advice, information, and recommendations to the Secretary and the U.S. Trade Representative regarding trade barriers, negotiation of trade agreements, and implementation of existing trade agreements affecting industry sectors, and perform other advisory functions relevant to U.S. trade policy matters. There currently are opportunities for membership on each ITAC and we will accept nominations throughout the charter term.

DATES: We will accept nominations for membership on the ITACs throughout the four-year charter term.

ADDRESSES: Submit nominations via email to *ITAC@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Ingrid Mitchem, Director, Industry Trade Advisory Center, U.S. Department of Commerce at *ITAC@trade.gov,* 202–482–3268, or Ethan Holmes, Director of Private Sector Engagement, Office of Intergovernmental Affairs and Public Engagement, in the Office of the United States Trade Representative at *Ethan.M.Holmes@ustr.eop.gov,* 202–881–9185. You can find additional information about the ITACs on the International Trade Administration website at: *https://www.trade.gov/industry-trade-advisory-center*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155), establishes a private-sector trade advisory system to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. Section 135(c)(2) (19 U.S.C. 2155(c)(2)) directs the President to establish sectoral or functional trade advisory committees, as appropriate, including representatives of industry, labor, agriculture, and services, including small business, in the sector or functional area concerned, to provide detailed policy and technical advice, information, and recommendations regarding trade barriers, negotiation of trade agreements, and implementation of existing trade agreements affecting industry sectors, and perform other advisory functions relevant to U.S. trade policy matters as requested.

The ITACs are subject to the provisions of the Federal Advisory Committee Act. *See* 19 U.S.C. 2155(f); 5 U.S.C. app. II.

II. What do the ITACs do?

The ITACs provide detailed policy and technical advice, information, and recommendations to the Secretary and the U.S. Trade Representative on trade policy matters including:

- Negotiating objectives and bargaining positions before entering into trade agreements. The impact of the implementation of trade agreements on the relevant sector.
- Matters concerning the operation of any trade agreement once entered into.
- Other matters arising in connection with the development, implementation, and administration of the trade policy of the United States.

The nonpartisan, industry input provided by the ITACs is important in developing unified trade policy objectives and positions when the United States negotiates and implements trade agreements.

The ITACs address market-access problems, trade barriers, tariffs, discriminatory foreign procurement practices, and information, marketing, and advocacy needs of their industry sector. Twelve ITACs (ITACS 1–12) provide advice and information on issues that affect specific sectors of U.S. industry. Three ITACs (ITACs 13–15) focus on crosscutting functional issues that affect all industry sectors and include specifically appointed members along with non-voting members from the industry specific ITACs to represent a broad range of industry perspectives. The ITACs may address other trade policy issues, *e.g.,* government procurement and subsidies, in ad hoc working groups.

III. What is the ITAC slate for 2022–2026?

When the U.S. Trade Representative and the Secretary organize the ITACs, the Trade Act requires that they consult with interested private organizations and consider:

- Patterns of actual or potential competition between U.S. industry and agriculture and foreign enterprise in international trade.
- The character of the nontariff barriers and other distortions affecting such competition.
- The necessity for reasonable limits on the number and size of the ITACs.
- That the product lines covered by each ITAC are reasonably related.

The Office of the U.S. Trade Representative and the U.S. Department of Commerce requested comments on proposed changes to the slate of ITACs (86 FR 72303) and received 13 written submissions in response. A majority of the responses substantially supported separating the current ITAC 5 into two separate ITACs and re-establishing the Committee of Chairs. We have carefully considered these submissions and other factors including the nature of the U.S. industry in various sectors, the level of interest in serving on an ITAC (using the number of members and applications for appointment during the 2018–2022 charter terms), the level of activity of each ITAC (using the number of meetings and recommendations submitted during the 2018–2022 charter terms), and constraints on the resources to support and engage with the ITACs. Based on all of this information,

pursuant to section 135(c)(2) of the Trade Act, the Secretary and the U.S. Trade Representative have established new four-year charter terms for the following ITACs, that began on February 24, 2022, and will end on February 24, 2026.

Committee of Chairs
ITAC 1 Aerospace Equipment
ITAC 2 Automotive Equipment and Capital Goods
ITAC 3 Chemicals, Pharmaceuticals, Health/Science Products and Services
ITAC 4 Consumer Goods
ITAC 5 Critical Minerals and Nonferrous Metals
ITAC 6 Digital Economy
ITAC 7 Energy and Energy Services
ITAC 8 Forest Products and Building Materials
ITAC 9 Small, Minority, and Woman-led Business
ITAC 10 Services
ITAC 11 Steel
ITAC 12 Textiles and Clothing
ITAC 13 Customs Matters and Trade Facilitation
ITAC 14 Intellectual Property Rights
ITAC 15 Standards and Technical Trade Barriers

IV. Membership

Each ITAC consists of members with experience relevant to the industry sector for ITACs 1 through 12, or the subject area for ITACs 13 through 15. All ITAC members serve in a representative capacity (there are no special government employees (SGEs)) and present the views and interests of a sponsoring U.S. entity or U.S. organization and the entity's or organization's subsector (if applicable). In selecting members, the Secretary and the U.S. Trade Representative consider the nominee's ability to carry out the objectives of the ITAC, including knowledge of the industry and of trade matters relevant to the work of the ITAC, and ensuring that the ITAC is balanced in terms of points of view, demographics, geography, and entity or organization size. The Secretary and the U.S. Trade Representative also are committed to achieving diversity in ITAC membership to the maximum extent permitted by law and consistent with the need for balanced industry representation. The Secretary and the U.S. Trade Representative may seek additional nominations as necessary to attain membership balance and demographic diversity. Appointments are made without regard to political affiliation and in accordance with equal opportunity practices that promote diversity, equity, inclusion, and accessibility.

The Secretary and the U.S. Trade Representative appoint all ITAC members for a term of four-years or until the ITAC charter expires, and members serve at the discretion of the Secretary and the U.S. Trade Representative. Individuals can be reappointed for any number of terms. Appointments are made at the time an ITAC is re-chartered and periodically throughout the four-year charter term. Appointments expire at the end of the charter term, in this case, on February 24, 2026.

ITAC members serve without compensation, including reimbursement of expenses. Members are responsible for all expenses they incur to attend meetings or otherwise participate in ITAC activities.

The ITACs meet as needed, depending on various factors such as the level of activity of trade negotiations and the needs of the Secretary and the U.S. Trade Representative. On average, each ITAC meets six times a year in Washington DC or via teleconference.

V. Request for Nominations

The Secretary and the U.S. Trade Representative are soliciting nominations for membership on the ITACs.

A. Eligibility Requirements

To apply for membership, an applicant must meet the following eligibility criteria:

1. The applicant must be a U.S. citizen.

2. The applicant cannot be a full-time employee of a U.S. governmental entity.

3. The applicant cannot be registered with the U.S. Department of Justice under the Foreign Agents Registration Act.

4. The applicant must be able to obtain and maintain a security clearance.

5. The applicant must represent either:

a. A U.S. entity that is directly engaged in the import or export of goods or services or that provides services in direct support of the international trading activities of other entities; or

b. A U.S. organization that trades internationally, represents members that trade internationally, or, consistent with the needs of an ITAC as determined by the Secretary and the Trade Representative, represents members who have a demonstrated interest in international trade.

• For eligibility purposes, a ''U.S. entity'' is a for-profit firm engaged in commercial, industrial, or professional activities that is incorporated in the United States (or is an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by other U.S. entities. An entity is not a U.S. entity if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is known to be controlled, directly or indirectly, by non-U.S. citizens or non-U.S. entities.

• For eligibility purposes, a ''U.S. organization'' is an organization, including a trade association, labor union or organization, and nongovernmental organization (NGO), established under the laws of the United States, that is controlled by U.S. citizens, by another U.S. organization (or organizations), or by a U.S. entity (or entities), as determined based on its board of directors (or comparable governing body), membership, and funding sources, as applicable. To qualify as a U.S. organization, more than 50 percent of the board of directors (or comparable governing body) and more than 50 percent of the membership of the organization to be represented must be U.S. citizens, U.S. organizations, or U.S. entities. Additionally, in order for an NGO to qualify as a U.S. organization, at least 50 percent of the NGO's annual revenue must be attributable to nongovernmental U.S. sources.

• An applicant who will represent an entity or organization known to have 10 percent or greater non-U.S. ownership of its shares or equity, non-U.S. board members, non-U.S. membership, or non-U.S. funding sources, as applicable, must certify that this non-U.S. interest does not constitute control and will not adversely affect his/her ability to serve as a trade advisor to the United States.

• The Secretary and the U.S. Trade Representative have appointed, and will consider nominees, who represent the public health or health care community to ITACs 3 and 14, and environmental viewpoints to ITACs 3 and 8.

B. How do I apply?

To be considered for ITAC membership, interested persons should submit the following documents to the Director of the Industry Trade Advisory Center at the U.S. Department of Commerce at *ITAC@trade.gov:*

1. A completed ITAC Member Application, available at *www.trade.gov/industry-trade-advisory-center.*

2. A sponsor letter on the entity's or organization's letterhead containing a brief description of why the Secretary and the U.S. Trade Representative should consider the individual for membership.

3. The company or organization's profile information or annual report.

4. The individual's personal resume or comprehensive biography

demonstrating knowledge of international trade issues.

5. A narrative response of no more than 500 words to the following prompt:

The Biden-Harris Administration is committed to a trade agenda that advances racial equity and supports underserved communities. We will seek advice and recommendations from the ITACs on trade policies that eliminate social and economic structural barriers to equality and economic opportunity. We also will seek advice and recommendations from the ITACs to better understand the projected impact of proposed trade policies on communities of color and underserved communities. Please explain how your knowledge and experience will contribute to these policy objectives.

The Secretary and the U.S. Trade Representative will consider applicants who meet the eligibility criteria based on the following factors: ability to represent the sponsoring U.S. entity or U.S. organization and its subsector's interests on trade matters; knowledge of and experience in trade matters relevant to the work of the ITAC; and ensuring that the ITAC is balanced in terms of points of view, demographics, geography, and entity or organization size.

Ethan Holmes,

Director, Office of Intergovernmental Affairs and Public Engagement, Office of the United States Trade Representative.

[FR Doc. 2022–07743 Filed 4–11–22; 8:45 am]

BILLING CODE 3390–F2–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2021–0111]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on December 20, 2021, CSX Transportation, Inc. (CSXT) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2021–0111.

Applicant: CSXT—Carl A. Walker, Chief Engineer—Communication & Signals, 500 Water Street, Jacksonville, FL 32202

Specifically, CSXT requested approval to discontinue the cab signal system (CSS) on all tracks between CP Anacostia (mile post (MP) CFP–114.7) and CP Greendale (MP CFP–4.8) between Washington, DC, and Richmond, VA, on the RF&P subdivision. In a clarification letter dated March 30, 2022, CSXT describes the affected trackage to include (1) on the CSXT Capital subdivision in Washington, DC, the tracks include all tracks in both directions between and including CP Anacostia at MP CFP–114.7 to CP M Street at MP CFP–113.8; and (2) on the CSXT RF&P subdivision in Washington, DC, the tracks include all tracks in both directions between and including CP M Street at MP CFP–113.8, to the southbound absolute signals of CP Greendale at MP CFP–4.8 in Richmond, VA. CSXT states that affected railways Virginia Passenger Rail Authority, Virginia Railway Express, and Amtrak have concurred with the proposed change. In support of its request, CSXT states that implementation of the Interoperable Electronic Train Management System Positive Train Control system, without the CSS, will simplify the signal design and improve safety and efficiency of train operations.

A copy of the application, as well as any written communications concerning the application, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by May 27, 2022 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2022–07741 Filed 4–11–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year (FY) 2021 Competitive Funding Opportunity: Standards Development for Bus Exportable Power Systems (BEPS)

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of funding opportunity.

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for a total of $1,000,000 of Fiscal Year (FY) 2021 Technical Assistance and Workforce Development Program funds for projects that develop interoperable standards for Bus Exportable Power Systems (BEPS). BEPS enable public transportation agencies, communities, and States to access resilient and flexible power options through bus fleet vehicles during major power disruptions. Communities and States often need options for generating power immediately after natural disasters. BEPS technologies developed under previous FTA research grants may have the ability to address this type of challenge by transforming hybrid electric and fuel cell buses into mobile power generators. The goal of this program is to develop national interoperable BEPS standards—working with FTA, industry stakeholders and technical partners—so that different manufacturers' systems can use the same technology base and applications for BEPS solutions. One or more projects will be competitively selected based on the criteria outlined in this Notice of Funding Opportunity (NOFO).

DATES: Complete proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function by 11:59 p.m. Eastern time on June 13, 2022.

Prospective applicants should initiate the process by registering on the

GRANTS.GOV website promptly to ensure completion of the application process before the submission deadline. Instructions for applying can be found on FTA's website at *http://www.transit.dot.gov/howtoapply* and in the ''FIND'' module of *GRANTS.GOV*. The funding opportunity ID is FTA–2022–005–TRI–SDBEPS. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Raj Wagley, FTA Office of Research, Demonstration, and Innovation, 202–366–5386, *raj.wagley@dot.gov.*

SUPPLEMENTARY INFORMATION:

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A. Program Description

Under FTA's Technical Assistance and Workforce Development Program (49 U.S.C. 5314), FTA may make grants, or enter into contracts or cooperative agreements, for the development of voluntary and consensus-based standards and best practices for the public transportation industry. This NOFO (Federal Assistance Listing: 20.531) was developed under this authority. As requested by the Report of the Appropriations Committee of the U.S. House of Representatives (H. Rpt. 116–452, Jul. 16, 2020) accompanying the Consolidated Appropriations Act, 2021 (Pub. L. 116–260), FTA will competitively fund a total of not less than $1,000,000 in one or more cooperative agreements to develop interoperable national standards for Bus Exportable Power Systems (BEPS) by collaborating with industry stakeholders and technical partners. These standards must facilitate public transportation agencies, communities, and States' use of resilient and flexible power options after natural disasters or any major power disruption.

Expected components of this BEPS interoperable standards development project include, but are not limited to: Completion of an industry literature review on BEPS assessing system parameters, specifications, past results and recommendations; technology scans, surveys or case studies with transit agencies with experience utilizing BEPS; standards development; demonstration of a plug-and-play BEPS system that includes minimum specifications and parameters for interoperability; and a guide to implementing a BEPS system using these standards. Applicants must describe how they will work with transit industry stakeholders, industry working groups and transit standard development organizations—including emergency management agencies—in developing guidance and standards that promotes nationwide adoption of BEPS.

This standards development program will build upon prior FTA investment in projects such as FTA Report 0146—BEPS System Use Strategy: Investigating the Use of Transit Buses as Emergency Generators (*https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/147716/bus-exportable-power-supply-system-use-strategy-investigating-use-transit-buses-emergency-generators.pdf*).

FTA will competitively award one or more cooperative agreements to selected eligible applicants to advance the development of BEPS standards for hybrid electric and fuel cell transit buses, as described in this notice.

B. Federal Award Information

This notice makes available not less than $1,000,000 for cooperative agreements as authorized under FTA's Technical Assistance and Workforce Development Program (49 U.S.C. 5314) to support the development of voluntary and consensus-based standards and best practices by the public transportation industry. The House Appropriations Committee Report (H. Rpt. 116–452) accompanying the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) requested FTA to use $1,000,000 of available funds for competitive awards to develop interoperable BEPS standards and provide guidance for hybrid, electric, and fuel cell transit bus manufacturers and public transit agencies that advances widespread design and use of BEPS systems in communities and States during emergencies and natural disasters.

FTA may cap the amount a single recipient may receive as part of the selection process. Due to funding limitations, applicants that are selected for funding may receive less than the amount originally requested. Only proposals from eligible recipients for eligible activities will be considered for funding.

Pre-award authority is subject to FTA approval and is only available for costs incurred after the announcement of project selections on FTA's website.

Projects under this competition are for standards development efforts and, as such, FTA Circular 6100.1E (available at *https://www.fta.dot.gov/regulations-and-guidance/fta-circulars/research-technical-assistance-and-training-program*) guidance will apply in administering the program.

An applicant whose proposal is selected for funding will receive a cooperative agreement with FTA, to be administered according to Circular 6100.1E, and as set forth in 31 U.S.C. 6305. FTA will have substantial involvement in the administration of the cooperative agreement. FTA's role will include the right to participate in decisions to redirect and reprioritize project activities, goals, and deliverables.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants under this notice include the following:

- Providers of public transportation, including public transportation agencies, State or local government DOTs, and federally recognized Indian tribes;
- Private for-profit and not-for-profit organizations, or consultants;
- State, city, or local government entities, including multi-jurisdictional partnerships, and organizations such as Metropolitan Planning Organizations;
- Other organizations, including research consortia, not-for-profit industry organizations, and institutions of higher education, including large research universities, particularly those with Minority Serving Institution status; or
- Standard Development Organizations (SDOs).

On the application form, eligible applicants are encouraged to identify one or more project partners with a substantial interest and involvement in the project activities or objectives to participate in the implementation of the project.

If an application that involves such a partnership is selected for funding, the competitive selection process will be deemed to satisfy the requirement for a competitive procurement under 49 U.S.C. 5325(a) for the named entities. Applicants are advised that any changes to the proposed partnership after the award will require FTA written approval and must be consistent with the scope of the approved project. Post-award changes usually will be subject to ordinary procurement standards.

The applicant must be able to carry out the proposed agreement and procurements, if needed, with project partners in compliance with all applicable Federal, State, and local laws. To be considered eligible, applicants must be able to demonstrate the requisite legal, financial, and

technical capabilities to receive and administer Federal funds under this program.

2. Cost Sharing or Matching

The eligible Federal share for this program is 100 percent. No non-Federal cost sharing is required; however, proposers may offer a non-Federal share of costs. For guidance related to cost sharing, please see FTA Circular 6100.1E.

3. Eligible Projects

This notice solicits applications to develop interoperable national standards for BEPS systems that allow transit agencies, communities and States to use hybrid electric, or fuel cell transit buses as mobile power generators to power facilities such as hospitals or other facilities in emergency and disaster situations. A critical component for these projects is collaboration across Federal, State, and local governments, public utilities, and the private sector. Thus, FTA seeks applications for projects that enhance the current state of bus exportable power systems or build on existing successful projects and partnership efforts on BEPS.

Eligible activities include all activities leading to development of interoperable national BEPS standards and the development of a guidebook to implement such standards, including, but not limited to, system design and demonstration of portable units; industry survey and data collection on existing BEPS systems; system specifications and standards development; innovations for providing more effective and efficient BEPS systems using public-private partnerships with non-traditional transportation providers; stakeholder collaboration convenings; literature reviews or case studies on BEPS systems; surveys on BEPS systems in other industries that could be applicable to public transit BEPS systems; data collection and analytics; establishing various use cases for BEPS deployment needs; defining system requirements; modeling and simulation; development, validation and verification of the specification; and development of industry guidelines and a guidebook for BEPS solutions that can be shared with the transit industry, including hybrid, electric, and fuel cell transit bus manufacturers.

Standards or guidelines developed will be disseminated to public transit agencies and battery electric bus manufacturers for their use. Standards or guidelines developed under this program must facilitate interoperable, adaptable, secure, and seamlessly integrated BEPS solutions for facilities, such as hospitals, emergency management systems, etc. that need power in emergency and disaster situations. Further, the project team should consider how the development effort could support the development or use of additional standards, specifications, or protocols related to successful deployment of BEPS solutions as appropriate.

D. Application and Submission Information

1. Address To Request Application

Applications must be accessed and submitted electronically through *GRANTS.GOV*. General information for submitting applications through *GRANTS.GOV* can be found at *www.transit.dot.gov/howtoapply.* A complete proposal submission consists of two forms and their supporting attachments. The Forms are (1) an SF–424 ''Application for Federal Assistance'' and (2) the supplemental form for the FY 2021 Standards Development—BEPS NOFO. Both forms are downloadable from *GRANTS.GOV* or the FTA website at *https://www.transit.dot.gov/funding/grants/BEPS.*

2. Content and Form of Application Submission

a. Proposal Submission

A complete proposal submission consists of the two forms and their supporting documents. The attachments shall provide a detailed project approach and proposed scope of work. A successful applicant must submit a final full application into FTA's TrAMS system within 45 days of award.

The supplemental form and supporting documents must be added to the ''Attachments'' section of the SF–424. The application must include responses to all sections of the SF–424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program, and to evaluate the proposal against the selection criteria described in Section E of this notice.

FTA will accept only one supplemental form per SF–424 submission. Applicants may attach additional supporting information to the SF–424 submission, including but not limited to a detailed project approach, the project background, a proposed scope of work and major tasks, a proposed timeline, proposed project budgets, technical information and approach, visual aids, excerpts from relevant planning documents, letters of support, or project narratives. Any supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as applicant name, Federal amount requested, and local match amount (if match is being proposed), may be requested on both the SF–424 and supplemental

form. Applicants must fill in all fields unless stated otherwise on the forms. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Applicants should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms and ensure that the Federal and local amounts specified are consistent.

b. Application Content

The SF–424 Application for Federal Assistance and the supplemental form will prompt applicants for the required information, including:

1. Applicant name.

2. Unique Entity Identifier (UEI) in *SAM.gov*. The Federal government will stop using the Data Universal Numbering System (DUNS) number to identify entities starting April 4, 2022.

3. Key contact information (including name, address, email address, and phone).

4. Congressional district(s) where project will take place.

5. Project information (including title, and an executive summary).

6. Project description (including attachments if necessary) and how it will (a) collect and analyze industry data and specifications for the development of interoperable BEPS standards; (b) demonstrate a plug and play BEPS solution; (c) develop interoperable BEPS standards; (d) collaborate with diverse stakeholders in the development of BEPS standards; and (e) approach to developing a guidebook and implementation guide to deploy BEPS solutions in communities during emergencies and disasters situations.

7. Information on any project partners, their role, and anticipated contributions.

8. A description of the technical, legal, and financial capacity of the applicant, its key personnel, and any partners.

9. A detailed project budget, specifying Federal and local share when applicable.

10. A detailed project timeline.

Applicants may also attach additional supporting information and other materials or information relevant to BEPS standards development such as letters of support from key stakeholders.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant. These requirements do not apply if the applicant has an exception approved by FTA or the U.S. Office of Management and Budget under 2 CFR 25.110(c) or (d). SAM registration takes approximately 3–5 business days, but FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit *https://www.sam.gov.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern time on June 13, 2022. *GRANTS.GOV* attaches a time stamp to each application at the time of submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Mail and fax submissions will not be accepted.

FTA urges applicants to submit applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website. Deadlines will not be extended due to scheduled website maintenance.

Within 48 hours after submitting an electronic application, the applicant should receive an email message from *GRANTS.GOV* with confirmation of successful transmission to *GRANTS.GOV*. If a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in SAM is renewed annually, and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submission.

5. Funding Restrictions

Funds available under this NOFO cannot be used to reimburse applicants for otherwise eligible expenses incurred prior to FTA issuing pre-award authority for selected projects.

Refer to Section C.3., Eligible Projects, for information on activities that are allowable. Allowable direct and indirect expenses must be consistent with the Governmentwide Uniform Administrative Requirements and Cost Principles (2 CFR part 200) and FTA Circular 5010.1E.

6. Other Submission Requirements

Applicants are encouraged to identify scaled funding options in case funding is not available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. FTA may award a lesser amount regardless of whether a scalable option is provided.

All applications must be submitted via the *GRANTS.GOV* website. FTA does not accept applications on paper, by fax machine, email, or other means. For information on application submission requirements, please see Section D.1., Address to Request Application.

E. Application Review Information

1. Criteria

Projects will be evaluated on the responses provided in the supplemental form and the attached project summary. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found. FTA will evaluate proposals based on the criteria described in this notice.

a. Key Personnel Experience and Organizational Capacity

Application should note the individuals who will be involved in the project and how the applicant will ensure they will have enough time to devote to the project. Additionally, applicant should discuss successful completion of similar or relevant projects—case studies, references, etc.

b. Proposer and Proposal Team Subject Matter Expertise

Application should clearly demonstrate applicant knowledge in exportable power systems, battery electric public transit buses, transit industry (including facilities and operations), standards development, emergency management and electric system interoperability.

c. Knowledge of Standards, Standards Development

Application should provide evidence of applicant's experience developing and disseminating industry standards, particularly for the public transit industry. The proposal should detail the applicant's knowledge of general transit industry standards, general experience and knowledge of the transit standards development -including awareness of potential barriers or challenges to standard application and technology adoption.

d. Knowledge of Public Transit and Emergency Management Context and Needs

Applicants should provide evidence of knowledge of the public transit industry and the contexts, challenges, and resources of transit providers across the country. Applicants should also clearly demonstrate understanding of emergency management needs and critical facilities with which BEPS must have interoperability.

e. Project Approach

Projects will be evaluated on overall project approach including proposed workplan tasks, schedule, and interim deliverables. In assessing whether the proposed implementation plans are reasonable and complete, FTA will review the proposed project work plan, including all necessary project milestones and the overall project timeline. Funds must be obligated in a cooperative agreement no later than September 30, 2022. Applicants must demonstrate their ability to enter into the cooperative agreement by that date and begin project activities shortly thereafter.

f. Technical, Legal, and Financial Capacity

The applicant must demonstrate the financial and organizational capacity and managerial experience to successfully oversee and implement this project. FTA may review relevant oversight assessments and records to determine whether there are any outstanding legal, technical, or financial issues with the applicant that would affect the outcome of the proposed project. Applicants with outstanding legal, technical, or financial compliance issues from an FTA compliance review or Federal Transit grant-related Single Audit finding must explain how corrective actions will mitigate negative impacts on the proposed project.

For applications that include named project partners, FTA will also consider the technical, legal, and financial capacity of the proposed partners.

2. Review and Selection Process

A technical evaluation committee will evaluate proposals based on the published evaluation criteria. Members of the technical evaluation committee may request additional information from applicants, if necessary. Based on the review of the technical evaluation committee, the FTA Administrator will determine the final selection of projects for program funding. In making selections, FTA may consider geographic diversity, and the applicant's receipt of other competitive awards. FTA may also consider capping the amount a single applicant may receive.

3. Performance and Integrity

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the FAPIIS accessible through SAM. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. FTA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in the Office of Management and Budget's Uniform Requirements for Federal Awards (2 CFR 200.205).

F. Federal Award Administration Information

1. Federal Award Notices

FTA will announce the final project selections on the FTA website. Due to funding limitations of $1,000,000 in total, applicants that are selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate that the proposed projects are still viable and can be completed with the amount awarded.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

At the time the project selections are announced, FTA may extend pre-award authority for the selected projects. There is no blanket pre-award authority for these projects before announcement. FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. FTA does not provide pre-award authority for competitive funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. For more information about FTA's policy on pre-award authority, please see the most recent Apportionments, Allocations and Program Information Notice at *https://www.transit.dot.gov.*

b. Cooperative Agreement Requirements

If selected, awardees will apply for a cooperative agreement through FTA's Transit Award Management System (TrAMS). Successful applicants must be prepared to submit a complete statement of work and application in TrAMS within 45 days of notification of award in order to obligate funds no later than September 30, 2022. All recipients must follow the requirements of FTA Circular 6100.1E. Technical assistance regarding these requirements is available from FTA.

c. Buy America

FTA requires that all capital procurements meet FTA's Buy America requirements (49 U.S.C. 5323(j) and 49 CFR part 661), which require that all iron, steel, and manufactured goods be produced in the United States, and set minimum domestic content and final assembly requirements for rolling stock.

d. Standard Assurances

If an applicant receives an award, the applicant must assure that it will comply with all applicable Federal statutes, regulations, executive orders, directives, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA award. The applicant acknowledges that it will be under a continuing obligation to comply with the terms and conditions of the agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The most recent Federal requirements will apply to the project unless FTA issues a written determination otherwise. The applicant must submit the most recent FTA Certifications and Assurances before receiving an award if it does not have current certifications on file.

e. Data Access and Data Sharing

Recipients, including a recipient that is an institution of higher education, will be subject to the restriction on publishing subject data contained in Section 18(b) of the latest version of FTA's master agreement. The latest version of FTA's master agreement is version 29, effective February 7, 2022, available at: *https://www.transit.dot.gov/sites/fta.dot.gov/files/2022-02/FTA-Master-Agreement-v29-2022-02-07.pdf.* A recipient must receive written approval from FTA prior to publishing or presenting subject data in any form. FTA must approve the BEPS and any other standards or guidelines developed under this NOFO before that information can be published. A recipient should consult with its FTA Project Manager prior to accepting an award to discuss any plan for external communications about the project.

FTA seeks to improve public transportation for America's communities by sharing digital data or source code collected or developed through its research with the public. This allows research organizations, transit agencies, and other stakeholders to learn from and expand upon the insights developed from FTA-funded research. Any standards, guidance, tools, or software developed as a part of this solicitation will be evaluated by FTA for the potential to be shared for

use by public transportation agencies and others.

3. Reporting

Post-award reporting requirements include the electronic submission of Federal Financial Reports and Milestone Progress Reports in FTA's electronic grants management system.

Applicants should include any goals, targets, and indicators referenced in their application in the Executive Summary of the TrAMS application.

As part of completing the annual certifications and assurances required of FTA grant recipients, a successful applicant must report on the suspension or debarment status of itself and its principals. If the award recipient's active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of an award made pursuant to this Notice, the recipient must comply with the Recipient Integrity and Performance Matters reporting requirements described in Appendix XII to 2 CFR part 200.

G. Federal Awarding Agency Contacts

For further information concerning this notice, please contact Raj Wagley, in the FTA Office of Infrastructure, Safety and Asset Innovation, by phone at 202–366–5386, or by email at *raj.wagley@dot.gov.* A TDD is available for individuals who are deaf or hard of hearing at 800–877–8339. In addition, FTA will post answers to questions and requests for clarifications on FTA's website at *https://www.transit.dot.gov/funding/grants/BEPS.* To ensure applicants receive accurate information about eligibility or the program, applicants are encouraged to contact FTA directly, rather than through intermediaries or third parties, with questions. FTA staff may also conduct briefings on the competitive grants selection and award process upon request.

For issues with *GRANTS.GOV,* please contact *GRANTS.GOV* by phone at 1–800–518–4726 or by email at *support@grants.gov.*

H. Other Information

This program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Nuria I. Fernandez,

Administrator.

[FR Doc. 2022–07742 Filed 4–11–22; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Claim for United States Savings Bonds Not Received

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Claim for United States Savings Bonds Not Received.

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Claim for United States Savings Bonds Not Received.

OMB Number: 1530–0048.

Form Number: FS Form 3062–4.

Abstract: The information is used to support a request for relief on account of the nonreceipt of United States Savings Bonds.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 167.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 7, 2022.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2022–07793 Filed 4–11–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Application for Disposition of Retirement Plan and/or Individual Retirement Bonds Without Administration of Deceased Owner's Estate

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Application For Disposition Of Retirement Plan and/or Individual Retirement Bonds Without Administration Of Deceased Owner's Estate.

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application For Disposition Of Retirement Plan and/or Individual Retirement Bonds Without Administration Of Deceased Owner's Estate.

OMB Number: 1530–0032.

Form Number: FS Form 3565.

Abstract: The information is used to support a request for recognition as a person entitled to United States

Retirement Plan and/or Individual Retirement bonds which belonged to a deceased owner when a legal representative has not been appointed for the estate and no such appointment is pending.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 350.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 117.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 7, 2022

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2022–07791 Filed 4–11–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: States Where Licensed for Surety

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning States Where Licensed for Surety.

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: States Where Licensed for Surety.

OMB Number: 1530–0009.

Abstract: Information is collected from insurance companies in order to provide Federal bond approving officers with this information. The listing of states, by company, appears in Treasury's Circular 570, ''Surety Companies Acceptable on Federal Bonds.''

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 262.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 262.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 6, 2022.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2022–07789 Filed 4–11–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Regulations Governing U.S. Treasury Securities—State and Local Government Series

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Regulations Governing U.S. Treasury Securities—State and Local Government Series.

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing U.S. Treasury Securities—State and Local Government Series.

OMB Number: 1530–0044.

Abstract: The regulations govern U.S. Treasury bonds, notes and certificates of indebtedness of the States and Local Government Series. The collection of information is necessary to enable Treasury to establish an investor's account, to issue securities, to ensure that an investor meets the certification requirements, to redeem securities either at or prior to maturity, and to obtain necessary documentation where a waiver is involved.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: State or Local or Governments.

Estimated Number of Respondents: 60.

Estimated Time per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 13.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 7, 2022.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2022–07792 Filed 4–11–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Request by Owner or Person Entitled to Payment or Reissue of United States Savings Bonds/Notes Deposited in Safekeeping When Original Custody Receipts Are Not Available

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Request By Owner or Person Entitled to Payment or Reissue of United States Savings Bonds/Notes Deposited in Safekeeping When Original Custody Receipts Are Not Available.

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request By Owner or Person Entitled to Payment or Reissue of United States Savings Bonds/Notes Deposited in Safekeeping When Original Custody Receipts Are Not Available.

OMB Number: 1530–0024.

Form Number: FS Form 4239.

Abstract: The information is necessary to request payment or reissue of Savings Bonds/Notes held in safekeeping when original safekeeping custody receipts are not available.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 1,400.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 233.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 7, 2022.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2022–07790 Filed 4–11–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Election To Postpone Determination as to Whether the Presumption Applies That an Activity Is Engaged in for Profit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning election to postpone determination as to whether the presumption applies that an activity is engaged in for profit.

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov.* Include OMB control number 1545–0195 or Election to Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit, in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Election to Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit.

OMB Number: 1545–0195.

Form Number: 5213.

Abstract: Section 183 of the Internal Revenue Code allows taxpayers to elect to postpone a determination as to whether an activity is entered into for profit or is in the nature of a nondeductible hobby. The election is made on Form 5213 and allows taxpayers 5 years (7 years for breeding, training, showing, or racing horses) to show a profit from an activity.

Current Actions: There is no change to the form or burden at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,541.

Estimated Time Per Respondent: 47 minutes.

Estimated Total Annual Burden Hours: 2,762 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 6, 2022.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2022–07773 Filed 4–11–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning changes in corporate control and capital structure.

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224 or by email to *omb.unit@irs.gov.* Please include the ''OMB Number 1545–1814'' in the Subject Line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Sara Covington, at (202) 317–4542, or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Changes in Corporate Control and Capital Structure.

OMB Number: 1545–1814.

Form Number: 1099–CAP.

Abstract: A corporation whose control was acquired or who underwent a substantial change in capital structure uses Form 1099–CAP if it determines the shareholders may have to recognize gain from the cash, stock, or other property they received in exchange for the corporation's stock.

Current Actions: There are no changes being made to the form at this time. However, the agency is updating the estimated number of responses based on the most recent filing data.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

Estimated Number of Respondents: 114.

Estimated Time per Respondent: 11 minutes.

Estimated Total Annual Burden Hours: 21 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 5, 2022.

Sara Covington,

IRS Tax Analyst.

[FR Doc. 2022–07740 Filed 4–11–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Information Collection for Form 8886, Reportable Transaction Disclosure Statement; Form 14234, Compliance Assurance Process (CAP) Application and (Attachments: A, B, C, D)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8886, Reportable Transaction Disclosure Statement and Form 14234, Compliance Assurance Process (CAP) Application and Attachments (A, B, C, D).

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224 or by email to *omb.unit@irs.gov.* Please reference the information collection's ''OMB number 1545–1800'' in the Subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to Sara Covington, (202) 317–4542, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Titles: Reportable Transaction Disclosure Statement; and Compliance Assurance Process (CAP) Application and (Attachments A, B, C, D).

OMB Number: 1545–1800

Form Numbers: 8886 and 14234.

Current Actions: There are no changes to the forms at this time. However, the agency updated the estimated number of responses, based on the most recent filing data.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Taxpayer Burden:

Form 8886:

Estimated Number of Respondents: 21,353.

Estimated Time per Respondent: 21 hours 33 minutes.

Estimated Total Annual Burden Hours: 459,944.

Form 14234:

Estimated Number of Respondents: 125.

Estimated Time per Response: 12 hours 40 minutes.

Estimated Total Annual Burden Hours: 1,584.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 6, 2022.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2022–07738 Filed 4–11–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4972

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 4972, Tax on Lump-Sum Distributions (From Qualified Plans of Participants Born Before January 2, 1936).

DATES: Written comments should be received on or before June 13, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224 or by email to *omb.unit@irs.gov.*

Please include the ''OMB Number 1545–0193'' in the Subject Line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or at (202) 317–4542, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tax on Lump-Sum Distributions (From Qualified Plans of Participants Born Before January 2, 1936).

OMB Number: 1545–0193.

Form Number: Form 4972.

Abstract: Form 4972 is used to figure the tax on a qualified lump-sum distribution you received in the tax year using the 20 percent capital gain election, the 10-year tax option, or both. These are special formulas used to figure a separate tax on the distribution that may result in a smaller tax than if you reported the taxable amount of the distribution as ordinary income.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 5,601.

Estimated Time per Respondent: 4 hrs. 24 min.

Estimated Total Annual Burden Hours: 24,644.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 05, 2022.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2022–07739 Filed 4–11–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Federal Advisory Committee Act, 5 U.S.C. app.2, that a meeting of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board (JBL/CS SMRB) will be held Tuesday, July 12, 2022, via WebEx. The meeting will begin at 3 p.m. and end at 5 p.m. ET. The meeting will have an open session from 3 p.m. until 3:30 p.m. and a closed session from 3:30 p.m. until 5 p.m.

The purpose of the Board is to provide expert review of the scientific quality, budget, safety and mission-relevance of investigator-initiated research applications submitted for VA merit review consideration and to offer advice for research program officials on program priorities and policies.

The purpose of the open session is to meet with the JBL/CS Service Directors to discuss the overall policies and process for scientific review, as well as disseminate information among the Board members regarding the VA research priorities.

The purpose of the closed session is to provide recommendations on the scientific quality, budget, safety and mission relevance of investigator-initiated research applications submitted for VA merit review evaluation. Applications submitted for review include various medical specialties within the general areas of biomedical, behavioral and clinical science research. The JBL/CS SMRB meeting will be closed to the public for the review, discussion and evaluation of initial and renewal research applications, which involve reference to staff and consultant critiques of research applications. Discussions will deal with scientific merit of each application and qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research applications. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the subcommittee meetings is in accordance with Title 5 U.S.C. 552b(c) (6) and (9)(B).

Members of the public who wish to attend the open JBL/CS SMRB meeting should join via WebEx. Meeting number (access code): 2761 781 4810 Meeting password: Y6dvdVWP?38. Meeting link: *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m6e42d2696babe328d9fa457e8ff623e2.*

Those who would like to obtain a copy of the minutes from the closed subcommittee meetings and rosters of the subcommittee members should contact Michael Burgio, Ph.D., Designated Federal Officer (14RD) Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at 202–603–4667 or at *Michael.Burgio@va.gov.*

Dated: April 6, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–07751 Filed 4–11–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0009]

Agency Information Collection Activity: Application for Veteran Readiness and Employment For Claimants With Service-Connected Disabilities

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 13, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger.@va.gov.* Please refer to ''OMB Control No. 2900–0009'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0009'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 501(a), and 38 U.S.C. 3102.

Title: Application for Veteran Readiness and Employment for Claimants with Service-Connected Disabilities (Chapter 31, Title 38, U.S.C.), VA Form 28–1900.

OMB Control Number: 2900–0009.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 28–1900 is used by Veterans and Service members with service-connected disabilities to apply for benefits and services under the Chapter 31 program. Without the information, eligibility and entitlement to Chapter 31 could not be determined under 38 U.S.C. 501(a) and 38 U.S.C. 3102.

Affected Public: Individuals and households.

Estimated Annual Burden: 16,167 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 97,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–07795 Filed 4–11–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0866]

Agency Information Collection Activity: Application for Veteran Employment Through Technology Education Courses (VET TEC) High Technology Program

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the revision of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each revision of information, including each revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 13, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0866'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0866'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Pub. L. 115–48 Section 116.

Title: Application for Veteran Employment through Technology Education Courses (VET TEC) High Technology Program.

OMB Control Number: 2900–0866.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 22–0994 allows students to apply to VA's VET TEC program. Education Service requests approval of this information collection to continue to accept applications that provide Veterans the opportunity to enroll in high technology programs that may fall outside of the definition of higher education. VA requires approval of this information collection so students may apply to enroll with a qualified provider.

Affected Public: Institutions or Households.

Estimated Annual Burden: 2,731 hours.

Estimated Average Burden Time per Respondent: 10 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 16,389.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–07744 Filed 4–11–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Tuesday,
No. 70 April 12, 2022

Part II

Environmental Protection Agency

40 CFR Part 751
Asbestos Part 1: Chrysotile Asbestos; Regulation of Certain Conditions of Use Under Section 6(a) of the Toxic Substances Control Act (TSCA); Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA–HQ–OPPT–2021–0057; FRL–8332–02–OCSPP]

RIN 2070–AK86

Asbestos Part 1: Chrysotile Asbestos; Regulation of Certain Conditions of Use Under Section 6(a) of the Toxic Substances Control Act (TSCA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a rule under the Toxic Substances Control Act (TSCA) to address the unreasonable risk of injury to health it has identified for conditions of use of chrysotile asbestos following completion of the TSCA Risk Evaluation for Asbestos, Part 1: Chrysotile Asbestos. TSCA requires that EPA address the unreasonable risks of injury to health and environment by rule and to apply requirements to the extent necessary so that chrysotile asbestos no longer presents such risks. Therefore, to address the unreasonable risk identified in the TSCA Risk Evaluation for Asbestos, Part 1 from chrysotile asbestos, EPA is proposing to prohibit manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos for chrysotile asbestos diaphragms for use in the chlor-alkali industry, chrysotile asbestos-containing sheet gaskets used in chemical production, chrysotile asbestos-containing brake blocks used in the oil industry, aftermarket automotive chrysotile asbestos-containing brakes/linings, other chrysotile asbestos-containing vehicle friction products, and other chrysotile asbestos-containing gaskets. EPA also is proposing to prohibit manufacture (including import), processing, and distribution in commerce of aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use, and other chrysotile asbestos-containing gaskets for consumer use. EPA is also proposing disposal and recordkeeping requirements for these conditions of use.

DATES: Comments must be received on or before June 13, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0057, using 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. Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointments. 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 Chemicals Risk Management Division (7405M), 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:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this proposed action if you manufacture (including import), process, distribute in commerce, use, or dispose of chrysotile asbestos. TSCA section 3(9) defines the term ''manufacture'' to mean to import into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States), produce, or manufacture. Therefore, unless expressly stated otherwise, importers of chrysotile asbestos are subject to any proposed provisions regulating manufacture of chrysotile asbestos. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Oil and Gas Extraction (NAICS code 211).
- Chemical Manufacturing (NAICS code 325).
- Fabricated Metal Product Manufacturing (NAICS code 332).
- Transportation Equipment Manufacturing (NAICS code 336).
- Gasket, Packing, and Sealing Device Manufacturing (NAICS code 339991).
- Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers (NAICS code 4231).
- Motor Vehicle and Parts Dealers (NAICS code 441).
- Automotive Repair and Maintenance (NAICS code 8111).

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Persons who import any chemical substance governed by TSCA are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements and the corresponding regulations at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this proposed rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

Asbestos (including chrysotile asbestos) is already subject to TSCA section 6(a) (40 CFR part 763, subparts G and I) rules that trigger the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b); see also 40 CFR 721.20). Any person who exports or intends to export asbestos (including chrysotile asbestos) must comply with the export notification requirements in 40 CFR part 707, subpart D. Pursuant to TSCA section 12(a)(2), this proposed rule would apply to the chemical substance, mixture, or article even if being manufactured, processed, or distributed in commerce solely for export from the United States because a determination has been made that the chemical substance, mixture, or article presents an unreasonable risk to health within the United States or to the environment of the United States.

If you have any questions regarding the applicability of this proposed action to a particular entity, consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's authority for taking this action?

Under TSCA section 6(a) (15 U.S.C. 2605(a)), if EPA determines through a TSCA section 6(b) risk evaluation that a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to

the risk evaluation, under the conditions of use, EPA must by rule apply one or more requirements listed in section 6(a) to the extent necessary so that the chemical substance or mixture no longer presents such risk.

C. What action is the Agency taking?

EPA determined in the Risk Evaluation for Asbestos, Part 1: Chrysotile Asbestos (Ref. 1), that chrysotile asbestos presents an unreasonable risk of injury to health based upon the following conditions of use:

- Processing and Industrial use of Chrysotile Asbestos Diaphragms in the Chlor-alkali Industry;
- Processing and Industrial Use of Chrysotile Asbestos-Containing Sheet Gaskets in Chemical Production;
- Industrial Use and Disposal of Chrysotile Asbestos-Containing Brake Blocks in Oil Industry;
- Commercial Use and Disposal of Aftermarket Automotive Chrysotile Asbestos-Containing Brakes/Linings;
- Commercial Use and Disposal of Other Chrysotile Asbestos-Containing Vehicle Friction Products;
- Commercial Use and Disposal of Other Chrysotile Asbestos-Containing Gaskets;
- Consumer Use and Disposal of Aftermarket Automotive Chrysotile Asbestos-Containing Brakes/Linings;
- Consumer Use and Disposal of Other Chrysotile Asbestos-Containing Gaskets.

A detailed description of these conditions of use is provided in Unit III.B.2. Accordingly, to address the identified unreasonable risk, EPA is proposing pursuant to TSCA section 6(a) to prohibit manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos in bulk for or as part of chrysotile asbestos diaphragms used in the chlor-alkali industry and chrysotile asbestos-containing sheet gaskets used in chemical production. EPA is proposing that these prohibitions would take effect two years after the effective date of the final rule. EPA is also proposing pursuant to TSCA section 6(a) to prohibit manufacture (including import), processing, distribution in commerce, and commercial use of: Chrysotile asbestos-containing brake blocks used in the oil industry, aftermarket automotive chrysotile asbestos-containing brakes/linings, other chrysotile asbestos-containing vehicle friction products (not including the NASA Super Guppy Turbine aircraft use), and other chrysotile asbestos-containing gaskets. EPA is proposing that these prohibitions would take effect 180 days after the effective date of the final rule. EPA is further proposing pursuant to TSCA section 6(a) to prohibit manufacture (including import), processing, and distribution in commerce of: Aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use, and other chrysotile asbestos-containing gaskets for consumer use. EPA is proposing that these prohibitions would take effect 180 days after the effective date of the final rule. EPA is also proposing disposal and recordkeeping requirements under which regulated parties would document compliance with certain proposed prohibitions. EPA does not intend the proposed prohibitions on processing or distribution in commerce to prohibit any processing or distribution in commerce incidental to disposal of the chrysotile asbestos waste in accordance with the proposed requirements.

EPA is requesting public comment on this proposal.

D. Why is the Agency taking this action?

Under TSCA section 6(a), ''[i]f the Administrator determines in accordance with subsection (b)(4)(A) that the manufacture, processing, distribution in commerce, use or disposal of a chemical substance or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment, the Administrator shall by rule . . . apply one or more of the [section 6(a)] requirements to such substance or mixture to the extent necessary so that the chemical substance no longer presents such risk.'' Chrysotile asbestos was the subject of a risk evaluation under TSCA section 6(b)(4)(A) that was issued in December 2020 (Ref. 1). In that risk evaluation, EPA determined that chrysotile asbestos presents unreasonable risk of injury to health under certain conditions of use evaluated. As a result, EPA is proposing to take action to ensure that chrysotile asbestos no longer presents such risk for the chrysotile uses evaluated under part 1 of the risk evaluation. The unreasonable risk is described in Unit III.B.1. and the conditions of use that are the subject of this proposed regulation and that were found to drive the unreasonable risk in the Risk Evaluation for Asbestos, Part 1: Chrysotile Asbestos are described in Unit III.B.2.

E. What are the estimated incremental impacts of this action?

EPA has prepared an Economic Analysis of the potential incremental impacts associated with this rulemaking that can be found in the rulemaking docket (Ref. 2).

1. Background

Asbestos usage in the nation has been declining for decades and current domestic consumption of raw asbestos is less than 0.1% of peak consumption in the early 1970s. Chlor-alkali producers are the only industry in the U.S. known to fabricate products from raw chrysotile asbestos. In addition, EPA has concluded that imports of a few asbestos-containing products are intended, known, or reasonably foreseen to occur; while the total quantity of asbestos in those products is uncertain, it is believed to be relatively small (see Appendix C of the Risk Evaluation).

2. Costs

Three firms own a total of ten chlor-alkali plants in the U.S. that still use asbestos diaphragms to produce chlorine and sodium hydroxide (also known as caustic soda). As one of these ten plants is expected to close in 2022, before the expected effective date of the final rule, EPA has only estimated the costs and benefits for the nine remaining plants that would be impacted by this rule. The nine remaining plants range in age from 40 to 123 years old, although some have had new capacity added as recently as 16 years ago, and others may have had recent refurbishments. The share of total production using asbestos diaphragm cells has been declining over time. The diaphragm cells in these plants currently represent about one-third of U.S. chlor-alkali production capacity. EPA's analysis supports a high probability that these firms will respond to the proposed rule by converting their asbestos diaphragm cells to membrane cells, which do not use asbestos. The use of membrane cells has increased over time and they currently account for nearly half of U.S. capacity. (The remaining capacity uses non-asbestos diaphragms or other miscellaneous processes.) A more detailed discussion of the expected impacts of conversion from asbestos-containing diaphragm cells to membrane cells, which use an increased concentration of per- and polyfluoroalkyl substances (PFAS) compounds relative to the amount of PFAS compounds contained in asbestos-containing diaphragms, is located in Unit III.B.4.

Converting the asbestos diaphragm cells to membrane cells in response to the proposed rule is predicted to require an incremental investment of approximately $1.8 billion across all nine plants predicted to be using asbestos diaphragms when the rule goes

into effect. Membrane cells are much more energy efficient than diaphragm cells, so, despite the upfront capital cost, that conversion is expected to result in significant savings that would accrue over many years. The expected energy savings are included in the estimated net annualized costs. Membrane cells also produce a higher grade of caustic soda that has historically commanded a higher price than the product from diaphragm cells. EPA anticipates that most of the conversions to membrane cells would occur in the coming decades even without the proposed rule, following existing trends in the chlor-alkali industry to transition away from asbestos. Compared to this baseline trend, the incremental net effect of the proposed rule on the chlor-alkali industry over a 20-year period using a 3 percent discount rate is estimated to range from an annualized cost of about $49 million per year to annualized savings of approximately $35 million per year, depending on whether the higher grade of caustic soda produced by membrane cells continues to command a premium price. Using a 7 percent discount rate, the incremental annualized net effect ranges from a cost of $87 million per year to savings of approximately $40,000 per year, again depending on whether there are revenue gains from the caustic soda production.

EPA also estimates that approximately 1,800 sets of automotive brakes or brake linings containing asbestos may be imported into the U.S. each year, representing 0.002% of the total U.S. market for aftermarket brakes. The cost of a prohibition would be minimal due to the ready availability of alternative products that are only slightly more expensive (an average cost increase of $4 per brake). The proposed rule is estimated to result in total annualized costs for aftermarket automotive brakes of approximately $25,000 per year using a 3% discount rate and $18,000 per year using a 7% discount rate.

EPA did not have information to estimate the costs of prohibiting asbestos for the remaining uses subject to the proposed rule (sheet gaskets used in chemical production, brake blocks in the oil industry, other vehicle friction products, or other gaskets), so there are additional unquantified costs. EPA believes that the use of these asbestos-containing products has declined over time, and that they are now used in at most small segments of the industries. For these remaining categories, EPA requests comment on the number of entities that manufacture (including import), process, distribute in commerce, or use products or articles containing asbestos. EPA also requests comment on the costs of the rule to these entities.

3. Benefits

EPA's Economic Analysis for the rule quantified the benefits from avoided cases of lung cancer, mesothelioma, ovarian cancer, and laryngeal cancer due to reduced asbestos exposures to workers, occupational non-users (ONUs), and DIYers related to the rule's requirements for chlor-alkali diaphragms, sheet gaskets for chemical production, and aftermarket brakes. The combined national quantified benefits of avoided cancer cases associated with these products are approximately $3,100 per year using a 3% discount rate and $1,200 per year using a 7% discount rate, based on the cancer risk estimates from the Part 1 risk evaluation. EPA did not estimate the aggregate benefits of the requirements for oilfield brake blocks, other vehicle friction products or other gaskets because the Agency did not have sufficient information on the number of individuals likely to be affected by the rule. Thus, there may be additional unquantified benefits from reducing exposures associated with these uses.

There are also unquantified benefits due to other avoided adverse health effects associated with asbestos exposure including respiratory effects (*e.g.,* asbestosis, non-malignant respiratory disease, deficits in pulmonary function, diffuse pleural thickening and pleural plaques) and immunological and lymphoreticular effects.

In addition to the benefits of avoided adverse health effects associated with chrysotile asbestos exposure, the proposed rule is expected to generate significant benefits from reduced air pollution associated with electricity generation. Chlor-alkali production is one of the most energy-intensive industrial operations. Since membrane cells are more energy efficient than diaphragm cells, converting diaphragm cells to membrane cells reduces electricity consumption and thus the level of pollutants associated with electric power generation, including carbon dioxide, particulate matter, sulfur dioxide, and nitrogen oxides. Based on a sensitivity screening-level analysis that EPA conducted, converting asbestos diaphragm cells to membrane cells could yield tens of millions of dollars per year in environmental and health benefits from reduced emissions of particulate matter, sulfur dioxide, nitrogen oxides, and carbon dioxide. EPA's Economic Analysis, which can be found in the rulemaking docket (Ref. 2), contains more information on the potential magnitude of these monetized benefits from reduced criteria air pollutants and carbon dioxide emissions as well as caveats about the limitations of the screening-level analysis that EPA conducted.

4. Small Entity Impacts

As described in more detail in Unit VIII.C and in the Economic Analysis of this rulemaking (Ref. 2), EPA estimates that the proposed rule would affect at least 15 small entities, of which 12 are businesses supplying aftermarket brakes incurring costs between $778 and $11,523 per firm (depending on the number of brake replacements they perform). Nine of the brake replacement firms have a cost impact of less than 1% of their annual revenues. Of the three small entities estimated to be affected by the rule that are not supplying aftermarket brakes, two manufacture sheet gaskets for chemical production and one imports oilfield brake blocks. EPA was unable to estimate the magnitude of the impacts for these small entities. Chlor-alkali plants account for nearly all of the quantified costs of the rule, and none of the firms operating chlor-alkali plants are small businesses. No small businesses have been identified as using sheet gaskets for chemical production or brake blocks in the oil industry, but small businesses do supply these products to end users that are not small. Asbestos-free products in these applications reportedly do not last as long as items containing asbestos. As a result, the proposed rule could increase revenues for the affected small business suppliers if they sell a larger volume of non-asbestos products to the end users as replacements. For the remaining use categories (aftermarket automotive brakes, other gaskets, and other vehicle friction products), EPA has not identified firms (of any size) manufacturing, processing, distributing or using products containing asbestos. To the extent that there are any small businesses engaged in these activities, there are likely only a few firms facing a small cost increase for asbestos-free products, and any such cost increase can probably be passed on to consumers. EPA requests public comments regarding the number of small businesses subject to the rule, including use categories for which EPA did not identify any affected small businesses, and on the potential impacts of the rule on these small businesses.

5. Environmental Justice

This rule would increase the level of environmental protection for all affected populations without having any disproportionately high and adverse

health or environmental effects on any population, including any minority or low-income populations. There are pre-existing environmental justice concerns in communities surrounding some of the affected chlor-alkali facilities and one other chemical manufacturer affected by this rule due to high levels of polluting industrial activities and a high proportion of minority residents. This rule is not expected to increase these pre-existing environmental justice concerns. Unit III.A.1 discusses outreach conducted to advocates of minority or low-income communities that might be subject to disproportionate exposure to chrysotile asbestos.

Both asbestos-containing diaphragm cells and membrane cells use per- and polyfluorinated substances (PFAS) compounds. EPA lacks information to determine whether this proposed regulation would increase usage and associated release of PFAS compounds at chlor-alkali facilities that currently rely on asbestos-containing diaphragms, chlor-alkali facilities that do not currently use asbestos-containing diaphragms that may expand their production as a result of the regulation, upstream facilities that produce membranes, or upstream facilities that produce PFAS fibers used in non-asbestos diaphragms.

6. Effects on State, Local, and Tribal Governments

This action has federalism implications because regulation under TSCA section 6(a) may preempt state law. It does not impose costs on small governments or have tribal implications.

II. Background

A. Overview of Chrysotile Asbestos

Asbestos is defined in section 202 of TSCA Title II as: ''Asbestiform varieties of six fiber types—chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite.'' EPA used this definition of asbestos at the onset of the asbestos risk evaluation in 2016. However, EPA determined that chrysotile asbestos is the only type of asbestos where import, processing, and distribution in commerce for use is known, intended, or reasonably foreseen in the U.S. As such, EPA assessed these non-legacy conditions of use of chrysotile asbestos in the December 2020 Risk Evaluation for Asbestos, Part 1: Chrysotile Asbestos (Ref. 1). Following a decision by the Ninth Circuit Court of Appeals (*Safer Chemicals Healthy Families* v. *EPA,* 943 F.3d 397 (9th Cir. 2019)) concerning legacy use and associated disposal of asbestos, conditions of use that were not included in the Part 1 risk evaluation, EPA began developing a supplemental risk evaluation to address legacy and associated disposal conditions of use. The Risk Evaluation for Asbestos, Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos will include evaluation of those conditions of use of chrysotile asbestos, the five amphibole fiber types identified in the TSCA Title II definition (crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite and actinolite) and Libby Amphibole Asbestos (mainly consisting of tremolite, winchite, and richterite). Additionally, some talc deposits and articles containing talc have been shown to contain asbestos. Thus, it is recognized that certain uses of talc may present the potential for asbestos exposure. Where EPA identifies reasonably available information demonstrating the presence of asbestos in talc, where such talc applications fall under TSCA authority, those talc containing asbestos impurities will be evaluated in Part 2 of the risk evaluation for asbestos.

This proposed rule would only apply to chrysotile asbestos (Chemical Abstract Services Registry Number 132207–32–0). Chrysotile asbestos is a hydrated magnesium silicate mineral, with relatively long and flexible crystalline fibers that are capable of being woven. Chrysotile asbestos fibers used in most commercial applications consist of aggregates and usually contain a broad distribution of fiber lengths. Chrysotile asbestos fiber bundle lengths usually range from a fraction of a millimeter to several centimeters, and diameters range from 0.1 to 100 μm. More information on the physical and chemical properties of chrysotile asbestos is in Section 1.1 of the Risk Evaluation (Ref. 1).

EPA evaluated the conditions of use associated with six ongoing use categories of chrysotile asbestos (chlor-alkali diaphragms, sheet gaskets used in chemical production, oilfield brake blocks, aftermarket automotive brakes/linings, other vehicle friction products, and other gaskets). There is no domestic mining of asbestos. All imported raw asbestos is chrysotile asbestos and is used in the manufacture of chlor-alkali diaphragms. According to the United States Geological Survey (USGS), 300 metric tons of chrysotile asbestos were imported in 2020 (Ref. 3).

B. Regulatory Actions Pertaining to Chrysotile Asbestos

Chrysotile asbestos is subject to numerous federal laws and regulations in the United States and is also subject to regulatory actions by states and other countries. The following is a summary of the laws and regulatory actions pertaining to chrysotile asbestos implemented by EPA, other federal agencies, states, and other countries or via international treaties and agreements. None of these actions addresses the unreasonable risks under TSCA that this proposed rule would address. For a full description see the Appendix A of the Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos (Ref. 1).

1. EPA Actions Pertaining to Chrysotile Asbestos

EPA has taken the following actions pertaining to chrysotile asbestos under its various authorities:

- *Asbestos Hazard Emergency Response Act (AHERA):* The Asbestos-Containing Materials in Schools regulation (40 CFR part 763, subpart E (1987)) requires local education agencies to inspect their school buildings for asbestos-containing building material, prepare asbestos management plans and perform asbestos response actions to prevent or reduce asbestos hazards. Public school districts and non-profit private schools, including charter schools and schools affiliated with religious institutions (collectively called local education agencies) are subject to the rule's requirements. AHERA defines asbestos as the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite.
- *Toxic Substances Control Act:* In 1989, EPA issued a final rule entitled *Asbestos: Manufacture, Importation, Processing, and Distribution in Commerce Prohibitions; Final Rule,* (54 FR 29460 (1989)) banning most asbestos-containing products. In 1991, a federal court vacated and remanded most of the final rule, thereby permitting manufacture (including import), processing, or distribution in commerce for the majority of the asbestos-containing products. *Corrosion Proof Fittings* v. *EPA,* 947 F.2d 1201 (5th Cir., 1991). Manufacture (including import), processing, and distribution in commerce of the following products remain banned by the rule under TSCA: Corrugated paper, rollboard, commercial paper, specialty paper, and flooring felt. In addition, the 1989 rule continues to ban the manufacture (including import), processing, and distribution in commerce for use of asbestos in products that have not historically contained asbestos, referred to in the 1989 rule as ''new uses'' of asbestos, and

defined by 40 CFR 763.163 as ''commercial uses of asbestos not identified in part 763.165 the manufacture, importation or processing of which would be initiated for the first time after August 25, 1989.''

Through the authority of section 6 of TSCA, EPA extended worker protection requirements to state and local government employees involved in asbestos work who were not previously covered by existing Occupational Safety and Health Administration (OSHA) occupational health standards for asbestos through the *Asbestos Worker Protection Rule* (40 CFR part 763, subpart G (2000)).

• *Restriction on Discontinued Uses of Asbestos; Significant New Use Rule (SNUR).* In 2019, EPA promulgated a significant new use rule under section 5(a)(2) of TSCA to ensure that any discontinued uses of asbestos cannot reenter commerce without prior EPA review (84 FR 17345, April 25, 2019). These new provisions at 40 CFR 721.11095 require persons subject to the rule to notify EPA at least 90 days before commencing any manufacturing (including importing) or processing of asbestos or asbestos-containing products covered under the rule. These uses are designated significant new uses and, as such, cannot be resumed unless EPA is notified and makes a required determination and takes action, as appropriate, under TSCA section 5.

• *Asbestos Information Act of 1988 (AIA):* The AIA, Public Law 100–577, helped provide transparency and identify the companies making certain types of asbestos-containing products by requiring manufacturers to report production to the EPA.

• *Emergency Planning and Community Right-To-Know Act* (EPCRA): Under Section 313, the Toxics Release Inventory (TRI) requires reporting of environmental releases of friable asbestos at a concentration level of 0.1% or greater. Also, within EPCRA, friable asbestos is designated as a hazardous substance subject to an Emergency Release Notification at 40 CFR 355.40 with a reportable quantity of 1 pound.

• *Clean Air Act:* Asbestos has been designated a hazardous air pollutant (HAP) under the CAA. In 1973, EPA promulgated the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) (40 CFR part 61, subpart M). The regulation requires, among other requirements, that some manufacturing and fabricating operations either cannot emit visible emissions into the outside air or must follow air cleaning procedures and generally must seal asbestos-containing waste material from regulated activities in a leak-tight container while wet, label, and dispose of properly in a landfill permitted to receive asbestos waste.

• *Clean Water Act* (CWA): CWA defines asbestos as a toxic pollutant per 33 U.S.C. Section 1317. Each toxic pollutant listed in that section is subject to effluent limitations guidelines based on the best available technology economically achievable for the applicable category or class of point sources established in accordance with the CWA. The effluent limitations guidelines for the asbestos manufacturing point source category are in 40 CFR part 427.

• *Resource Conservation and Recovery Act* (RCRA): RCRA gives EPA the authority to control hazardous wastes from cradle to grave, including generation, transportation, treatment, storage and disposal. Asbestos is not regulated as a hazardous waste under RCRA Subtitle C. Asbestos is a non-hazardous solid waste regulated under Subtitle D of RCRA. Regulations established under Subtitle D ban open dumping of waste and set minimum federal criteria for the operation of municipal waste and industrial waste landfills, including design criteria, location restrictions, financial assurance, corrective action (cleanup), and closure requirements. States play a lead role in implementing these regulations and may set more stringent requirements.

• *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA): The *Designation of Hazardous Substances Rule* (40 CFR 302.4) designates asbestos as a hazardous substance with a reportable quantity in Superfund regulations. The regulation also sets forth reportable quantities for asbestos under the Clean Water Act and the Resource Conservation and Recovery Act.

• *Safe Drinking Water Act:* Established *National Primary Drinking Water Regulations* (NPDWR) (40 CFR part 141, subpart G (1991)). NPDWR are enforceable drinking water standards expressed as Maximum Contaminant Levels (MCLs) or treatment techniques. The MCLs are the maximum level of contaminants that are allowed in public water systems in the United States. In 40 CFR 141.62, EPA set the maximum contaminant level for asbestos in community water systems and non-transitory, non-community water systems at 7 million fibers/liter (longer than 10 μm).

2. Other Pertinent Federal Actions Pertaining to Chrysotile Asbestos

Actions by other federal agencies related to chrysotile asbestos include:

• *Occupational Safety and Health Administration* (OSHA). OSHA has established a permissible exposure limit (PEL) for asbestos of 0.1 fibers per cubic centimeter (cc) of air as an eight-hour time weighted average (TWA), with an excursion limit of 1.0 asbestos fibers per cubic centimeter over a 30-minute period. Among other requirements, OSHA requires assessments of workplaces covered by one of three standards (General Industry (29 CFR 1910.1001); Shipyards (29 CFR 1915.1001); Construction (29 CFR 1926.1101)) to be completed to determine if asbestos is present and if the work will generate airborne fibers. Further, monitoring is required to detect if asbestos exposure is at or above the PEL TWA or excursion limit for workers who are, or may be, expected to be exposed to asbestos. Monitoring frequency depends on work classification and exposure. Unit II.C. describes EPA's general approach to considering OSHA occupational health standards in TSCA risk evaluations and TSCA risk management actions.

• *The National Institute for Occupational Safety and Health (NIOSH),* part of the U.S. Centers for Disease Control and Prevention, in the U.S. Department of Health and Human Services, is a research agency focused on the study of worker safety and health. NIOSH has established a Recommended Exposure Limit (REL) for asbestos. For asbestos fibers >5 micrometers long and a length-to-width ratio equal to or greater than 3:1, NIOSH recommends a REL of 100,000 fibers per cubic meter of air (100,000 f/m3), which is equal to 0.1 fiber per cubic centimeter of air (f/cc), as determined by a 400-liter air sample in accordance with NIOSH Analytical Method 7400. *NIOSH Pocket Guide to Chemical Hazards, Appendix C.* The NIOSH Recommended Exposure Limit (REL) is a non-mandatory, recommended occupational exposure limit. This 0.1 f/cc level is consistent with OSHA's PEL, as well as the 0.1 f/cc Threshold Limit Value (TLV) guidance from the American Conference of Governmental Industrial Hygienists (ACGIH), a private not-for-profit scientific association.

• *Consumer Product Safety Commission (CPSC).* CPSC is charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the agency's jurisdiction. The CPSC has

banned or restricted the following asbestos-containing products: Emberizing materials (ash and embers), patching compounds, and asbestos-containing garments for general use (16 CFR part 1305; 16 CFR part 1304 and 16 CFR 1500.17(a)(7)).

• *Mine Safety and Health Administration (MSHA).* MSHA adopted an asbestos standard for exposure limits from airborne contaminants (30 CFR parts 56 and 57 (subpart D)). In these exposure limits, MSHA identifies respiratory protection requirements for mine workers in both surface and underground mines (Ref. 1).

3. State Actions Pertaining to Chrysotile Asbestos

Pursuant to AHERA, many states have adopted EPA's Asbestos Model Accreditation Plan (MAP) (Appendix C to 40 CFR part 763, subpart E) for asbestos abatement professionals who perform work in schools and public and commercial buildings. Thirty-nine states have EPA-approved MAP programs and separately twelve states have also applied to and received a waiver from EPA to oversee implementation of the Asbestos-Containing Materials in Schools Rule (40 CFR part 763, subpart E) pursuant to AHERA. States also implement regulations pursuant to the Asbestos NESHAP regulations (40 CFR part 61, subpart M). While the asbestos MAP and asbestos NESHAP regulations set minimum national standards, states are free to impose more stringent regulations. Also, both California and Washington prohibit the use of more than 0.1% of asbestos in brake pads and require laboratory testing of brake pads and labeling to certify compliance with their regulations.

A list of state regulations that are independent of the federal AHERA and NESHAP requirements that states implement is in Appendix A of the Risk Evaluation (Ref. 1).

4. International Actions Pertaining to Chrysotile Asbestos

Asbestos is regulated internationally; nearly 60 nations have banned or significantly limited the use of asbestos.

The European Union (EU) first prohibited five uses of asbestos in 1991 and added chrysotile asbestos prohibitions for numerous uses in 1999, with a full ban implemented on January 1, 2005. In 2006, the EU established the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) regulation and renewed its position on asbestos (*Regulation (EC) No 1907/2006 of the European Parliament and of the Council, 18 December 2006*). Regulation (EC) No. 2016/1005 amended REACH Article XVII to formally phase out the use of diaphragms containing chrysotile asbestos for electrolysis installations (*i.e.,* chlor-alkali facilities) by July 1, 2025.

Canada promulgated a regulation to ban asbestos effective December 30, 2018 (Ref. 4). The regulation prohibited the import, sale and use of asbestos, as well as the manufacture, import, sale and use of products containing asbestos. Canada added several limited exclusions, including an allowance for the import and use of asbestos for chlor-alkali facilities using asbestos diaphragm technology until December 31, 2029.

C. Consideration of OSHA Occupational Health Standards in TSCA Risk Evaluations and TSCA Risk Management Actions

TSCA requires EPA to evaluate whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator, under the conditions of use (COUs). COUs are the circumstances, as determined by the Administrator, under which a chemical is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of. If EPA determines through risk evaluation that a chemical substance presents an unreasonable risk, TSCA section 6 requires EPA to issue regulations applying one or more control requirements to the extent necessary so that the chemical substance no longer presents such risk. Although EPA must consider, and in some cases factor in to the extent practicable, non-risk factors as part of TSCA section 6(a) rulemaking (see TSCA section 6(c)(2)), EPA must nonetheless still ensure that the selected regulatory requirements apply ''to the extent necessary so that the chemical substance or mixture no longer presents [unreasonable] risk.'' This risk-based requirement is distinguishable from approaches mandated by other laws, including the Occupational Safety and Health Act (OSH Act), which includes both significant risk and feasibility (technical and economic) assessments in its rulemaking.

Congress intended for EPA to consider occupational risks from chemicals it evaluates under TSCA, among other potential exposures, as relevant and appropriate. As noted previously, section 6(b) of TSCA requires EPA to evaluate risks to potentially exposed or susceptible subpopulations identified as relevant by the Administrator. TSCA section 3(12) defines the term ''potentially exposed or susceptible subpopulation'' as ''a group of individuals within the general population identified by the Administrator who, due to either greater susceptibility or greater exposure, may be at greater risk than the general population of adverse health effects from exposure to a chemical substance or mixture, such as infants, children, pregnant women, workers, or the elderly.''

The OSH Act similarly requires OSHA to evaluate risk to workers prior to promulgating new or revised standards and requires OSHA standards to substantially reduce significant risk to the extent feasible, even if workers are exposed over a full working lifetime. *See* 29 U.S.C. 655(b)(5); *Indus. Union Dep't, AFL–CIO* v. *Am. Petroleum Inst.,* 448 U.S. 607, 642 (1980) (plurality opinion).

Thus, the standards for chemical hazards that OSHA promulgates under the OSH Act share a broadly similar purpose with the standards that EPA promulgates under section 6(a) of TSCA. The control measures OSHA and EPA require to satisfy the objectives of their respective statutes may also, in many circumstances, overlap or coincide. However, as this section outlines, there are important differences between EPA's and OSHA's regulatory approaches and jurisdiction, and EPA considers these differences when deciding whether and how to account for OSHA requirements when evaluating and addressing potential unreasonable risk to workers so that compliance requirements are clearly explained to the regulated community. To that end, EPA has also aligned with ancillary requirements of OSHA standards, to the extent possible, by cross referencing them.

1. OSHA Requirements

OSHA's mission is to ensure that employees work in safe and healthful conditions. The OSH Act establishes requirements that each employer comply with the General Duty Clause of the Act (29 U.S.C. 654(a)), as well as with occupational safety and health standards issued under the Act.

a. General Duty Clause of the OSH Act

The General Duty Clause of the OSH Act requires employers to keep their workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees. The General Duty Clause is cast in general terms, and does not establish specific requirements like

exposure limits, personal protective equipment requirements (PPE), or other specific protective measures that EPA could potentially consider when developing its risk evaluations or risk management requirements. OSHA, under limited circumstances, has cited the General Duty Clause for exposure to chemicals. To prove a violation of the General Duty Clause, OSHA must prove employer or industry recognition of the hazard, the hazard was causing or likely to cause death or serious physical harm, and a feasible method to eliminate or materially reduce the hazard was available. In rare situations, OSHA has cited employers for violation of the General Duty Clause where exposures were below a chemical-specific PEL. In such situations, OSHA must demonstrate that the employer had actual knowledge that the PEL was inadequate to protect its employees from death or serious physical harm. Because of the heavy evidentiary burden on OSHA to establish violations of the General Duty Clause, it is not frequently used to cite employers for employee exposure to chemical hazards.

b. OSHA Standards

OSHA standards are issued pursuant to the OSH Act and are found in title 29 of the Code of Federal Regulations. There are separate standards for general industry, construction, maritime and agriculture sectors, as well as general standards applicable to a number of sectors (*e.g.,* OSHA's Respiratory Protection standard). OSHA has numerous standards that apply to chemical manufacturers and processors, as well as downstream employers whose employees may be occupationally exposed to hazardous chemicals.

OSHA sets legally enforceable limits on the airborne concentrations of hazardous chemicals, referred to as permissible exposure limits (PELs), to protect workers against the health effects of exposure to hazardous substances (29 CFR 1910 subpart Z, 1915 subpart Z, 1926 subparts D and Z). Under section 6(a) of the OSH Act, OSHA was permitted an initial two-year window after the passage of the Act to adopt ''any national consensus standard and any established Federal standard.'' 29 U.S.C. 655(a). OSHA used this authority in 1971 to establish PELs that were adopted from federal health standards originally set by the Department of Labor through the Walsh-Healy Act, in which approximately 400 occupational exposure limits were selected based on the American Conference of Governmental Industrial Hygienists (ACGIH) 1968 list of Threshold Limit Values (TLVs). In addition, about 25 exposure limits recommended by the American Standards Association (now called the American National Standards Institute) (ANSI) were adopted as PELs.

Following the two-year window provided under section 6(a) of the OSH Act for adoption of national consensus and existing Federal standards, OSHA has issued health standards following the requirements in section 6(b) of the Act. OSHA has established approximately 30 PELs under section 6(b)(5) as part of comprehensive substance-specific standards that include additional requirements for protective measures such as use of PPE, establishment of regulated areas, exposure assessment, hygiene facilities, medical surveillance, and training. These ancillary provisions in substance specific OSHA standards further mitigate residual risk that could be present due to exposure at the PEL.

Many OSHA PELs have not been updated since they were established in 1971 (The asbestos PEL was last updated in 1994). Yet, in many instances, scientific evidence has accumulated suggesting that the current limits are not sufficiently protective. As stated on OSHA's annotated PELs web page, OSHA has recognized that many of its PELs are outdated and inadequate for ensuring protection of worker health (Ref. 5). In addition, health standards issued under section 6(b)(5) of the OSH Act must reduce significant risk only to the extent that it is technologically and economically feasible. OSHA's legal requirement to demonstrate that its section 6(b)(5) standards are technologically and economically feasible often precludes OSHA from imposing exposure control requirements sufficient to ensure that the chemical substance no longer presents a significant risk to workers. In sum, the great majority of OSHA's chemical standards are outdated or do not eliminate significant risk contemplated by the Supreme Court's interpretation of the OSH Act. *See Am. Petroleum Inst.,* 448 U.S. at 655. They would, in either case, be unlikely to address unreasonable risk to workers within the meaning of TSCA, since TSCA section 6(b) unreasonable risk determinations may account for unreasonable risk to more sensitive endpoints and working populations than OSHA's risk evaluations typically contemplate, and EPA is obligated to apply TSCA section 6(a) risk management requirements to the extent necessary so that the unreasonable risk is no longer presented.

Because the requirements and application of TSCA and OSHA regulatory analyses differ, it is appropriate that EPA conduct risk evaluations and, where it finds unreasonable risk to workers, develop risk management requirements for chemical substances that OSHA also regulates, and it is expected that EPA's findings and requirements may sometimes diverge from OSHA's. However, it is also appropriate that EPA consider the chemical standards that OSHA has already developed, so as to limit the compliance burden to employers by aligning management approaches required by the agencies, where alignment will adequately address unreasonable risk to workers. The following section discusses EPA's consideration of OSHA standards in its risk evaluation and management strategies under TSCA.

2. Consideration of OSHA Standards in TSCA Risk Evaluations

When characterizing the risk during risk evaluation under TSCA, EPA believes it is appropriate to evaluate the levels of risk present in baseline scenarios where no mitigation measures are assumed to be in place for the purpose of determining unreasonable risk (see Unit II.C.2.a). (It should be noted that, there are some cases where baseline scenarios may reflect certain mitigation measures, such as in instances where exposure estimates are based on monitoring data at facilities that have existing engineering controls in place.) In addition, EPA believes it is appropriate to also evaluate the levels of risk present in scenarios considering applicable OSHA requirements (*e.g.,* chemical-specific PELs and/or chemical-specific health standards with PELs and additional ancillary provisions) as well as scenarios considering industry or sector best practices for industrial hygiene that are clearly articulated to the Agency. By characterizing risks using scenarios that reflect different levels of mitigation, EPA risk evaluations can help inform potential risk management actions by providing information that could be used during risk management to tailor risk mitigation appropriately to address any unreasonable risk identified (see Unit II.C.2.b and Unit II.C.3).

a. Risk Characterization for Unreasonable Risk Determination

When undertaking unreasonable risk determinations as part of TSCA risk evaluations, EPA cannot assume as a general matter that an applicable OSHA requirement or industry practice is consistently and always properly applied. Mitigation scenarios included in the EPA risk evaluation (*e.g.,*

scenarios considering use of PPE) likely represent what is happening already in some facilities. However, the Agency cannot assume that all facilities will have adopted these practices for the purposes of making the TSCA risk determination.

Therefore, EPA conducts baseline assessments of risk and makes its determination of unreasonable risk from a baseline scenario that is not based on an assumption of compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE. Making unreasonable risk determinations based on the baseline scenario should not be viewed as an indication that EPA believes there are no occupational safety protections in place at any location, or that there is widespread noncompliance with applicable OSHA standards. Rather, it reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan, or because their employer is out of compliance with OSHA standards, or because EPA finds unreasonable risk for purposes of TSCA notwithstanding existing OSHA requirements.

b. Risk Evaluation To Inform Risk Management Requirements

In addition to the baseline scenario described previously, EPA risk evaluations may characterize the levels of risk present in scenarios considering applicable OSHA requirements (*e.g.,* chemical-specific PELs and/or chemical-specific health standards with PELs and additional ancillary provisions) as well as scenarios considering industry or sector best practices for industrial hygiene that are clearly articulated to the Agency. EPA's evaluation of risk under scenarios that, for example, incorporate use of engineering or administrative controls, or personal protective equipment, serves to inform its risk management efforts. By characterizing risks using scenarios that reflect different levels of mitigation, EPA risk evaluations can help inform potential risk management actions by providing information that could be used during risk management to tailor risk mitigation appropriately to address worker exposures where the Agency has found unreasonable risk. In particular, as discussed below, EPA can use the information developed during its risk evaluation to determine whether alignment of EPA's risk management requirements with existing OSHA requirements or industry best practices will adequately address unreasonable risk as required by TSCA.

In the TSCA Risk Evaluation for Asbestos, Part 1 for chrysotile asbestos, EPA presented risk estimates based on workers' exposures with and without respiratory protection. EPA determined that even when respirators are used by workers, unreasonable risk would remain in some of the conditions of use evaluated. In risk management, EPA is not relying only on the use of respirators to reduce exposures to workers so that chrysotile asbestos does not present unreasonable risk, since for some conditions of use respirators are not a viable regulatory option (*e.g.,* the respirator alone does not reduce exposures enough so that asbestos does not present unreasonable risk). In addition, EPA is considering the NIOSH/OSHA hierarchy of controls when developing risk management actions, and therefore use of respirators might only be suitable after other steps have been taken by the facilities to reduce exposures.

3. Consideration of OSHA Standards in TSCA Risk Management Actions

When undertaking risk management actions, EPA: 1. Develops occupational risk mitigation measures to address any unreasonable risks identified by EPA, striving for consistency with applicable OSHA requirements and industry best practices, including appropriate application of the hierarchy of controls, when those measures would address an unreasonable risk; and 2. Ensures that EPA requirements apply to all potentially exposed workers in accordance with TSCA requirements. Consistent with TSCA section 9(d), EPA consults and coordinates TSCA activities with OSHA and other relevant Federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements.

Informed by the mitigation scenarios and information gathered during the risk evaluation and risk management process, the Agency might propose rules that require risk management practices that may be already common practice in many or most facilities. Adopting clear, comprehensive regulatory standards will foster compliance across all facilities (ensuring a level playing field) and assure protections for all affected workers, especially in cases where current OSHA standards may not apply or not be sufficient to address the unreasonable risk.

For evaluation scenarios which involve OSHA chemical-specific PELs, EPA's risk evaluation in some cases may illustrate that limiting exposure to OSHA's PEL would result in risk levels below the benchmark under the TSCA standard under certain conditions of use. In these cases, TSCA risk management requirements could incorporate and reinforce requirements in OSHA standards and ensure that risks are addressed, including for circumstances where OSHA requirements are not applicable (*e.g.,* public sector workers) by asserting TSCA compliance/enforcement as well. EPA's risk evaluation may also find unreasonable risk under TSCA associated with some occupational conditions of use, even when the applicable OSHA requirements are being met. In these cases, EPA would need to develop risk management requirements beyond those included in OSHA's standards.

D. Summary of EPA's Risk Evaluation Activities on Chrysotile Asbestos

In July 2017, EPA published a scope of the chrysotile asbestos risk evaluation (82 FR 31592, July 7, 2017), and after receiving public comment, published a problem formulation in June 2018 (83 FR 26998, June 11, 2018). In March 2020, EPA released a draft risk evaluation for asbestos, and in December 2020, following public comment and peer review by the Science Advisory Committee on Chemicals (SACC), EPA finalized the Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos (Ref. 1).

In the Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos, EPA evaluated risks associated with the conditions of use involving six non-legacy use categories of chrysotile asbestos including: Chlor-alkali diaphragms, sheet gaskets in chemical production, other gaskets, oilfield brake blocks, aftermarket automotive brake/linings, and other vehicle friction products. EPA evaluated the conditions of use within these categories, including manufacture (including import), processing, distribution, commercial use, consumer use, and disposal (Ref. 1). Descriptions of these conditions of use are included in Unit III.B.2.

The risk evaluation identified potential adverse health effects associated with exposure to chrysotile asbestos, including the risk of mesothelioma, lung cancer, and other cancers from chronic inhalation. A further discussion of the chrysotile asbestos hazards is included in Unit III.B.1. The chrysotile asbestos conditions of use that EPA determined drive the chemical substance's unreasonable risk to health include

processing and industrial use of diaphragms in the chlor-alkali industry; processing and industrial use of sheet gaskets used in chemical production; industrial use and disposal of brake blocks in the oil industry; commercial use and disposal of aftermarket automotive brakes/linings; commercial use and disposal of other vehicle friction products; commercial use and disposal of other gaskets; consumer use and disposal of aftermarket automotive brakes/linings; and consumer use and disposal of other gaskets. This determination includes unreasonable risk of injury to health to both workers and occupational non-users (ONUs) during occupational exposures, and to consumers and bystanders during exposures to consumer uses.

EPA determined that there are no conditions of use that drive unreasonable risk to the environment.

As previously discussed, following the November 2019 decision of the Ninth Circuit Court of Appeals in *Safer Chemicals Healthy Families* v. *EPA,* 943 F.3d 397, the agency will also, in parallel to pursuing risk management to address unreasonable risk identified in the Risk Evaluation for Asbestos, Part 1, conduct a Part 2 of the Asbestos Risk Evaluation: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos. Legacy uses and associated disposals for asbestos are conditions of use for which manufacture (including import), processing, and distribution in commerce for a use no longer occur, but where use (*e.g.,* in situ building material) and disposal are still known, intended, or reasonably foreseen to occur.

Part 2 of the Risk Evaluation for Asbestos is currently underway. The October 13, 2021, consent decree in the case *Asbestos Disease Awareness Organization et al* v. *Regan et al,* 4:21–cv–03716–PJH (N.D. Cal.) requires the agency to publish a final Part 2 asbestos risk evaluation on or before December 1, 2024. EPA published a draft scope for the Part 2 asbestos risk evaluation on December 29, 2021 (86 FR 74088).

The Risk Evaluation for Asbestos, Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos will include evaluation of the legacy uses and associated disposals of chrysotile asbestos and the five amphibole fiber types described in the TSCA Title II definition in addition to Libby Amphibole Asbestos (mainly consisting of tremolite, winchite, and richterite). Additionally, where EPA identifies reasonably available information demonstrating the presence of asbestos in talc that fall under TSCA authority, talc containing asbestos impurities will be evaluated in Part 2.

As part of the problem formulation for asbestos, EPA found that exposures to the general population may occur from the conditions of use considered in Part 1 of the asbestos risk evaluation (Ref. 6). EPA determined, in Part 1 of the asbestos risk evaluation, that exposure to the general population via surface water, drinking water, ambient air, and disposal pathways falls under the jurisdiction of other environmental statutes administered by EPA. The Agency, therefore, at that time explained that it was tailoring the scope of the Part 1 risk evaluation for asbestos using authorities in TSCA sections 6(b) and 9(b)(1). As such, EPA did not evaluate hazards or exposures to the general population and the unreasonable risk determinations made in Part 1 of the asbestos risk evaluation do not account for exposures to the general population. However, EPA expects that any potential exposures to the general population would be adequately addressed through the proposed prohibition on the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos to address the unreasonable risk posed to workers, ONUs, consumers and bystanders. EPA does plan to address exposures to the general population for the conditions of use evaluated in Part 2 of the risk evaluation.

EPA also concluded that, based on the reasonably available information in the published literature provided by industries using asbestos and reporting to EPA databases, there were minimal or no releases of asbestos to surface water associated with the conditions of use that EPA evaluated in Part 1. Therefore, EPA concluded that there is low or no risk to aquatic and sediment-dwelling organisms from exposure to chrysotile asbestos. Terrestrial pathways, including biosolids from wastewater treatment plants, were excluded from the analysis at the problem formulation stage (Refs. 1 and 6). However, EPA expects that any potential exposures to terrestrial species, as with the general population, would be adequately addressed through the proposed prohibition on the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos.

III. Regulatory Approach

A. Background

Under TSCA section 6(a), if the Administrator determines through a TSCA section 6(b) risk evaluation that a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the Agency's risk evaluation, under the conditions of use, EPA must by rule apply one or more requirements to the extent necessary so that the chemical substance no longer presents such risk.

The TSCA section 6(a) requirements can include one or more of, the following actions:

- Prohibit, limit, or otherwise restrict, the manufacturing, processing, or distribution in commerce of the substance or mixture (TSCA section 6(a)(1)).
- Prohibit, limit, or otherwise restrict, the manufacturing, processing, or distribution in commerce of the substance or mixture for particular uses or above a specific concentration for a particular use (TSCA section 6(a)(2)).
- Require clear and adequate minimum warning and instructions with respect to use, distribution in commerce, or disposal of the substance or mixture (TSCA section 6(a)(3)).
- Require record keeping, monitoring or testing by manufacturers and processors (TSCA 6(a)(4)).
- Prohibit or regulate any manner or method of commercial use of the substance or mixture (TSCA section 6(a)(5)).
- Prohibit or otherwise regulate any manner or method of disposal of the substance or mixture by certain persons (TSCA section 6(a)(6)).
- Direct manufacturers or processors to give notice of the determination of unreasonable risk to distributors, users, and the public and replace or repurchase the substance or mixture (TSCA section 6(a)(7)).

As described in Unit III.B., EPA analyzed how the TSCA section 6(a) requirements could be applied so that the unreasonable risk found to be presented in Part 1 of the risk evaluation for chrysotile asbestos is no longer presented. TSCA section 6(c)(2)(A) requires EPA, in proposing and promulgating TSCA section 6(a) rules, to include a statement of effects addressing certain issues, including the effects of the chemical substance on health and the environment; the magnitude of exposure of the chemical substance to humans and the environment; the benefits of the chemical substance for various uses; and the reasonably ascertainable economic consequences of the rule, including consideration of the likely

effects of the rule on the national economy, small business, technological innovation, the environment and public health; and the costs and benefits and the cost effectiveness of the regulatory action and of the one or more primary alternative regulatory actions considered by the Administrator. As a result, EPA is proposing a regulatory action and requesting comment on an alternative regulatory action, which are discussed in Unit IV. EPA is requesting public comment on all aspects of the proposed regulatory action and the primary alternative regulatory action.

Under the authority of TSCA section 6(g), EPA may consider granting a time-limited exemption for a specific condition of use for which EPA finds: That the specific condition of use is a critical or essential use for which no technically and economically feasible safer alternative is available, taking into consideration hazard and exposure; that compliance with the proposed requirement would significantly disrupt the national economy, national security, or critical infrastructure; or that the specific condition of use of the chemical substance, as compared to reasonably available alternatives, provides a substantial benefit to health, the environment, or public safety. EPA is not proposing to grant an exemption from the rule requirements. EPA is aware that chlor-alkali chemicals are used in sectors important to the national economy and operation of critical infrastructure to protect human health, for uses such as drinking water treatment. Sectors include: Water and Wastewater Systems Sector, Chemical Sector, Critical Manufacturing Sector, Defense Industrial Base Sector, Emergency Services Sector, Energy Sector, Food and Agriculture Sector, and Healthcare and Public Health sector. EPA is requesting public comment regarding the need and rationale for exemptions from the proposed rule pursuant to the provisions of TSCA section 6(g).

TSCA section 6(c)(2)(C) requires that, in deciding whether to prohibit or restrict in a manner that substantially prevents a specific condition of use and in setting an appropriate transition period for such action, EPA considers, to the extent practicable, whether technically and economically feasible alternatives that benefit health or the environment will be reasonably available as a substitute when the proposed prohibition or restriction takes effect. Unit III.B.4. includes more information regarding EPA's consideration of alternatives.

1. Consultations

EPA conducted consultations and outreach in preparing for this proposed regulatory action. The Agency held a federalism consultation on May 13, 2021, as part of this rulemaking process and pursuant to Executive Order 13132. During the consultation EPA met with state and local officials early in the process of developing the proposed action to permit them to have meaningful and timely input into its development (Ref. 7). During the consultation, participants and EPA discussed the authority given under TSCA section 6 regarding prohibition, how alternatives may be treated in rulemaking, and which activities would be potentially regulated in the proposed rule (Ref. 7).

On May 24, 2021, and June 3, 2021, EPA held tribal consultations for Part 1: Chrysotile Asbestos. Tribal officials were given the opportunity to meaningfully interact with EPA risk managers concerning the current status of risk management. EPA received questions during both meetings held during the consultation period concerning potential risks to workers, consumers, and general population (Ref. 8).

EPA also conducted outreach to advocates of communities that might be subject to disproportionate exposure to chrysotile asbestos, such as minority populations, low-income populations and indigenous peoples. EPA's environmental justice (EJ) consultation occurred from June 1 through August 13, 2021. On June 1 and 9, 2021, EPA held public meetings as part of this consultation. These meetings were held pursuant to and in compliance with Executive Orders 12898 and 14008. EPA received several comments following the EJ meetings. Commenters expressed concerns that consumers who live near chlor-alkali facilities and Do-It-Yourself (DIY) auto workers could be exposed unless chrysotile asbestos is banned (Ref. 9).

Units VIII.C., VIII.E., VIII.F., VIII.J. provide more information regarding the consultations.

2. Other Stakeholder Consultations

In addition to the consultations described in Units VIII.C., VIII.E., VIII.F., and VIII.J. on February 3, 2021, EPA held a public webinar (Ref. 10) and also attended a Small Business Administration roundtable on February 5, 2021, where EPA staff provided an overview of the TSCA risk management process and the findings in the Part 1 risk evaluation (EPA–HQ–OPPT–2021–0057). Attendees of these meetings were given an opportunity to voice their concerns on both the risk evaluation and the risk management process.

Furthermore, EPA engaged in discussions with industry, non-governmental organizations, other national governments, asbestos experts and users of chrysotile asbestos. Summaries of external meetings held during the development of this proposed rule are in the docket. These meetings helped to inform how long industry would need to implement a prohibition, how companies currently protect workers, and the extent to which each industry uses asbestos-free technology. Additionally, discussions with the Canadian government helped EPA to better understand how Canada approached its 2018 regulation to prohibit asbestos use (such as the asbestos-containing products covered in the prohibition and the chosen prohibition effective dates) to better inform this proposed rule (Refs. 4 and 11). The purpose of these stakeholder discussions was to hear from importers, processors, distributors, users, academics, advisory councils, and members of the public health community about the conditions of use evaluated for chrysotile asbestos; substitute chemicals or alternative methods; engineering control measures and personal protective equipment currently in use or potentially feasible for adoption; and other risk reduction approaches that may have already been adopted or considered for the evaluated conditions of use.

B. Regulatory Assessment of Chrysotile Asbestos Under Part 1

This Unit describes the additional information that EPA considered in deciding the proposed regulatory approach for chrysotile asbestos, so that chrysotile asbestos would no longer present an unreasonable risk under the conditions of use evaluated under Part 1 of the risk evaluation. This Unit describes the unreasonable risk, the conditions of use of chrysotile asbestos that are the focus of this regulation, and how EPA is proposing to apply the TSCA section 6(a) requirements, including the consideration of alternatives in deciding whether to prohibit or restrict in a manner that substantially prevents a specific condition of use.

1. Description of Unreasonable Risk

The health endpoint driving EPA's determination of unreasonable risk for chrysotile asbestos under the conditions of use is cancer from inhalation exposure (Ref. 1). This unreasonable risk includes the risk of mesothelioma,

lung cancer, and other cancers from chronic inhalation. An inhalation unit risk (IUR), which is an estimate of the carcinogenic risk associated with a unit concentration of air, was developed for chrysotile asbestos. The IUR was based on epidemiological studies on mesothelioma and lung cancer in cohorts of workers using chrysotile asbestos in commerce. Since there was no exposure-response data for cancer of the ovary and laryngeal cancer effects, a direct estimate of risk from ovarian and laryngeal cancer could not be made for the unit risk calculation. An adjustment factor for ovarian and laryngeal cancer effects was applied to risk value estimates to correct for the negative bias in the risk values derived from only lung cancer and mesothelioma. And, as discussed in Section 4.2.1 of the Risk Evaluation (Ref. 1), for workers and ONUs exposed in a workplace, EPA used as a benchmark extra risks of 1 cancer per 10,000 people. At this risk level 1×10–4 (1E–4), if the noncancer effects (*e.g.,* asbestosis and pleural thickening) of chrysotile asbestos are similar to Libby Amphibole Asbestos, the non-cancer effects of chrysotile asbestos are likely to contribute additional risk to the overall health risk of chrysotile asbestos beyond the risk of cancer. Thus, the overall health risks of chrysotile asbestos are underestimated based on cancer risk alone.

For processing and industrial use of chrysotile asbestos diaphragms, EPA found unreasonable risk to workers from chronic inhalation exposure to chrysotile asbestos, based on industry data including personal air monitoring (*i.e.,* worker breathing zone results) and area air monitoring (*i.e.,* fixed location air monitoring results) that led to the high-end risk estimates exceeding the 1E–4 risk benchmark (Ref. 1).

For both the processing (*i.e.,* gasket cutting) and industrial use activities of chrysotile asbestos-containing sheet gaskets for chemical production, EPA found unreasonable risk to workers and ONUs from chronic inhalation exposure to chrysotile asbestos based on monitoring data provided by industry and data in the published literature (Ref. 1).

For the industrial use and disposal of chrysotile asbestos-containing oilfield brake blocks, EPA found unreasonable risk to workers and ONUs from chronic inhalation exposure to chrysotile asbestos based on a 1988 study of Norway's offshore petroleum industry (Ref. 1).

For the commercial use and disposal of aftermarket automotive chrysotile asbestos-containing brakes/linings and other vehicle friction products (except for the NASA Super Guppy Turbine aircraft use), EPA found unreasonable risk to workers and ONUs from chronic inhalation exposure to chrysotile asbestos based on published literature and OSHA data (Section 2.3.1.8.1 of the Risk Evaluation). EPA determined, based on exposure data provided by NASA to EPA (Section 2.3.1.8.2 of the Risk Evaluation), that the use and disposal of chrysotile asbestos-containing brakes for NASA's Super Guppy Turbine aircraft did not present an unreasonable risk of injury to health or the environment.

For the commercial use and disposal of other chrysotile asbestos-containing gaskets, EPA found unreasonable risk to workers and ONUs from chronic inhalation exposure to chrysotile asbestos based on exposure scenarios from occupational monitoring data for asbestos-containing gasket replacement activities in vehicles.

For consumer use and disposal of aftermarket automotive chrysotile asbestos-containing brakes/linings and other chrysotile asbestos-containing gaskets, EPA found unreasonable risk to consumers and bystanders from chronic inhalation exposure to chrysotile asbestos, using as a benchmark cancer risk level of 1x10–6 (1E–6) for consumers and bystanders.

EPA also noted in the Part 1 asbestos risk evaluation that it is possible for industrial workers or consumers working with aftermarket automotive products or other types of asbestos-containing gaskets to cause unintentional exposure to individuals in their residence due to take-home exposure from contaminated clothing or other items. While EPA did not identify or receive information which could inform such an exposure scenario and does not currently have models which can adequately evaluate and address this pathway, take-home exposures were considered pathways in the Part 1 risk evaluation for asbestos that could increase risk to populations associated with the workers, ONUs, consumers or bystanders.

Unit V.A. summarizes the health effects and the magnitude of the exposures (Ref. 1).

The regulatory actions proposed, and alternatives, so that chrysotile asbestos no longer presents this unreasonable risk, are in Unit IV.

2. Description of Conditions of Use

This Unit describes the conditions of use subject to this proposed regulatory action.

Although EPA identified both industrial and commercial uses in Part 1 of the risk evaluation for purposes of distinguishing scenarios, the Agency clarified then and clarifies now that EPA interprets the authority over ''any manner or method of commercial use'' under TSCA section 6(a)(5) to reach both.

The conditions of use subject to this proposed regulatory action do not include any legacy uses or associated disposal for chrysotile asbestos or other asbestos fiber types. EPA will consider legacy uses and associated disposals in Part 2 of the risk evaluation for asbestos (Ref. 1).

a. Processing and industrial use of chrysotile asbestos diaphragms in the chlor-alkali industry:

Chrysotile asbestos is imported and used by the chlor-alkali industry for the fabrication of semi-permeable diaphragms. The chrysotile asbestos diaphragms are used in an industrial process for the production of chorine and sodium hydroxide (caustic soda). Asbestos is chemically inert and able to effectively separate chlorine and sodium hydroxide in electrolytic cells. The chlor-alkali chemical production process involves the separation of the sodium and chloride atoms of salt in saltwater (brine) via electricity to produce sodium hydroxide (caustic soda), hydrogen, and chlorine. This reaction occurs in an electrolytic cell. The cell contains two compartments separated by a semi-permeable diaphragm, which is made mostly of chrysotile asbestos. The diaphragm prevents the reaction of the caustic soda with the chlorine and allows for the separation of both materials for further processing. Diaphragms are typically used for 1–3 years before they must be replaced (Ref. 1).

b. Processing and industrial use of chrysotile asbestos-containing sheet gaskets in chemical production:

Sheet gaskets are used to form a leakproof seal between fixed components. Chrysotile asbestos-containing gaskets are used primarily in industrial applications with extreme operating conditions, such as high temperatures, high pressures, and the presence of chlorine or other corrosive substances. Such extreme production conditions are found in many chemical manufacturing and processing operations, including: The manufacture of titanium dioxide and chlorinated hydrocarbons; polymerization reactions involving chlorinated monomers; and steam cracking at petrochemical facilities. Chrysotile asbestos-containing gaskets are fabricated from sheets composed of 80% (minimum) chrysotile asbestos fully encapsulated in styrene butadiene rubber. The chrysotile asbestos-containing sheets are imported

into the U.S. in large rolls where they are cut to shape by a fabricator and subsequently used at titanium dioxide manufacturing facilities. Installed gaskets typically remain in use anywhere from a few weeks to three years (Ref. 1).

c. Industrial use and disposal of chrysotile asbestos-containing brake blocks in oil industry:

The rotary drilling rig of an oil well uses a drawworks hoisting machine to raise and lower the traveling blocks during drilling. The drawworks is a permanently installed component of a mobile drilling rig. The drawworks consists of a large-diameter steel spool, a motor, a main brake, a reduction gear, and an auxiliary brake. The brake of the drawworks hoisting machine is an essential component that is engaged when no motion of the traveling block is desired. Chrysotile asbestos-containing brake blocks are imported for use in some drawworks, reportedly most often on larger drilling rigs. Spent brake blocks must periodically be replaced by workers in the oilfield industry who maintain the rig (Ref. 1).

d. Commercial use and disposal of aftermarket automotive chrysotile asbestos-containing brakes/linings:

The two primary types of automobile brakes are drum brakes and disc brakes, and chrysotile asbestos has been found in both, in linings for drum brake assemblies and pads in disc brake assemblies. Disc brakes are much more common today than drum brakes, but many passenger vehicles have a combination of disc brakes for the front wheels and drum brakes for the rear wheels. Chrysotile asbestos fibers offer many properties that are desired for brake linings and brake pads, and up through the 1990s many new automobiles manufactured in the United States had brake assemblies with asbestos-containing components. However, by 2000, asbestos was no longer used in the brakes of virtually any original equipment manufacturer (OEM) automobiles sold domestically. Asbestos in automotive parts is not currently banned in the U.S., and asbestos-containing brake products may be imported and sold in the United States. The quantity of asbestos-containing brake parts imported is unknown. Therefore, asbestos could be found in the United States: (1) In vehicles on the road that have asbestos-containing brakes, whether from older and vintage vehicles or aftermarket parts; and (2) in vehicles that have new asbestos-containing brakes installed by establishments or individuals that use certain imported products. Brakes must be repaired and replaced periodically, which involves activities that create dust and potential occupational exposure to asbestos (Ref. 1).

e. Commercial use and disposal of other chrysotile asbestos-containing vehicle friction products:

While EPA has verified that U.S. automotive manufacturers are not installing asbestos-containing brakes on new cars for domestic distribution, EPA identified a company that claimed to import asbestos-containing brakes and then install them on cars in the United States for export only. Following completion of the risk evaluation, and during the risk management phase following publication of the final risk evaluation, this company disavowed this practice (Ref. 12).

In addition, there is a limited use of asbestos-containing brakes for a special, large transport plane, the ''Super-Guppy'' Turbine (SGT) aircraft, owned and operated by the National Aeronautics and Space Administration (NASA). The SGT aircraft is a specialty cargo plane that transports oversized equipment, and it is considered a mission-critical vehicle. Only one SGT aircraft is in operation today, and NASA acquired it in 1997. The SGT aircraft averages approximately 100 flights per year. When not in use, it is hangered and maintained at a NASA facility in El Paso, Texas. The SGT aircraft has eight landing gear systems, and each system has 32 brake blocks, which contain chrysotile asbestos. Potential worker exposures are associated with servicing the brakes. As explained in the risk evaluation, the following two conditions of use do not present unreasonable risk, and therefore do not require mitigation by this proposed regulation: Use of chrysotile asbestos-containing brakes for a specialized, large NASA transport plane; and the disposal of chrysotile asbestos-containing brakes for a specialized, large NASA transport plane (Ref. 1).

f. Commercial use and disposal of other asbestos-containing gaskets:

EPA also identified the use of chrysotile asbestos-containing gaskets in the exhaust system of a specific type of utility vehicle manufactured and available for purchase in the United States. The utility vehicle manufacturer purported at the time to receive the pre-cut gaskets which are then installed during manufacture of the vehicle. The gaskets may be removed during servicing of the exhaust system. EPA determined that workers and ONUs who install the gaskets during assembly and workers who may repair these vehicles are exposed to asbestos (Ref. 1).

g. Consumer use and disposal of aftermarket automotive chrysotile asbestos-containing brakes/linings:

As discussed in Unit III.B.2.d., asbestos could be found in the United States: (1) In vehicles on the road that have asbestos-containing brakes, whether from original manufacturers (primarily for older and vintage vehicles) or aftermarket parts; and (2) in vehicles that have new asbestos-containing brakes installed by establishments or individuals that use certain imported products. Brakes must be repaired and replaced periodically, activities which create dust and exposure to asbestos for consumers and bystanders who perform their own do-it-yourself automobile maintenance and repairs on asbestos-containing components (Ref. 1).

h. Consumer use and disposal of other asbestos-containing gaskets:

As discussed in Unit III.B.2.f., EPA also identified the use of chrysotile asbestos-containing gaskets in the exhaust system of a specific type of utility vehicle manufactured and available for purchase in the United States. The gaskets may be removed during servicing of the exhaust system. EPA determined that do-it-yourself consumers who may repair these vehicles and bystanders are exposed to asbestos (Ref. 1).

3. Description of TSCA Section 6(a) Requirements Considered To Address Unreasonable Risk

EPA examined which requirements or combination of requirements under TSCA section 6(a), as described in Unit III, have the potential to reduce the risk to workers, occupational non-users (ONUs), consumers and bystanders so that chrysotile asbestos no longer presents unreasonable risk. As required by TSCA, as amended, in selecting among these requirements, EPA factored in, to the extent practicable, considerations including the effects of the chemical on health and the environment, the benefits of the chemical substance for various uses, and the reasonably ascertainable economic consequences of the rule, including the effect of the rule on the national economy, small business, technological innovation, the environment and public health; the costs and benefits of the proposed regulatory action and one or more primary regulatory alternative regulatory actions considered; and the cost effectiveness of the proposed regulatory action and of the one or more primary alternative regulatory actions considered. See Unit V for further discussion related to TSCA section

(c)(2)(A) considerations, including the statement of effects of the proposed rule with respect to these considerations.

EPA developed a proposed regulatory action and one primary alternative regulatory action, which are described in Units IV.A. and IV.B. To identify and select a regulatory action, EPA considered the route of exposure driving the unreasonable risk (inhalation) and the exposed population. For consumer conditions of use, EPA considered how it could exercise its authority under TSCA to regulate the manufacturing, processing, and distribution in commerce of chrysotile asbestos at different levels in the supply chain to eliminate or restrict the availability of chrysotile asbestos and chrysotile asbestos-containing products for consumer use to effectively address the unreasonable risk to consumers and bystanders. EPA also considered the regulatory authority under TSCA and other statutes such as OSHA, CPSA, and other EPA-administered statutes to examine (1) whether there are opportunities for identified risk from chrysotile asbestos to be addressed under other statutes, such that a referral may be warranted under TSCA section 9(a) or section 9(b), or (2) whether TSCA section 6(a) regulation could include alignment of requirements and definitions to minimize confusion to the regulated entities and the general public.

In addition, EPA considered other TSCA requirements such as the consideration of alternatives when recommending prohibition or a substantial restriction (TSCA section 6(c)(2)(C), as outlined in Unit III.B.4.), and the requirements in TSCA section 6(d)(1)(B) for compliance dates (described in the proposed and primary alternative regulatory actions in Unit IV.).

To the extent information was reasonably available, when selecting regulatory actions, EPA considered the pollution prevention actions and the hierarchy of controls adopted by OSHA and NIOSH, with the goal of identifying risk management control methods that are permanent, feasible, and effective. EPA also considered how to address the unreasonable risk while providing flexibility to the regulated entities, given the functionality and the performance efficacy of chrysotile asbestos. EPA considered the information presented in the risk evaluation, additional input from stakeholders (as described in Unit III.A.) and anticipated compliance strategies from regulated entities.

EPA evaluated regulatory options under TSCA section 6(a) to address the unreasonable risk found to be presented by chrysotile asbestos under the conditions of use evaluated in the Risk Evaluation for Asbestos, Part 1: Chrysotile Asbestos. EPA is proposing a prohibition of the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos in bulk form and as part of chrysotile asbestos diaphragms used in the chlor-alkali industry and chrysotile asbestos-containing sheet gaskets used in chemical production (descriptions of these conditions of use are in Unit III.B.2.) two years following the effective date of the final rule, which is 60 days after final rule promulgation. Associated with that prohibition, EPA considered and is proposing interim recordkeeping requirements and is proposing to cross reference existing disposal regulations. The proposed prohibition, recordkeeping requirements, and cross referencing are described in more detail in Unit IV.A. Similarly, EPA evaluated and is proposing a prohibition of the manufacture (including import), processing, distribution in commerce and industrial or commercial use of chrysotile asbestos-containing brake blocks used in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; other vehicle friction products; and asbestos-containing gaskets 180 days after the effective date of the final rule. EPA is further proposing pursuant to TSCA section 6(a) to prohibit manufacture (including import), processing, and distribution in commerce of aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use, and other chrysotile asbestos-containing gaskets for consumer use 180 days after the effective date of the final rule. EPA also is proposing disposal and recordkeeping requirements for these conditions of use. EPA does not intend the proposed prohibitions on processing or distribution in commerce to prohibit any processing or distribution in commerce incidental to disposal of the chrysotile asbestos waste in accordance with the proposed requirements.

EPA considered alternative regulatory requirements that would reduce exposures in occupational settings and address consumer and bystander exposure so that chrysotile asbestos no longer presents unreasonable risk. A possible requirement under TSCA section 6(a) that EPA considered was the use of respirators; however, EPA determined that respirators were not adequate for all conditions of use that are driving unreasonable risk, and EPA also would like to consider the NIOSH/OSHA hierarchy of controls instead of consideringly only respirators as part of management of occupational exposures. Other possible requirements under TSCA section 6(a) such as limiting the weight fraction or size of the items containing chrysotile asbestos, were not considered since those seemed impracticable for the conditions of use under consideration. Other possible requirements under TSCA section 6(a) that EPA considered in combination under the primary alternative regulatory action, such as labels, warning signs, and recordkeeping, are discussed in Unit IV.B.

The primary alternative option EPA considered for the chlor-alkali diaphragm and sheet gasket categories was a prohibition to take effect over a longer time (five years), and the establishment of a risk-based performance standard, known as an existing chemical exposure limit (ECEL) to reduce inhalation exposures by workers and occupational non-users during that period prior to the prohibition. EPA developed an 8-hour time-weighted average (TWA) ECEL in support of risk management efforts on chrysotile asbestos under TSCA section 6(a). EPA calculated the ECEL to be 0.005 fibers/cc (f/cc) for inhalation exposures to chrysotile asbestos as an 8-hour TWA (Ref. 13).

Requirements to meet an ECEL would not include requirements for specific engineering or administrative controls; rather, the ECEL is a performance-based exposure limit that would allow regulated entities to determine how to most effectively meet the ECEL based on what works best for their workplace, while following the hierarchy of controls to the extent feasible (*e.g.,* preferential use of methods which prevent generation or release of asbestos in the workplace rather than relying on respiratory protection to meet the ECEL; see Unit IV.B.1, Exposure Controls).

In general, industrial and commercial facilities are already familiar with the concept of permissible exposure limits (PELs) required by OSHA. Based on their familiarity with the PELs and corresponding methods of compliance, some industrial and commercial facilities may be able to implement an ECEL. EPA recognizes that an ECEL will require time and resources to prepare for and therefore did not propose to include it for the two-year interim period prior to the proposed prohibition date. It is also unknown whether facilities could, under the ECEL provision, routinely monitor at or below the ECEL or ECEL-action level with reasonable certainty. Additionally, there are uncertainties regarding whether

facilities would need to routinely rely on the use of respiratory protection considering the engineering and administrative controls already in place and the effectiveness of the respiratory protection to ensure that air concentrations above the ECEL do not result in unreasonable risk (see Section 2.3.1.2 of the Risk Evaluation). For these reasons, EPA did not include in the proposed regulation requirements to meet an ECEL. However, the ECEL is included as an interim exposure reduction measure in the primary alternative regulatory action, based on the longer interim period prior to prohibition considered in the primary alternative regulatory action. Details of the ECEL requirement included in the primary alternative regulatory action, including how facilities could demonstrate compliance, are described in Unit IV.B.

In addition, EPA considered other requirements, such as requiring monitoring and recordkeeping to demonstrate compliance with the ECEL, or downstream notification to communicate the date of prohibition for manufacturing, processing and distribution in commerce. These requirements are described in Unit IV.B.

As required under TSCA section 6(d), any rule under TSCA section 6(a) must specify the date of compliance, which shall be as soon as practicable with a reasonable transition period but begin no later than five years after the date of promulgation of the rule. These proposed compliance dates are detailed in Unit IV.A.

Because a determination has been made that chrysotile asbestos presents an unreasonable risk to health within the United States or to the environment of the United States, pursuant to TSCA section 12(a)(2), this proposed rule would apply to chrysotile asbestos even if being manufactured, processed, or distributed in commerce solely for export from the United States.

After considering the different regulatory requirements under TSCA section 6(a), consideration of alternatives (described in Unit III.B.4.), compliance dates, and other requirements under TSCA section 6(c), EPA developed the proposed regulatory action described in Unit IV.A. and a primary alternative regulatory action described in Units IV.B.1., IV.B.5, IV.B.6, and IV.B.7.

4. Consideration of Alternatives in Deciding Whether To Prohibit or Substantially Restrict Chrysotile Asbestos

In selecting among prohibitions and other restrictions available under TSCA section 6(a), EPA must under section 6(c)(2)(A) and (B) consider and factor in, to the extent practicable, the health and environmental effects and exposures of the chemical, the benefits of the chemical for various uses and the reasonably ascertainable economic consequences of the rule (described in Unit V.). Further, under TSCA section 6(c)(2)(C) and based on the information published under TSCA section 6(c)(2)(A), in deciding whether to prohibit or restrict in a manner that substantially prevents a specific condition of use of a chemical substance or mixture, and in setting an appropriate transition period for such action, EPA must also consider, to the extent practicable, whether technically and economically feasible alternatives that benefit health or the environment will be reasonably available as a substitute when the proposed prohibition or other restriction takes effect.

a. Health and environmental effects of the chemical alternatives or substitute methods:

In considering the potential chemical alternatives or substitute methods for chrysotile asbestos for the conditions of use evaluated in the risk evaluation, EPA notes that chrysotile asbestos is not currently the primary substance most commonly used in these conditions of use, nor has it been for the last decade. Chlor-alkali asbestos diaphragms, sheet gaskets for chemical production, aftermarket automotive breaks, oilfield brake blocks, other gaskets and other friction products containing chrysotile asbestos are relatively uncommon in the market space, as described in the risk evaluation. There are a number of alternatives to asbestos in these conditions of use that make up the majority of the market share and have been preferentially used for some time, in part as a result of the known severe and adverse health effects related to asbestos exposure. Based on the information published under TSCA section 6(c)(2)(A), EPA does not expect any adverse impacts to human health and the environment to result from the further reduction of asbestos in these conditions of use when compared to the continued use of asbestos.

EPA acknowledges that substitute technologies for asbestos-containing diaphragms in chlor-alkali production use an increased concentration of per- and polyfluoroalkyl substances (PFAS) relative to the amount of PFAS compounds contained in asbestos-containing diaphragms. As discussed in the Economic Analysis, the three types of chlor-alkali production technologies commonly used in the United States vary in their use of PFAS. Non-asbestos diaphragms have a higher concentration of polytetrafluoroethylene (PTFE, a polymeric perfluorinated substance) than asbestos-containing diaphragms, and non-asbestos membranes are made of PTFE, perfluorinated carboxylic acids and perfluorosulfonic acids. Therefore, the transition away from asbestos-containing diaphragms could result in greater usage and release of PFAS. EPA lacks information to determine whether increased usage is likely to cause increased release of PFAS at chlor-alkali facilities that currently rely on asbestos-containing diaphragms, chlor-alkali facilities that do not currently use asbestos-containing diaphragms that may expand their production as a result of the regulation, upstream facilities that produce membranes, or upstream facilities that produce perfluorinated fibers used in non-asbestos diaphragms. EPA requests public comment with monitoring data and other information that would allow the Agency to assess how a transition away from asbestos containing diaphragms may affect exposures to PFAS released by chlor-alkali facilities. Despite these uncertainties about possible greater use and release of PFAS, EPA believes the benefits of removing chrysotile asbestos, a known human carcinogen that causes an aggressive and deadly cancer (mesothelioma), from continued use in the United States, are significant even though there are uncertainties regarding the potential additional exposure to PFAS that might result from this action.

b. Technical feasibility, economic feasibility, and reasonable availability of the chemical alternatives or substitute methods:

As mentioned, there are a number of alternatives to asbestos in these conditions of use that make up the majority of the market share and have been preferentially used for some time. EPA received input from stakeholders regarding their concerns about alternatives to chrysotile asbestos. EPA expects non-asbestos diaphragms and membrane cells will be the likely substitutes to asbestos diaphragms. Each chlor-alkali industry member consulted expressed concerns about the economic feasibility of transitioning to asbestos free technology (Refs. 14, 15, 16, 17, and 20), indicating that would take a significant amount of time. Several stakeholders provided feedback on alternatives to chrysotile asbestos for the sheet gasket use in chemical production. Generally, these stakeholders described how the transition from asbestos use for titanium dioxide production would require significant capital investment. One stakeholder noted they have a titanium dioxide production facility

located in Taiwan that uses asbestos-free gaskets. The stakeholder, however, stated that the technology used in the Taiwan facility would not suit certain domestic titanium dioxide plants because the large diameter flanges in the domestic plants result in performance issues with the asbestos-free gaskets (Ref. 14). Non-asbestos technologies already dominate the market for other gaskets, oilfield brake blocks, brakes and other friction products. Although, stakeholders indicated the advantages of using asbestos (*e.g.,* asbestos in automotive drum brakes advantages include thermal stability, flexibility, resistance to wear, and low cost), and limitations of the non-asbestos replacements (*e.g.,* non-asbestos replacements in brake blocks have a useful life half that of products containing asbestos, are more expensive than asbestos-containing products, and are subject to sudden failure) (Ref. 2). Non-asbestos aftermarket automotive brakes are estimated to cost an average of $4 more than brakes containing asbestos. Asbestos-free brake blocks are also more expensive than those containing asbestos according to a company importing asbestos brake blocks. EPA was unable to identify any companies currently supplying or using other gaskets or other friction products containing asbestos, so the Agency does not have information on the cost differentials between products that contain asbestos and those that are asbestos-free. Additional information is available in the risk evaluation (Ref. 1) and economic analysis (Ref. 2).

IV. Proposed and Primary Alternative Regulatory Actions

This Unit describes EPA's proposed regulatory action to address the unreasonable risk identified for chrysotile asbestos under certain conditions of use in EPA's Risk Evaluation for Asbestos Part 1, so that chrysotile asbestos no longer presents such risk (Ref. 1). In addition, as indicated by TSCA section 6(c)(2)(A), EPA must consider the cost and benefits and the cost effectiveness of the proposed regulatory action and one or more primary alternative regulatory actions. In the case of chrysotile asbestos, the proposed regulatory option is described in Unit IV.A. and the primary alternative regulatory action is described in Unit IV.B.

A. Proposed Regulatory Action

EPA is proposing under TSCA section 6(a) to: Prohibit manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos in bulk form or as part of: Chrysotile asbestos diaphragms in the chlor-alkali industry; chrysotile asbestos-containing sheet gaskets in chemical production; chrysotile asbestos-containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; and other vehicle friction products. EPA is also proposing to prohibit manufacture (including import), processing, and distribution in commerce of aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use and other chrysotile asbestos-containing gaskets for consumer use. EPA is also proposing disposal requirements and recordkeeping requirements under which regulated parties would document compliance with the proposed disposal requirements. EPA does not intend the proposed prohibitions on processing or distribution in commerce to prohibit any processing or distribution in commerce incidental to disposal of the chrysotile asbestos waste in accordance with the proposed requirements.

Under this proposed approach and pursuant to TSCA section 6(d)(1), the manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos in bulk form or as part of diaphragms in the chlor-alkali industry and for asbestos-containing sheet gaskets used in chemical production would be prohibited two years after the effective date of the final rule. Manufacture (including import), processing, distribution in commerce, and commercial use of: Chrysotile asbestos-containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; other chrysotile asbestos-containing vehicle friction products; and asbestos-containing gaskets would be prohibited 180 days after the effective date of the final rule. Disposal and recordkeeping requirements would take effect 180 days after the effective date of the final rule. As noted in Unit III.B.2.e, these prohibitions would not apply to chrysotile asbestos in the NASA Super Guppy Turbine aircraft, which is a condition of use for which EPA did not make a determination of unreasonable risk.

EPA requests comment on any suggestions to address the unreasonable risk identified while recognizing that chrysotile asbestos is a natural occurring fiber that may be unintentionally present (*e.g.,* by incorporating a *de minimis* level). In particular, in lieu of proposing a *de minimis* provision for chrysotile asbestos with this proposed rule, EPA requests comment on incorporating a *de minimis* provision for chrysotile asbestos where the regulatory requirements of the rule would apply: (1) Only at concentrations in a product greater than or equal to 0.1% by weight; (2) at any concentration in a product, if intentionally added; or (3) above another *de minimis* level.

Other national governments, in their prohibitions of asbestos, have used threshold levels or other provisions to limit the regulation of products that contain trace amounts of chrysotile asbestos present as unintentional or naturally occurring fibers in other material obtained from mineral sources, such as brake pads and other friction materials (Ref. 4).

1. Prohibition on manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos in bulk form or as part of chrysotile asbestos diaphragms in the chlor-alkali industry and for chrysotile asbestos-containing sheet gaskets in chemical production.

EPA consulted with several companies who manufacture, process, distribute, and use chrysotile asbestos diaphragms in the chlor-alkali industry and process and use chrysotile asbestos-containing sheet gaskets in chemical production. Each company stated that while alternatives may exist, they could take many years to implement. EPA considered this information while developing the proposed regulatory option and compliance timeframes.

EPA proposes to prohibit manufacturing (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos under TSCA sections 6(a)(2) and 6(a)(5) in bulk form or as part of chrysotile asbestos diaphragms used in the chlor-alkali industry and for chrysotile asbestos-containing sheet gaskets used in chemical production. The prohibition would take effect two years from the effective date of the final rule. Pursuant to TSCA section 6(d)(1), when EPA elects to ban or phase-out a chemical substance, the start of the ban or phaseout must be as soon as practicable but not later than five years after the date of promulgation of the rule, and the date for full implementation must be as soon as practicable thereafter. EPA believes safer, economically viable alternatives are available for these conditions of use. Specifically, for the chrysotile asbestos diaphragms, EPA is aware of one company already transitioning to exclusive use of alternative technologies such as membrane and non-asbestos diaphragm technologies. All three domestic companies that use chrysotile

asbestos diaphragms currently also use membrane or non-asbestos diaphragms at their chlor-alkali facilities. The plants range in age from 40 to 123 years old, although some have had new capacity added as recently as 16 years ago, and others may have had recent refurbishments. EPA understands from industry stakeholder consultations that there are no plans to build new chlor-alkali plants that use chrysotile asbestos technology for the production of chlorine and caustic soda (Refs. 14, 15, and 16). One of the three remaining chlor-alkali companies that continue to use chrysotile-asbestos technology domestically stated to EPA in 2017 that they plan to voluntarily discontinue the use chrysotile asbestos (Ref. 18).

Globally, the chlor-alkali industry has transitioned away from chrysotile asbestos diaphragms to membrane-based technology or asbestos-free diaphragm technology due to prohibitions or impending prohibitions of chrysotile asbestos and the advantages of asbestos-free technology including greater energy efficiency, and reduced waste handling and disposal costs for asbestos-free materials. Only one chlor-alkali plant that uses chrysotile asbestos technology remains in operation in the European Union (EU), but it will phase-out of chrysotile asbestos use no later than 2025 to comply with the EU prohibition on chrysotile asbestos use by that date (Ref. 19). One chlor-alkali plant utilizing chrysotile asbestos technology remains in operation in Canada (Ref. 11). The Canadian government prohibited chrysotile asbestos use in the chlor-alkali industry with a compliance date of no later than the end of 2029.

EPA considers the proposed two-year effective date for the prohibition on manufacturing (including import), processing, distribution in commerce, and use of chrysotile asbestos in bulk form and as part of chrysotile asbestos diaphragms in the chlor-alkali industry to be achievable by the industry, thus meeting the ''as soon as practicable'' requirement of TSCA section 6(d)(1). EPA believes an aggressive transition away from chrysotile asbestos will spur adoption of superior technology and that potential supply disruptions could be addressed in the shorter term through increased importing of caustic soda and derivatives of chlorine and caustic soda, and over time with increased production at existing non-asbestos diaphragm or membrane-based chlor-alkali plants. However, EPA is aware that public drinking water and wastewater systems have experienced substantial price increases for chlor-alkali products related to supply shortages and COVID pandemic impacts. EPA has insufficient information to fully assess the impact of this proposed rule on the cost or availability of water treatment chemicals. EPA requests public comment on the potential impact of changes in supply on the availability and cost of water treatment chemicals, including both chlorine and caustic soda used directly in water treatment as well as the potential impact on the cost of other water treatment chemicals derived from chlorine or caustic soda.

Chrysotile asbestos-containing sheet gaskets are used in limited chemical production applications, particularly for the manufacture of titanium dioxide. EPA believes alternative gaskets are available that can meet the high-temperature and pressure conditions for which the chrysotile asbestos-containing gaskets are currently used. At least one manufacturer of titanium dioxide uses only asbestos-free gaskets (Ref. 14) and the two-year transition away from existing use of chrysotile gaskets should be feasible based on the availability of these substitutes.

EPA requests comment on whether the proposed prohibition date would both provide a reasonable transition period and be as soon as practicable under TSCA section 6(d)(1). EPA requests specific information to support or refute its assumption that plants using asbestos diaphragms will convert to non-asbestos technologies, and the timeframes required for such conversions. EPA is requesting comments on potential alternative transition strategies and timing to implement those strategies. EPA is requesting specific information regarding potential barriers to achieving the proposed prohibition date while considering the supply of chlor-alkali chemicals and on the potential impact of this transition on the market price of chlor-alkali chemicals.

2. Prohibition on manufacture (including import), processing, distribution in commerce, and commercial use of: Chrysotile asbestos-containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; asbestos-containing vehicle friction products; and other asbestos-containing gaskets.

EPA is proposing under TSCA section 6(a)(2) and 6(a)(5) to prohibit manufacturing (including import), processing, distribution in commerce and commercial use of: Chrysotile asbestos-containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; other asbestos-containing vehicle friction products (excluding the NASA SGT use); and other asbestos-containing gaskets. Based upon discussions with trade groups and industry representatives (Refs. 14, 15, 16, 17, 20 and 21), EPA believes chrysotile asbestos is almost entirely phased out for these product categories. Thus, these prohibitions would not only address the unreasonable risk EPA has identified, but also, for this reason, upon consideration of the TSCA section 6(c)(2)(A) factors can achieve that statutory requirement without an undue economic burden on these industries overall. EPA is proposing that the prohibition take effect 180 days after the effective date of the final rule for these categories of use. In the context of these specific uses of chrysotile asbestos, which EPA believes are almost entirely phased out, EPA has no information indicating that these proposed compliance dates are not practicable; however, EPA is requesting public comment regarding the timing of the prohibition . This additional amount of time from the proposed regulatory option is meant to account for stakeholders who may not have engaged with EPA in advance of this proposed rule, and who may potentially have difficulty immediately transitioning away from chrysotile asbestos in the manufacture, processing, distribution, and use, of chrysotile asbestos-containing brake blocks, chrysotile asbestos-containing aftermarket automotive brakes and linings, other chrysotile asbestos-containing vehicle friction products and other chrysotile asbestos-containing gaskets.

3. Prohibition on manufacture (including import), processing, and distribution in commerce for aftermarket automotive chrysotile asbestos-containing brakes/linings and other asbestos-containing gaskets for consumer use.

EPA is proposing under TSCA section 6(a)(2) to prohibit the manufacture (including import), processing, and distribution in commerce of aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use and of other chrysotile asbestos-containing gaskets for consumer use. EPA is proposing that the prohibition on manufacture (including import), processing and distribution in commerce for consumer use take effect 180 days after the effective date of the final rule for these categories of use, identical to the equivalent proposed prohibition on manufacture (including import), processing, and distribution in commerce of chrysotile asbestos for commercial use. EPA has no information indicating that the proposed compliance dates for these

prohibitions are not practicable for these consumer use-related categories. While EPA does not have the authority under TSCA section 6(a)(5) to regulate consumer use or under TSCA section 6(a)(6) to regulate disposal by someone other than a manufacturer, processor, or a person who uses or disposes of the substance commercially, prohibiting the manufacture (including import), processing, and distribution in commerce of these products for both commercial and consumer uses will remove them from the market and therefore effectively eliminate new instances of consumer use and the associated disposals from such use.

4. Other requirements.

a. Disposal:

EPA proposes to cross reference existing EPA and OSHA regulations that address asbestos-containing waste disposal. By following these existing regulations, worker and ONU exposure to chrysotile asbestos during disposal can be prevented.

For this rule, EPA proposes that for each condition of use, regulated entities must adhere to waste disposal requirements described in OSHA's Asbestos General Industry Standard in 29 CFR 1910.1001, including 1910.1001(k)(6), which requires waste, scrap, debris, bags, containers, equipment, and clothing contaminated with asbestos that are consigned for disposal to be disposed of in sealed impermeable bags or other closed, impermeable containers. EPA expects regulated entities to follow these requirements for unused and end-of-use products containing chrysotile asbestos

Additionally, for the chrysotile asbestos diaphragm condition of use, as well as oilfield brake blocks, other vehicle friction products, and any commercial use of other gaskets and aftermarket automotive brakes and linings, EPA is proposing to cross-reference the disposal requirements of Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) (40 CFR part 61, subpart M) at 40 CFR 61.150. The asbestos NESHAP reduces exposure to airborne asbestos by generally requiring sealing of asbestos-containing waste material from regulated activities in a leak-tight container and disposing of it in a landfill permitted to receive asbestos waste. EPA is not proposing to cross-reference this same NESHAP waste disposal provision for the disposal of chrysotile asbestos-containing waste from sheet gasket processing and use, because EPA did not find unreasonable risk for the disposal of sheet gaskets. However, EPA is requesting comment on this, since, according to industry communications to EPA, they already follow these work practices.

EPA is also proposing to require that, upon disposal, each manufacturer (including importer), processor, and distributor of chrysotile asbestos, including as part of products and articles, for consumer uses subject to this proposed regulation, dispose of such items in accordance with specified disposal provisions. These consumer uses are aftermarket automotive brakes and linings, and other gaskets. These consumer use supply chain disposal requirements are consistent with those proposed for disposers of aftermarket automotive brakes and linings, and other gaskets, intended for commercial use. EPA does not generally have TSCA section 6(a) authority to directly regulate consumer use and disposal, but under TSCA section 6(a) EPA may nonetheless regulate the disposal activity of suppliers of these products, including importers, wholesalers and retailers of asbestos-containing aftermarket automotive brakes and linings, and other gaskets.

The proposed disposal requirements would take effect 180 days after the effective date of the final rule. EPA has no information indicating that this 180-day compliance period, after the 60-day effective date of the final rule, is not practicable for regulated entities to comply with the proposed disposal provisions; however, EPA requests comment on whether the proposed time is adequate. EPA also requests comments on the practicability of making the proposed disposal requirements take effect sooner than 180 days after the final rule effective date.

b. Recordkeeping for disposal:

EPA is also proposing that each person who disposes of any chrysotile asbestos and any chrysotile asbestos-containing products or articles subject to the disposal provisions of this proposed rule must retain any records generated pursuant to, or otherwise documenting compliance with specified disposal regulations. These records must be retained in one location at the headquarters of the company, or at the facility for which the records were generated, and they must be retained for five years from the date of generation. In addition, EPA is exercising its authority under TSCA section 6 to apply recordkeeping requirements to distributors of asbestos-containing products who are not also manufacturers (including importers), or processors identified in the risk evaluation.

The proposed recordkeeping requirements would take effect 180 days after the effective date of the final rule. EPA has no information indicating that a 180-day period is not practicable for regulated entities to modify their recordkeeping systems to comply with the proposed rule; however, EPA requests comment on whether the proposed time is adequate. EPA also requests comments on the practicability of making the proposed recordkeeping requirements take effect sooner than 180 days and whether additional recordkeeping requirement are necessary to further document compliance with this proposed rule.

B. Primary Alternative Regulatory Action

As indicated by TSCA section 6(c)(2)(A), EPA must consider the cost and benefits and the cost effectiveness of the proposed regulatory action and one or more primary alternative regulatory actions. EPA's primary alternative regulatory action is to: Prohibit manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos in bulk form or as part of: Chrysotile asbestos diaphragms in the chlor-alkali industry and for chrysotile asbestos-containing sheet gaskets in chemical production (with prohibitions taking effect five years after the effective date of the final rule) and require, prior to the prohibition taking effect, compliance with an existing chemicals exposure limit (ECEL) for the processing and commercial use of chrysotile asbestos for these uses; and to prohibit manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos-containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; and other vehicle friction products (with prohibitions taking effect two years after the effective date of the final rule and with additional requirements for disposal). The primary alternative regulatory action also includes prohibitions on manufacture (including import), processing, and distribution in commerce of aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use and other chrysotile asbestos-containing gaskets for consumer use (with prohibitions taking effect two years after the effective date of the final rule). The primary alternative regulatory action also would require disposal of chrysotile asbestos-containing materials in a manner identical to the proposed option, with additional provisions for downstream notification and signage and labeling. EPA does not intend the primary alternative regulatory action's

prohibitions on processing or distribution in commerce to prohibit any processing or distribution in commerce incidental to disposal of the chrysotile asbestos waste in accordance with the proposed requirements.

1. Primary alternative regulatory action for prohibition of manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos in bulk form or as part of chrysotile asbestos diaphragms in the chlor-alkali industry and for chrysotile asbestos-containing sheet gaskets in chemical production.

As described in Unit IV.A, EPA consulted with several companies in the chlor-alkali industry and companies that process and use chrysotile asbestos-containing sheet gaskets in chemical production. While EPA expects the compliance date in the proposed regulatory option is feasible, it is possible that the required changes could take longer than expected to implement for some.

Accordingly, and pursuant TSCA section 6(a)(2) and 6(a)(5), EPA presents as a primary alternative regulatory action, a prohibition on the manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos in bulk form or as part of chrysotile asbestos diaphragms used in the chlor-alkali industry and for sheet gaskets used in chemical production, with an effective date five years after the effective date of the final rule, with interim controls for processing and commercial use as described in Unit IV.B.2.

2. Requiring as interim control an existing chemical exposure limit (ECEL) for: Processing and commercial use of chrysotile asbestos diaphragms in the chlor-alkali industry; and chrysotile asbestos-containing sheet gaskets in chemical production.

As part of the primary alternative regulatory action, EPA would require processors and commercial users to comply with an 8-hour existing chemical exposure limit (ECEL), during the interim period prior to prohibition, beginning 180 days after the effective date of the final rule, for the following conditions of use: (1) Processing and industrial use of chrysotile asbestos in bulk form or as part of chrysotile asbestos diaphragms used in the chlor-alkali industry and (2) processing and industrial use of chrysotile asbestos-containing sheet gaskets in chemical products. EPA calculated the ECEL to be 0.005 fibers (f)/cubic centimeter (cc), for inhalation exposure to chrysotile asbestos as an 8-hour time-weighted average (TWA) for use in workplace settings based on incidence of lung cancer, mesothelioma and other cancers. The alternative action would include this interim measure to reduce exposures and address the unreasonable risk of injury to health resulting from inhalation exposures to chrysotile asbestos in an occupational setting. EPA expects that, if inhalation exposures in occupational settings are kept at or below the ECEL of 0.005 f/cc, a person reasonably likely to be exposed in the workplace, including workers and occupational non-users, would be protected against excess risk of cancer above the $1x10^{4}$ (1E–4) benchmark resulting from chronic occupational exposure (Ref. 13). Based on this ECEL, the alternative action includes an ECEL-action level of 0.0025 f/cc as an 8-hour TWA, which initiates certain required activities such as periodic monitoring of exposures to chrysotile asbestos, as described in this unit. As described in Unit III.B.3., EPA recognizes that an ECEL will require time and resources to prepare for and therefore did not propose to include it for the two-year interim period prior to the proposed prohibition date. As part of an interim control measure, requirements to meet an ECEL could reduce exposures and address unreasonable risk during the interim period of time the regulated entities need for implementing prohibitions. This Unit provides additional details regarding implementation of the ECEL as an interim control measure as part of the primary alternative regulatory action.

EPA expects that, if this primary alternative regulatory action were to be implemented for these two use categories, workplaces may have the ability to implement an ECEL as part of an industrial hygiene program. Using the NIOSH hierarchy of controls (Ref. 27) (*i.e.,* in sequential order: Elimination, substitution, engineering controls, administrative controls and personal protective equipment (PPE)), workplaces that cannot eliminate the source or replace chrysotile asbestos with a substitute could use engineering and administrative controls to implement process changes to reduce exposures. EPA also expects that these workplaces could establish a monitoring program to demonstrate compliance with an ECEL. For example, workplaces that may be able to implement the ECEL include those that are implementing the 8-hour threshold limit value-time weighted average (TLV–TWA) set by the American Conference of Governmental Industrial Hygienists (ACGIH), and the OSHA Permissible Exposure Limit (PEL), which are both 0.1 f/cc for asbestos. EPA expects that workplaces engaged in the following conditions of use may be able to implement an ECEL: Processing and industrial use of chrysotile asbestos diaphragms in the chlor-alkali industry and processing and industrial use of chrysotile asbestos-containing sheet gaskets in chemical products. Therefore, for the primary alternative regulatory action, EPA would require an ECEL for these conditions of use and any facility engaged in these conditions of use would be considered a regulated entity.

Specifically, under the primary alternative regulatory action, EPA would require that the regulated entity must ensure that no person in the workplace is exposed to an airborne concentration of chrysotile asbestos in excess of 0.005 f/cc as an 8-hour TWA.

Initial exposure monitoring. Under the primary alternative regulatory action, EPA would require the regulated entity to establish a baseline for the implementation of the ECEL by monitoring the personal breathing zone of all persons reasonably likely to be exposed (with personal monitoring samples outside the facepiece if the person is wearing respiratory protective equipment). Under this alternative action, the initial monitoring would be taken when the operating conditions are representative of the potential exposures of persons in the workplace, or of a representative sample of persons in each type of job task during every work shift who are reasonably likely to be exposed to chrysotile asbestos in the workplace. EPA expects that facilities would attempt to monitor a baseline for all of the tasks during the same timeframe; however, EPA understands that certain tasks occur less frequently, and EPA is soliciting comments regarding the timing of the initial exposure monitoring so that it is representative of all tasks involving chrysotile asbestos. If the regulated entity chooses a representative sample, such sampling will include persons who are the closest to the source of chrysotile asbestos, so that the monitoring results are representative of the most highly exposed persons in the workplace. If the regulated entity has existing monitoring data less than five years old that follows the initial exposure monitoring criteria and where a process change is not implicated, the regulated entity could choose to use this existing data as the initial exposure monitoring. EPA is soliciting public comments regarding any additional requirement needed to ensure that the initial exposure monitoring is representative of the

exposures to chrysotile asbestos in the workplace.

Periodic exposure monitoring. Based on the results from the initial exposure monitoring, under the primary alternative regulatory action, EPA would require the regulated entity to conduct the following periodic monitoring:

- If any samples taken during the initial exposure monitoring reveal a concentration of airborne chrysotile asbestos at or above the ECEL-action level but at or below the ECEL, the regulated entity must repeat the exposure monitoring and in no case shall exceed six months. However, if the facility does not use chrysotile asbestos during those six months, then they do not have to conduct monitoring until the next six months and would need to document the fact that they are not using chrysotile asbestos.
- If any samples taken during the initial exposure monitoring reveal a concentration above the ECEL, the regulated entity must repeat the exposure monitoring at least every three months. The regulated entity may alter the exposure monitoring schedule from every three months to every six months if two consecutive monitoring events taken at least seven days apart indicate that the potential exposure has decreased to the ECEL or below, but it is at or above the ECEL-action level. Also, if the facility does not use chrysotile asbestos during those three months, then they do not have to conduct monitoring until the next three months and would need to document the fact that they are not using chrysotile asbestos.
- If the last monitoring was conducted more than five years previously, the regulated entity must conduct a new baseline monitoring.

EPA understands that explicitly increasing the frequency of testing may be a viable option and is soliciting comments regarding further shortening the maximum time interval between monitoring events.

Termination of exposure monitoring. Based on the results of the initial exposure monitoring or the periodic exposure monitoring, EPA is proposing that the regulated entity may terminate periodic exposure monitoring:

- If all samples taken during the initial exposure monitoring reveal a concentration below the ECEL action level, the regulated entity may discontinue monitoring, except when additional exposure monitoring is required as described in this unit.
- If the periodic exposure monitoring statistically indicates that concentrations, are below the ECEL action level, the regulated entity may discontinue the monitoring, except when additional monitoring is required as described under *periodic exposure monitoring* or *additional exposure monitoring.* However, regulated entities must ensure that the last baseline monitoring event was conducted within the last five years.

EPA is soliciting public comments on the proposed conditions to terminate periodic monitoring for chrysotile asbestos.

Additional exposure monitoring. In addition to the initial and periodic exposure monitoring, under the primary alternative regulatory action, EPA would require that the regulated entity must, conduct new initial exposure monitoring followed by any necessary periodic or additional exposure monitoring including immediately after:

- Changes in the production volume, use rate, process, control equipment, personnel or work practices that may reasonably be anticipated to cause additional sources of exposure or result in increased exposure levels to chrysotile asbestos; and
- Start-up, shutdown, or malfunction of the facility that may reasonably be anticipated to cause additional sources of exposure or result in increased exposure levels to chrysotile asbestos.

However, the required additional exposure monitoring should not delay implementation of any necessary cleanup or other remedial action to reduce the exposures to persons in the workplace. In addition, under the primary alternative regulatory action, EPA would require use of respiratory protection by workers, ONUs, and any other person potentially exposed to chrysotile asbestos during cleanup or any other remedial actions to reduce exposures.

For each monitoring event, under the primary alternative regulatory action EPA would require that the regulated entities record dates, duration, and results of each sample taken, including all measurements that may be necessary to determine the conditions (*e.g.,* task duration, work site temperatures, etc.) that might have affected the monitoring results. In addition, under the primary alternative regulatory action, EPA would require: Documentation of the name, address, work shift, job classification, and work area of the person monitored. If the regulated entity is using area monitoring or a representative sampling monitoring, the same documentation will be needed of all other persons whose exposures the monitoring was not measured but whose exposure is intended to be represented by the area or representative sampling monitoring. In addition, EPA would require documentation of and type of respiratory protective device, if any, worn by the monitored person; or, if area monitoring is used, respiratory protective devices worn, if any, by persons in the area monitored; or if a representative sampling monitoring is used, respiratory protective devices worn, if any, by the persons whose exposure is represented by the monitoring. Also, under the primary alternative regulatory action, EPA would require use of appropriate sampling and analytical methods to determine asbestos exposure, including:

- Use of analytical method with a limit of detection below the ECEL-action level, so that the regulated entity is able to implement exposure controls, to determine the monitoring frequency according to the requirements described in this Unit, and to provide persons exposed to chrysotile asbestos with the respiratory protection required and described in this Unit.
- Use of analytical methods described in appendix A to 29 CFR 1910.1001 or as referenced in appendix A to 29 CFR 1910.1001, the NIOSH 7400 method;
- Compliance with the Good Laboratory Practice Standards at 40 CFR part 792; and
- Documentation of information regarding air monitoring equipment, including: Maintenance, performance tests, limits of detection, and any malfunctions.

EPA requests comment on the proposed air sampling and analytical methods as part of a chrysotile asbestos ECEL air monitoring requirement under the primary alternative regulatory option and specifically whether the required air sampling and analytical methods should require the use of transmission electron microscopy (TEM), or other microscopy, instead of phase contrast microscopy (PCM). PCM is the required microscopy analysis in Appendix A to 29 CFR 1910.1001 and the NIOSH 7400 method. In addition, EPA requests comments on the capacity of available methods to effectively sample, detect and analyze chrysotile asbestos at the ECEL and ECEL action level.

Exposure controls. EPA recommends and encourages the use of pollution prevention as a means of controlling exposures whenever practicable. Under the primary alternative regulatory action, EPA would require regulated entities to implement the ECEL through the use of the NIOSH/OSHA hierarchy of controls (*i.e.,* elimination, substitution, engineering controls, administrative controls, and PPE) and to refer to 29 CFR 1910.1001 (except for 29

CFR 1910.1001(c), which references the asbestos PEL for general industry), and 29 CFR 1926.1101 (except for 29 CFR 1926.1101(c), which references the asbestos PEL for construction). EPA would require that regulated entities document their efforts in an exposure control plan or through any existing documentation of the facility's safety and health program developed as part of meeting OSHA requirements or other safety and health standards. If elimination, substitution, engineering controls and administrative controls are not sufficient to reduce exposures to or below the ECEL for all persons in the workplace, under the primary alternative regulatory action, EPA would require the regulated entity to use such controls to reduce chrysotile asbestos concentrations in the workplace to the lowest levels achievable and supplement these controls using respiratory protection. In such cases, under the primary alternative regulatory action, EPA would require the regulated entity to provide those persons reasonably likely to be exposed to chrysotile asbestos by inhalation above the ECEL with respirators sufficient to ensure that their exposures do not exceed the ECEL, as described in this Unit. Under the primary alternative regulatory action, EPA would also require that the regulated entity documents their efforts to use elimination, substitution, engineering controls and administrative controls to reduce exposure to or below the ECEL.

Under the primary alternative regulatory action, EPA would require that the regulated entity documents in the exposure control plan the following:

- Identification of the exposure controls including: Elimination, substitution, engineering controls and administrative controls available to reduce exposures in the workplace to either at or below the ECEL or to the lowest level achievable, and the exposure controls selected based on feasibility, effectiveness, and other relevant considerations;
- If exposure controls were not selected, document the efforts identifying why these are not feasible, effective, or otherwise not implemented;
- Implementation of exposure controls selected, including proper installation, maintenance, training or other steps taken;
- Regular inspections, evaluations, and updating of the exposure controls to ensure effectiveness and confirmation that all persons are using them accordingly; and
- Occurrence and duration of any start-up, shutdown, or malfunction of the facility that causes air concentrations above the ECEL and subsequent corrective actions taken during start-up, shutdown, or malfunctions to mitigate exposures to chrysotile asbestos.

Personal protective equipment (PPE). As part of this primary alternative regulatory action, where engineering and administrative controls are not feasible to reduce the air concentration below the ECEL or inhalation exposure is still reasonably likely to persons in the workplace, EPA would require the regulated entity to determine the level of respiratory protection needed. EPA is proposing that the regulated entity refer to OSHA's General Requirements for Personal Protective Equipment standard at 29 CFR 1910.132 for application of a PPE program. EPA is also proposing that the regulated entity select the required respiratory protection as described in this unit and also refer to OSHA's Respiratory Protection standard at 29 CFR 1910.134, and the respiratory protection provision of the Asbestos standard for general industry at 29 CFR 1910.1001(g) for directions on how to implement a respiratory protection program.

Required respiratory protection. EPA is proposing to require under the primary alternative regulatory action the following respiratory protection, after consideration and implementation of all other practicable controls, such as engineering and administrative controls, whenever exposure monitoring reveals an air concentration, measured as an 8-hour TWA, that exceeds the ECEL (0.005 f/cc). A respirator affording higher levels of protection than the following proposed required respirator may be used.

- If the measured exposure concentration is at or below 0.005 f/cc (ECEL): No respiratory protection is required.
- If the measured exposure concentration is less than or equal to 0.05 f/cc (10 times the ECEL), the respirator protection required is: (i) Half-mask air-purifying respirator other than a disposable respirator, equipped with high-efficiency filters (*i.e.,* a filter that is at least 99.97% efficient against mono-dispersed particles of 0.3 μm (micrometers) in diameter or higher).
- If the measured exposure concentration is less than or equal to 0.25 f/cc (50 times the ECEL): Full-facepiece air-purifying respirator equipped with high-efficiency filters.
- If the measured exposure concentration is less than or equal to 0.50 f/cc (100 times the ECEL): The respirator protection required is any powered air-purifying respirator equipped with high-efficiency filters (*i.e.,* a filter that is at least 99.97% efficient against mono-dispersed particles of 0.3 μm (micrometers) in diameter or higher) or any supplied-air respirator operated in continuous-flow mode.
- If the measured exposure concentration is less than or equal to 5 f/cc (1,000 times the ECEL): The respirator protection required is a full-facepiece supplied air respirator operated in pressure-demand mode.
- If the measured exposure concentration is more than 5 f/cc (1,000 times the ECEL): The respirator protection required is a full-facepiece supplied-air respirator operated in pressure-demand mode, equipped with an auxiliary positive-pressure self-contained breathing apparatus.

Worker participation: EPA encourages regulated entities to consult with workers on the conduct and development of exposure control plans and PPE program. EPA is proposing to require entities to provide workers with access to the exposure control plans, exposure monitoring records, and PPE program implementation (such as fit-testing and other requirements as described in 29 CFR 1910.134) and documentation.

Notification of monitoring results. As part of the primary alternative regulatory action, EPA is proposing to require that within 15 working days after receipt of the results of any exposure monitoring, the regulated entity must notify each person whose exposure is represented by that monitoring in writing, either individually to each person or by posting the information in an appropriate and accessible location. The notice must identify the ECEL, the exposure monitoring results, and any respiratory protection required in response to the exposure monitoring results. Also, the notice must include a description of the actions taken by the regulated entity to reduce inhalation exposures to or below the ECEL or refer to a document available to the person which states the actions to be taken to reduce exposures. In addition, the notice should be in plain English and understandable to the average worker that is exposed; for example: ''Based on the monitoring conducted on March 15, 2022, the exposure to chrysotile asbestos by workers installing gaskets was 0.03 f/cc. This concentration is above the limit set by EPA to protect workers, and therefore the company is providing half-mask air-purifying respirators (not disposable respirators), equipped with high-efficiency filters to workers. Workers can access the

exposure control plans, exposure monitoring records, and PPE program implementation and documentation at the office during regular business hours.''

Recordkeeping: To support and demonstrate compliance, EPA is proposing under this primary alternative regulatory action, that the regulated entities must retain compliance records for five years, unless a longer retention time is required under 29 CFR 1910.1020. The records proposed by EPA to be retained by regulated entities include:

- Exposure control plan;
- Exposure monitoring records;
- Notifications of exposure monitoring results; and
- PPE program implementation and documentation.

3. Solicitation of public comment on interim workplace controls prior to prohibition of processing and commercial use of chrysotile asbestos in bulk form or as part of chrysotile asbestos diaphragms in the chlor-alkali industry; and for chrysotile asbestos-containing sheet gaskets used in chemical production.

EPA is proposing to prohibit manufacturing, processing, commercial use, and distribution of chrysotile asbestos in bulk form or as part of chrysotile asbestos diaphragms for use in the chlor-alkali industry and for chrysotile asbestos-containing sheet gaskets used in chemical production two years after the effective date of the final rule. EPA recognizes that an ECEL will require time and resources to prepare for and did not propose to include it for the two-year interim period prior to the proposed prohibition date. However, EPA seeks public comment, including data on costs and feasibility, on requiring compliance with an ECEL during the period beginning 180 days after the effective date of the final rule and continuing until the proposed prohibition date for processing and commercial use of these uses of chrysotile asbestos.

4. Compliance date for the prohibition of manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos in bulk form or as part of chrysotile asbestos diaphragms in the chlor-alkali industry and for chrysotile asbestos-containing sheet gaskets used in chemical production.

For the proposed prohibition on manufacturing, processing, distribution, and commercial use of chrysotile asbestos in bulk for or as part of chrysotile asbestos diaphragms used in the chlor-alkali industry and for chrysotile asbestos-containing sheet gaskets used in chemical production uses, EPA is proposing that the prohibition begin two years after the effective date of the final rule based upon several considerations, including the existence of alternatives. As part of the primary alternative regulatory action, EPA is also taking comment on the prohibition beginning five years after the effective date of the final rule. EPA proposes that the final rule would take effect 60 days after publication of the final rule.

EPA held meetings with several of the processors and industrial users of chrysotile asbestos for these conditions of use. These companies stated to EPA that the transition to asbestos-free technology could take many years, although the companies processing and using chrysotile asbestos for these uses stated that research on asbestos alternatives has been ongoing. Each company did express that conversion to an alternative was possible but would require significant retooling of a facility, testing new processes, and other costly measures. However, these companies did not provide EPA with delineated cost estimates or a detailed timeline for the conversion process (Refs. 15, 16, 17, and 18).

EPA acknowledges that a prohibition on manufacturing (including import), processing, distribution and use of chrysotile asbestos diaphragms will require significant infrastructure changes for the chlor-alkali plants continuing to use the chrysotile asbestos diaphragm technology. It is possible that chlor-alkali facilities using non-asbestos technology could expand production to meet supply shortfalls induced by a prohibition on chrysotile asbestos diaphragms, but such expansion could also take time. Imports of caustic soda or chemicals derived from chlorine or caustic soda may increase in order to make up for short-term supply shortfalls. Short-term supply shortages of chlorine, caustic soda, and derivative chemicals are likely to lead to price increases experienced by both industrial and commercial users, some of which may be passed along to final consumers of products made with these inputs.

EPA seeks comment on a prohibition compliance date that under TSCA sections 6(d)(1) would be both ''as soon as practicable'' and ''provide for a reasonable transition period.'' Information that will be helpful includes the specific and detailed timelines to build asbestos-free facilities or to convert existing asbestos-using facilities to asbestos-free technology and the availability of asbestos-free technology. EPA is also requesting specific information regarding potential barriers to achieving the proposed prohibition date while considering the supply of chlor-alkali chemicals. EPA is also requesting comment on the potential impact of this transition on the market price of chlor-alkali chemicals, including the potential impact of a decrease in availability of diaphragm-grade caustic soda on both the production and cost of water treatment chemicals, including both caustic soda used directly in water treatment as well as the potential impact on the cost of other water treatment chemicals derived from caustic soda.

Alternatively, EPA could grant an exemption for these uses under TSCA section 6(g). Under the authority of TSCA section 6(g), EPA may consider granting a time-limited exemption for a specific condition of use for which EPA finds: That the specific condition of use is a critical or essential use for which no technically and economically feasible safer alternative is available, taking into consideration hazard and exposure; that compliance with the proposed requirement, as applied with respect to the specific condition of use, would significantly disrupt the national economy, national security, or critical infrastructure; or that the specific condition of use of the chemical substance, as compared to reasonably available alternatives, provides a substantial benefit to health, the environment, or public safety. EPA is aware that chlor-alkali chemicals are important to the national economy and operation of critical infrastructure, including: Water and Wastewater Systems Sector, Chemical Production Sector, Manufacturing Sector, Defense Industrial Base Sector, Emergency Services Sector, Energy Sector, Food and Agriculture Sector, and Healthcare and Public Health Sector.

Should EPA find that justification exists for such an exemption, an analysis and reasoning will be published in the final rule. EPA seeks any public comment that that favors or disfavors EPA using TSCA section 6(g) authority for chrysotile asbestos diaphragms used in the chlor-alkali industry or chrysotile asbestos-containing sheet gaskets used in chemical production. Since any decision made by EPA under TSCA section 6(g) must be through a rulemaking, EPA believes the best means to issue an exemption would be through this rulemaking process and careful analysis of reasonably available information which supports a TSCA section 6(g) exemption. A rulemaking under TSCA section 6(g) also allows EPA to include reasonable conditions to protect health while achieving the

purposes of the exemption. To that end, EPA is considering requiring an ECEL and downstream notification, as described in Unit IV.B. Primary alternative regulatory action. EPA is seeking public comments on the possible conditions to be included if EPA issues a rulemaking under TSCA section 6(g) to provide a time limited exemption for chrysotile asbestos diaphragms used in the chlor-alkali industry or chrysotile asbestos-containing sheet gaskets used in chemical production.

5. Primary alternative regulatory action for manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos-containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; other asbestos-containing vehicle friction products; and other asbestos-containing gaskets.

EPA's primary alternative regulatory action is to prohibit manufacture, processing, commercial use, and distribution of chrysotile asbestos containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; other asbestos-containing vehicle friction products; and other asbestos-containing gaskets two years after the effective date of the final rule. This additional amount of time from the proposed regulatory option is meant to account for stakeholders who may not have engaged with EPA in advance of this proposed rule, and who may potentially have difficulty immediately transitioning away from chrysotile asbestos in the manufacture, processing, distribution, and use, of chrysotile asbestos-containing brake blocks, chrysotile asbestos-containing aftermarket automotive brakes and linings, other chrysotile asbestos-containing vehicle friction products and other chrysotile asbestos-containing gaskets. While EPA does not have specific knowledge of regulated entities that would have difficulty complying with a shorter compliance date, a period of two years may be more feasible for regulated entities who have yet to transition to asbestos-free technology. This amount of time would account for use of existing stocks, expiration of equipment like asbestos-containing brake blocks, and investment in asbestos-free technology.

As with the proposed regulatory action, this primary alternative action would not apply to NASA's Super Guppy Turbine aircraft use.

6. Primary alternative regulatory action for the disposal of chrysotile asbestos-containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; chrysotile asbestos-containing other vehicle friction products and other chrysotile asbestos-containing gaskets.

The primary alternative regulatory action would also require regulated entities, upon disposal, to dispose of chrysotile asbestos-containing brake blocks in the oil industry; chrysotile asbestos-containing aftermarket automotive brakes/linings; other chrysotile asbestos-containing vehicle friction products and other chrysotile asbestos-containing gaskets in a manner consistent with the waste disposal requirements described in the housekeeping provision (1910.1001(k)(6)) of OSHA's Asbestos standard for general industry and in conformance with the asbestos waste disposal requirements of the Asbestos NESHAP at 40 CFR 61.150 and any other applicable and existing law as may apply to the commercial disposal of chrysotile asbestos and chrysotile asbestos-containing products or article. This requirement would apply to any unused or end-of-use products for these uses.

7. Other provisions of the primary alternative regulatory action.

a. Prohibition on manufacture (including import), processing, and distribution in commerce of aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use and other chrysotile asbestos-containing gaskets for consumer use:

The primary alternative regulatory action would prohibit the manufacture (including import), processing, and distribution in commerce of aftermarket automotive chrysotile asbestos-containing brakes/linings for consumer use and of other asbestos-containing gaskets for consumer use two years after the effective date of the final rule. This additional amount of time from the proposed regulatory option aligns with the compliance dates provided for commercial use of these asbestos-containing articles. The rationale for this compliance date is the same as provided in that earlier Unit.

b. Downstream notification:

EPA would require as part of the primary alternative regulatory action under TSCA section 6(a)(3) that manufacturers (including importers), processors, and distributors of chrysotile asbestos in bulk form or as part of chrysotile asbestos diaphragms used in the chlor-alkali industry and chrysotile asbestos-containing sheet gaskets used in chemical production provide notification of the prohibitions through existing safety data sheets (SDS) by adding to sections 1(c) and 15 of the SDS the following language: ''This chemical/item is not and cannot be distributed in commerce (as defined in TSCA section 3(5)) or processed (as defined in TSCA section 3(13)) for commercial and consumer use after [prohibition date].''

The requirement under the primary alternative regulatory action would take effect 180 days after the effective date of the final rule in order to provide adequate time to undertake the changes to the SDS and ensure that all products in the supply chain include the revised SDS.

c. Primary alternative regulatory action for signage and labeling requirements:

EPA would also, pursuant to TSCA section 6(a)(3), require processors, and commercial users of chrysotile asbestos in bulk form or as part of chrysotile asbestos chlor-alkali diaphragms and chrysotile asbestos-containing sheet gaskets used in chemical production to post visible and clearly noticeable signs in the work area of the ECEL value, compliance with any monitoring requirements, and worker protection requirements in this rule. Such signs would be used where any worker or ONU may be exposed to chrysotile asbestos and according to the requirements for signage under 29 CFR 1910.1001(j)(4).

V. TSCA Section (c)(2) Considerations

The following is EPA's statement of effects, as required by TSCA section 6(c)(2)(A), with respect to this proposed rule as well as discussions under TSCA section 6(c)(2)(D) about replacement parts and under TSCA section 6(c)(2)(E) about articles.

A. Health Effects of Chrysotile Asbestos and the Magnitude of Human Exposure to Chrysotile Asbestos

EPA's analysis of the health effects of and magnitude of exposure to chrysotile asbestos is in the Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos (Ref. 1). A summary is presented here. Many authorities have established causal associations between asbestos exposures and lung cancer and mesothelioma in humans based on epidemiologic studies. EPA identified in the literature a causal association between exposure to asbestos and cancer of the larynx and cancer of the ovary and suggestive evidence of a positive association between asbestos and cancer of the pharynx, stomach, and colorectum. EPA also identified increases in lung cancer and mesothelioma mortality in both workers and residents exposed to various

asbestos fiber types, including chrysotile asbestos, as well as fiber mixtures. Mesothelioma tumors arise from the thin membranes that line the chest and abdominal cavities and surround internal organs.

Asbestos exposure is known to cause various non-cancer health outcomes as well, including asbestosis, non-malignant respiratory disease, deficits in pulmonary function, diffuse pleural thickening, and pleural plaques. Various immunological and lymphoreticular effects are suggested but not well-established.

For the conditions of use that drive unreasonable risk, populations exposed to chrysotile asbestos (including potentially exposed or susceptible subpopulations) include workers, ONUs, consumer users, and bystanders to consumers using products containing chrysotile asbestos. For these conditions of use EPA estimates that, annually, at least 144 workers and 276 ONUs are exposed to chrysotile asbestos at over 31 commercial operations either processing or using products containing chrysotile asbestos. Additional workers and ONUs are exposed to oilfield brake blocks and may potentially be exposed to other vehicle friction products and other gaskets. Each year, approximately 400 consumers are potentially exposed to asbestos through the use of products containing chrysotile asbestos subject to this rule. The number of exposed bystanders is unknown to EPA. The breakdown by category of use is as follows:

- Diaphragms—100 workers and 100 ONUs at 9 sites;
- Sheet gasket stamping—4 workers and 8 ONUs at 4 sites;
- Sheet gasket use—22 workers and 150 ONUs at 5 sites;
- Oilfield brake blocks—Unknown;
- Aftermarket automotive brakes—15 workers and 15 ONUs at 12 sites;
- Other vehicle friction products—Unknown;
- Other gaskets—Unknown; and
- DIY mechanics—400 consumers and unknown bystanders.

More information on the derivation of these estimates is provided in the Economic Analysis for this rulemaking that can be found in the rulemaking docket (Ref. 2).

As discussed in Unit II.D., EPA did not evaluate hazards or exposures to the general population in the Part 1 asbestos risk evaluation.

B. Environmental Effects of Chrysotile Asbestos and the Magnitude of Exposure of the Environment to Chrysotile Asbestos

EPA's analysis of the environmental effects of and the magnitude of exposure of the environment to chrysotile asbestos are in the Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos (Ref. 1). A summary is presented here.

Chrysotile asbestos may be released to the environment through industrial or commercial activities, such as processing raw chrysotile asbestos, fabricating/processing asbestos-containing products, or the dispersing of friable chrysotile asbestos during use, disturbance and disposal of asbestos-containing products.

Although this action is focused on chrysotile asbestos fiber type, some of the information in this section pertains to asbestos fibers in general. Asbestos is a persistent mineral fiber that can be found in soil, sediments, in the air and windblown dust, surface water, ground water and biota. Asbestos fibers are largely chemically inert in the environment. They may undergo minor physical changes, such as changes in fiber length or leaching of surface minerals, but do not react or dissolve in most environmental conditions.

In water, chrysotile asbestos will eventually settle into sediments (or possible biosolids) and can enter wastewater treatment plants. EPA's review of aquatic vertebrate and invertebrate studies indicated that chronic exposure to waterborne chrysotile asbestos at a concentration range of 10^4–10^8 fibers/L, which is equivalent to 0.01 to 100 million fibers per liter (MFL), may result in reproductive, growth and/or sublethal effects to fish and clams. In addition, acute exposure of clams to waterborne chrysotile asbestos at a concentration range of 10^2–10^8 fibers/L demonstrated reduced siphoning activity.

EPA has determined that there are minimal or no releases of asbestos to surface water associated with the conditions of use that EPA evaluated in the Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos and that are the subject of this action.

C. Benefits of Chrysotile Asbestos for Various Conditions of Use

The only form of asbestos manufactured (including imported), processed, or distributed for use in the United States today is chrysotile asbestos. The United States Geological Survey (USGS) estimated that 300 metric tons of raw chrysotile asbestos were imported into the United States in 2020 (Ref. 3). This raw asbestos is used exclusively by the chlor-alkali industry and imported amounts between 2016 and 2020 ranged from 172 to 747 metric tons during a given year (Ref. 3).

In addition to the use of raw imported chrysotile asbestos by the chlor-alkali industry, EPA is also aware of imported asbestos-containing products; however, the imported volumes of those products are not fully known. The asbestos-containing products that EPA has identified as potentially being imported and used are sheet gaskets (which are imported in large sheets and cut to size domestically by a fabricator), oilfield brake blocks, aftermarket automotive brakes/linings, other vehicle friction products, and other gaskets. Chrysotile asbestos is chemically inert, durable, and able to effectively separate the anode and cathode chemicals in the electrolytic cells used in the chlor-alkali process. Asbestos-containing gaskets have been used in chemical production because they are resistant to cyclical high temperatures and immense pressure. During the manufacture of titanium dioxide, temperatures can exceed 1850 degrees Fahrenheit and pressures can be greater than 50 pounds per square inch. The physical properties of chrysotile asbestos including heat resistance make asbestos a useful material for uses where friction is produced and extreme heat is generated, including its application in brakes, gaskets and other vehicle friction product uses considered in this proposed rule.

D. Replacement Parts Under TSCA Section 6(c)(2)(D)

TSCA section 6(c)(2)(D) states that EPA shall exempt from TSCA section 6(a) rules replacement parts for complex durable goods and complex consumer goods that are designed prior to the publication of a final risk management rule, unless such replacement parts contribute significantly to the risk, identified in a risk evaluation conducted under TSCA section 6(b)(4)(A), to the general population or to an identified potentially exposed or susceptible subpopulation. TSCA section 6(c)(2)(D) defines complex consumer goods as electronic or mechanical devices composed of multiple manufactured components, with an intended useful life of three or more years, where the product is typically not consumed, destroyed, or discarded after a single use, and the components of which would be impracticable to redesign or replace. The term ''complex durable goods'' means manufactured goods composed of 100 or more manufactured components,

with an intended useful life of five or more years, where the product is typically not consumed, destroyed or discarded after a single use. Several of the conditions of use addressed by this proposed rule impact these replacement part categories. Aftermarket automotive brakes/linings are replacement parts for automobiles and other vehicles. Other asbestos-containing gaskets may be available as both new and replacement parts on utility and other vehicles. Oilfield brake blocks are replacement parts for the drilling rigs used in the oil industry. These vehicles and drilling rigs are composed of numerous components, manufactured separately and assembled together into a machine designed for a useful life of at least three years if properly maintained. By their nature, EPA believes these meet the TSCA definition of complex durable goods. In the Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos, however, EPA found unreasonable risk from use and disposal of chrysotile asbestos-containing brake blocks in the oil industry; aftermarket automotive chrysotile asbestos-containing brakes/linings; and other asbestos-containing gaskets. EPA's risk evaluation evaluated scenarios involving these replacement parts, and EPA proposes to find that the replacement parts contribute significantly to the identified unreasonable risk for these conditions of use to the potentially exposed or susceptible subpopulations identified in the risk evaluation.

Accordingly, EPA is not exempting replacement parts from regulation in the proposed rule.

E. Article Considerations Under TSCA Section 6(c)(2)(E)

EPA is proposing to regulate the manufacture, processing, and distribution in commerce of articles containing chrysotile asbestos. TSCA section 6(c)(2)(E) states that in selecting among prohibitions and other restrictions, the Administrator shall apply such prohibitions or other restrictions to an article or category of articles containing the chemical substance or mixture only to the extent necessary to address the identified risks from exposure to the chemical substance or mixture from the article or category of articles so that the substance or mixture does not present an unreasonable risk of injury to health or the environment identified in the risk evaluation conducted in accordance with section 6(b)(4)(A). TSCA does not define ''article,'' but based on the proposed definition of ''article'' in the proposed rule, the conditions of use subject to this proposed regulation include articles, *e.g.,* sheet gaskets, brake blocks, brake/linings, other gaskets and other vehicle friction products.

Except for bulk chrysotile asbestos imported for use in asbestos diaphragms, all of the other conditions of use that are the subject of this proposed regulation involve the use and/or disposal of products or articles containing chrysotile asbestos. For each condition of use, the article is subject to circumstances during use that change or alter the article as a direct result of the use. Releases of chrysotile asbestos, and the associated unreasonable risks from exposure to chrysotile asbestos identified in the risk evaluation, result from use of the articles. The articles themselves include sheet gaskets, other gaskets, brake blocks, brakes and linings, which wear down during use and release asbestos fibers. The risk evaluation determined that exposure to workers, ONUs, consumers and bystanders can occur when these items are replaced or repaired, resulting in harmful exposures. These identified risks from articles containing asbestos could result from exposure of any kind and, as a result, EPA had no feasible option to prevent these risks other than a complete prohibition. In particular, no other restriction EPA researched could sufficiently prevent unreasonable risk to ONUs, consumers, and bystanders who were not expected to wear respiratory protection. Accordingly, EPA's proposed regulatory action sets requirements for articles only to the extent necessary to address the identified risks from exposure to chrysotile asbestos from the article so that chrysotile asbestos does not present an unreasonable risk to health.

F. Reasonably Ascertainable Economic Consequences of the Rule

The reasonably ascertainable economic consequences of this rule include several components, all of which are described in the economic analysis for this proposed rule and summarized here (Ref. 2).

1. Likely effect of the rule on the national economy, small business, technological innovation, the environment, and public health.

With respect to the anticipated effects of this rule on the national economy, the economic impact of a regulation on the national economy generally only becomes measurable if the economic impact of the regulation reaches 0.25 percent to 0.5 percent of Gross Domestic Product (GDP). Given the current GDP of $23.17 trillion, this is equivalent to a cost of $58 billion to $116 billion which is considerably higher than the estimated cost of this rule. EPA considered the number of businesses and workers that would be affected and the costs and benefits to those businesses and workers and society at large and did not find that there would be a measurable effect on the national economy. In addition, EPA considered the employment impacts of this proposal. While EPA assumes that chlor-alkali plants currently using asbestos diaphragms will convert to non-asbestos technologies, some facilities may choose not to do so before the effective prohibition date in the proposed rule. As a result, the rule may result in plant closures and job losses, at least temporarily, at some chlor-alkali plants as well as at facilities that use chlorine, caustic soda, or their derivatives as intermediates. There may be similar employment effects at chemical plants using asbestos gaskets. However, there may also be increased temporary employment associated with new construction as firms convert their facilities to replace asbestos diaphragms and asbestos gaskets with substitute technologies. There may also be increases in employment at facilities that currently use asbestos-free technologies (Ref. 2).

EPA has determined that the rule will not have a significant impact on a substantial number of small entities; EPA estimates that the rule would affect at least 15 small entities, of which 12 are businesses supplying aftermarket brakes incurring costs between $778 and $11,523 per firm (depending on the number of brake replacements they perform). Nine of the brake replacement firms have a cost impact of less than 1% of the annual revenue. Of the three small entities estimated to be affected by the rule that are not supplying aftermarket brakes, two manufacture sheet gaskets for chemical production and one imports oilfield brake blocks. EPA did not have the information necessary to estimate the cost impacts on the other three small entities (Ref. 2).

The uses of asbestos subject to the rule are all in mature industries and the amount of asbestos consumed in them has been declining for some time. There is no evidence of innovative applications of asbestos in these uses in recent years, nor is there any expectation that such innovations would occur in the future in the absence of a prohibition on these uses of asbestos.

The effects of this rule on public health are estimated to be positive, due to the avoided incidence of adverse health effects attributable to asbestos exposure, including lung cancer, mesothelioma, and cancers of the larynx

and ovary (Ref. 2). Despite the uncertainties about possible greater use and release of PFAS discussed in Unit III.B.4.a, EPA believes the benefits of removing chrysotile asbestos, a known human carcinogen that causes an aggressive and deadly cancer (mesothelioma), from continued use in the United States, are significant enough to outweigh the potential additional exposure to PFAS that might result from this action.

Converting chlor-alkali diaphragm cells to membrane cells reduces electricity consumption and thus the level of air pollution associated with electric power generation. This reduction in air pollution would provide environmental benefits as well as health benefits (Ref. 2).

2. Costs and benefits of the proposed regulatory action and of the primary alternative regulatory actions considered by the Administrator.

a. Proposed regulatory action:

EPA was able to quantify the costs of the proposed regulatory action to the chlor-alkali industry and the aftermarket automotive brake industry. For the chlor-alkali industry, the proposed rule is predicted to require an investment of approximately $1.8 billion to convert the remaining plants with asbestos diaphragm cells to membrane cell technology. That conversion would result in significant energy savings that would accrue over the long run. EPA anticipates that most of these conversions would occur in the baseline in the coming decades even without the proposed rule, following existing trends in the chlor-alkali industry to transition away from asbestos. When taking the capital costs and energy savings into account over a 20-year period, the proposed rule is estimated to result in incremental annualized net costs to the chlor-alkali industry of $49 million per year using a 3 percent discount rate and $87 million per year using a 7 percent discount rate. Membrane cells also produce a higher grade of caustic soda that has historically commanded a higher price than the product from diaphragm cells. If this price differential continues, converting to membrane cells could generate incremental net annualized savings of approximately $35 million per year using a 3% discount rate and about $40,000 per year using a 7% discount rate, when considered over a 20-year period.

The extent to which the higher grade of caustic soda will continue to command a higher relative price when produced in larger quantities depends on the elasticity of demand for the higher-grade product. EPA lacks sufficient information to characterize the demand curve for chlor-alkali products, including higher grade caustic soda. If the caustic soda price differential declines but is still greater than zero, then the incremental annualize net costs to the chlor-alkali industry will fall between these estimates. The proposed rule would result in total annualized costs for aftermarket automotive brakes estimated at approximately $25,000 per year using a 3% discount rate and $18,000 per year using a 7% discount rate.

EPA was unable to estimate the costs of prohibiting the commercial use of asbestos for other products that are subject to the rule (sheet gaskets used in chemical production, oilfield brake blocks, other vehicle friction products, or other gaskets). EPA requests comment on the costs of the rule for each of these use categories.

If there is no revenue gain from the higher grade of caustic soda produced, the combined quantified annualized costs of the rule for the chlor-alkali and aftermarket automotive brake industries would be approximately $49 million per year and $87 million per year using a 3 percent and 7 percent discount rate, respectively. If there is a revenue gain from caustic soda, the net quantified savings could be approximately $35 million per year and $27,000 per year using a 3 percent and 7 percent discount rate, respectively. Because the costs of prohibiting the commercial use of asbestos in sheet gaskets, oilfield brake blocks, other friction products, and other gaskets could not be quantified, these combined values are an upper bound estimate of total cost savings and a lower bound estimate of total costs (Ref. 2).

The combined national quantified benefits of avoided cancer cases are approximately $3,000 per year using a 3% discount rate and $1,200 per year using a 7% discount rate. These reflect the benefits related to the rule's requirements for chlor-alkali diaphragms, sheet gaskets for chemical production, and aftermarket brakes. EPA did not estimate total benefits of the requirements for oilfield brake blocks, other vehicle friction products or other gaskets because the Agency did not have sufficient information on the number of individuals likely to be affected by the rule.

In addition to the quantified benefits of avoided cancer cases associated with asbestos exposure, the proposed rule may generate significant benefits from reduced air pollution associated with electricity generation. Chlor-alkali production is one of the most energy-intensive industrial operations. According to the U.S. Department of Energy the industry consumed approximately 317 trillion Btu per year as of 2004, amounting to approximately 2% of the total electric power used in the United States (Ref. 21). Since membrane cells are more energy efficient than diaphragm cells, converting to membrane cells reduces electricity consumption and thus the level of pollutants associated with electric power generation, including carbon dioxide, particulate matter, sulfur dioxide, and nitrogen oxides. There is uncertainty about the magnitude and location of these emission reductions. EPA's economic analysis used a simplifying assumption that the electric power used by chlor-alkali plants is all purchased from commercial electric generating units. EPA then used information on regional electricity markets to estimate how changes in electricity demand would affect emissions of greenhouses gases and criteria air pollutants. EPA performed this sensitivity screening-level analysis which found that converting asbestos diaphragm plants to membrane cells could yield tens of millions of dollars per year in environmental and health benefits from reduced emissions of particulate matter, sulfur dioxide, nitrogen oxides, and carbon dioxide (Ref. 2). Please see Chapter 4, Section 4.4 of the economic analysis for more discussion. EPA estimated the potential health and environmental benefits of reduced emissions of carbon dioxide using the federal government's interim estimates of the social cost of greenhouse gases. EPA does not rely on the interim estimates of the social cost of greenhouse gases as a record basis for this Agency action, and the Agency would propose the same conclusion regarding the requirements of this proposed rule even in the absence of the social cost of greenhouse gases.

b. Primary alternative regulatory action:

Under the primary alternative action, the capital investment needed to convert chlor-alkali plants to membrane cells would be spread out over five years instead of two, but the energy savings and any revenue gains from producing a higher grade of caustic soda would accrue more slowly as well. The total annualized costs to the chlor-alkali industry of the additional requirements for compliance with the ECEL as well as disposal, downstream notification, and recordkeeping requirements are estimated to be approximately $103,000 per year using a 3% discount rate and $127,000 per year using a 7% discount rate, assuming the industry relies solely on the use of upgraded PPE to comply

with the ECEL. If there are no revenue gains from caustic soda, the total 20-year annualized incremental net costs of all the requirements for the chlor-alkali industry would be $48 million per year and $77 million per year using a 3% and 7% discount rate, respectively. If the higher grade of caustic soda generates increased revenues, the chlor-alkali industry could have an overall annualized incremental net savings over 20 years of $27 million per year using a 3% discount rate; using a 7% discount rate, the industry is predicted to incur an annualized net cost of $4 million per year.

The total annualized costs of the alternative option for aftermarket automotive brakes are estimated at approximately $24,000 per year using a 3% discount rate and $16,000 per year using a 7% discount rate, which are similar to the costs of the proposed option ($25,000 per year using a 3% discount rate and $18,000 using a 7% discount rate).

EPA was not able to estimate the costs of prohibiting the use of asbestos sheet gaskets for chemical production. The total annualized cost of the other requirements for this industry (ECEL, disposal, downstream notification, and recordkeeping requirements) is estimated to be approximately $230,000 per year using a 3% discount rate and $285,000 per year using a 7% discount rate (assuming that the industry relies solely on PPE to comply with the ECEL).

For the remaining use categories (oilfield brake blocks, other vehicle friction products, and other gaskets), EPA was unable to estimate the costs of prohibiting the manufacturing, processing, distribution or commercial use of asbestos, disposal, downstream notification, or recordkeeping requirements, as the Agency was unable to estimate the number of affected sites.

The combined quantified incremental annualized costs of the alternative option for the chlor-alkali, aftermarket automotive brake, and sheet gasket industries would be approximately $48 million per year and $78 million per year using a 3% and 7% discount rate, respectively, if there is no revenue gain from the higher grade of caustic soda produced. If there is a revenue gain from producing a higher grade of caustic soda, the alternative option could result in combined quantified savings of approximately $26 million per year using a 3% discount rate but combined quantified costs of approximately $4 million per year using a 7% discount rate. Because the costs of prohibiting the use of asbestos in sheet gaskets could not be calculated, nor any of the costs for oilfield brake blocks, other friction products, and other gaskets, these combined values are an upper bound estimate of total savings and a lower bound estimate of total costs.

The combined national quantified benefits of avoided cancer cases under the alternative option are approximately $2,900 per year using a 3% discount rate and $1,100 per year using a 7% discount rate. These reflect the benefits related to the rule's requirements for chlor-alkali diaphragms, sheet gaskets for chemical production, and aftermarket brakes. EPA did not estimate total benefits of the requirements for oilfield brake blocks, other vehicle friction products or other gaskets because the Agency did not have sufficient information on the number of individuals likely to be affected by the rule. As is the case with the proposed option, converting asbestos diaphragm plants to membrane cells could yield tens of millions of dollars per year in environmental and health benefits from reduced criteria air pollution and CO_2 emissions due to decreased electricity consumption and production (Ref. 2).

3. Cost effectiveness of the proposed regulatory action and primary alternative regulatory actions considered by the Administrator.

For the COUs where EPA determined that chrysotile asbestos presents an unreasonable risk of injury to health or the environment, both the proposed option and the alternative option reduce unreasonable risks to the extent necessary such that risk is no longer presented. In achieving this result, however, the estimated costs of the proposed option and the alternative option differ as described in Unit V.F. The costs of achieving the desired outcome via the proposed option or the alternative option can be compared to evaluate cost-effectiveness. The cost-effectiveness of the options depends on whether and to what extent the higher grade of caustic soda produced by membrane cells generates increased revenues for chlor-alkali manufacturers. If the revenues from caustic soda do increase, the proposed option results in estimated annualized cost savings of about $35 million per year using a 3% discount rate or about $27,000 using a 7% rate. The alternative option is estimated to result in annualized savings of about $26 million per year using a 3% discount rate or annualized costs of about $4 million per year using a 7% rate. In this revenue increasing scenario the proposed option will be more cost effective in addressing the unreasonable risk. If there is no increase in revenues, the estimated annualized costs of the proposed rule are about $49 million per year using a 3% discount rate or about $87 million per year using a 7% rate. The estimated annualized costs of the alternative option are about $48 million per year using a 3% discount rate or about $78 million per year using a 7% rate. In this revenue neutral scenario the alternative option will be more cost effective in addressing the unreasonable risk. In the latter scenario, the difference in annualized costs between the options is largely due to the differences in their effective dates. This is because costs that occur farther in the future have smaller net present values and annualized values than the same costs that occur sooner. The dates when the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos are prohibited occur later under the alternative option than under the proposed option. The differences in the annualized costs are mainly due to discounting and are not driven by differences in the estimated unit costs of compliance between the two options.

4. Request for comment on economic analysis.

EPA's economic analysis used a simplifying assumption that the electric power used by chlor-alkali plants is all purchased from commercial electric generating units. EPA then used information on regional electricity markets to estimate how changes in electricity demand would affect emissions of greenhouses gases and criteria air pollutants. EPA requests comment on this assumption and approach to estimating emissions reductions. EPA further requests information on how much of the electric power for the chlor-alkali plants affected by this rule is purchased from commercial electric generating units and where these units are located; how much power is provided by on-site co-generation units; what fuels are used by both types of power sources; and how the mix of electricity sources and fuel types would be affected by a conversion to membrane cells or non-asbestos diaphragms. EPA also requests comment on the extent to which the power produced by these co-generation units is sold or exported, as well as the extent to which the electricity or heat produced is used on-site to produce goods other than chlorine or caustic soda (*e.g.,* ethylene dichloride, vinyl chloride monomer, chlorinated organics, etc.).

The chlor-alkali production occurs in three steps: Pre-electrolysis brine preparation, electrolysis, and post-electrolysis after-treatment of the chlorine and caustic soda. EPA estimated the net cost of converting

from asbestos diaphragms to membranes or non-asbestos diaphragms based on the capital costs of the conversion, the electricity savings of the electrolysis step, and the potential for increased revenue from a higher grade of caustic soda. EPA requests comment on the methodology and data it used to estimate these values.

EPA estimated the cost to convert asbestos diaphragm cell chlor-alkali capacity to membrane technology based on the average cost per ton from two different studies, a 2001 paper by Stanley and a 2014 study by the European Commission. EPA requests comment on reasons why using the information from one or the other study might predict the costs of this rule more accurately than using the average of the two. EPA requests that commenters identify whether there are more recent published studies that would be appropriate for estimating the conversion costs from asbestos diaphragms to non-asbestos diaphragms or membrane cells. EPA also requests data on other capital costs or savings associated with the conversion (*e.g.,* the avoidance of refurbishment costs for existing asbestos diaphragm cells).

Brine preparation and the treatment of the chlorine and caustic soda require electricity, steam, and chemical inputs. The different production technologies can require different amounts of these inputs at various steps in the production process. EPA requests data on the positive and negative differences in operating costs per unit of output and energy use per unit of output between asbestos diaphragms, membranes, and non-asbestos diaphragms, specific to each of the various input processing, electrolysis, and output processing steps.

EPA estimated the energy savings and potential revenue gains of the rule for the chlor-alkali industry based on a capacity utilization rate of 88%, which reflects a typical operating rate for the industry in recent years. EPA requests comment on whether an alternative value would better represent a typical operating rate over the twenty-year analytical timeframe used in EPA's analysis.

EPA requests information relevant to determining whether increased costs for chlorine and caustic soda that may result from the rule would lead to disproportionate or adverse effects on water systems that serve populations with a higher concentration of people of color or lower incomes than the total U.S. population.

EPA requests comment on its analyses of the number of affected firms for the sheet gasket for chemical production, oilfield brake block, aftermarket automotive brake, other gasket, and other vehicle friction use categories and the costs they would incur as a result of the proposed rule, as well as information that the Agency could use to improve these estimates.

VI. TSCA Section 9 Analysis and Section 26(h) Considerations

A. TSCA Section 9(a) Analysis

Section 9(a) of TSCA provides that, if the Administrator determines in the Administrator's discretion that an unreasonable risk may be prevented or reduced to a sufficient extent by an action taken under a Federal law not administered by EPA, the Administrator must submit a report to the agency administering that other law that describes the risk and the activities that present such risk. Section 9(a) describes additional procedures and requirements to be followed by EPA and the other federal agency after submission of the report. As discussed in this Unit, the Administrator does not determine that unreasonable risk from the conditions of use of chrysotile asbestos may be prevented or reduced to a sufficient extent by an action taken under a Federal law not administered by EPA.

TSCA section 9(d) instructs the Administrator to consult and coordinate TSCA activities with other Federal agencies for the purpose of achieving the maximum enforcement of TSCA while imposing the least burden of duplicative requirements. For this proposed rule, EPA has consulted with other appropriate Federal executive departments and agencies including OSHA and NIOSH.

OSHA requires that employers provide safe and healthful working conditions by setting and enforcing standards and by providing training, outreach, education and assistance. OSHA has three separate health standards for asbestos covering employers in General Industry (29 CFR 1910.1001); Shipyards (29 CFR 1915.1001); and Construction (29 CFR 1926.1101). These standards include a permissible exposure limit (PEL) for asbestos of 0.1 fibers per cubic centimeter (cc) of air as an eight-hour time weighted average (TWA), and an excursion limit of 1.0 asbestos fibers per cubic centimeter over a 30-minute period. The standards apply to all occupational exposures to asbestos and require exposure monitoring to determine employee exposure. Exposure monitoring includes both initial monitoring of employees who are, or may reasonably be expected to be, exposed to airborne concentrations at or above the TWA PEL or excursion limit, as well as additional monitoring. Monitoring frequency depends on work classification exposure while additional monitoring may be required based on changes in the workplace environment that may result in new or additional exposures above the TWA PEL or excursion limit.

This proposed rule addresses risk from exposure to chrysotile asbestos in both workplace and consumer settings (*e.g.,* do-it-yourself automobile maintenance). With the exception of TSCA, there is no Federal law that provides authority to prevent or sufficiently reduce these cross-cutting exposures. No other Federal regulatory agency can evaluate and address the totality of the risk that EPA is addressing in this proposal. For example, OSHA may set exposure limits for workers but its authority is limited to the workplace and does not extend to consumer uses of hazardous chemicals (while EPA does not regulate consumer use directly under TSCA 6(a)(5), it has authority to regulate the upstream supply of chemicals for consumer uses). Further, OSHA does not have direct authority over state and local employees, and it has no authority at all over the working conditions of state and local employees in states that have no OSHA-approved State Plan under 29 U.S.C. 667. CPSC is charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the agency's jurisdiction, CPSC has the authority to regulate chrysotile asbestos in such consumer products, but not in automobiles, trucks and motorcycles, which are not under its jurisdiction.

Moreover, the 2016 amendments to TSCA, Public Law 114–182, alter both the manner of identifying unreasonable risk under TSCA and EPA's authority to address unreasonable risk under TSCA, such that risk management under TSCA is increasingly distinct from analogous provisions of the Consumer Product Safety Act (CPSA), the Federal Hazardous Substances Act (FHSA), or the OSH Act. These changes to TSCA reduce the likelihood that an action under the CPSA, FHSA, or the OSH Act would sufficiently prevent or reduce the unreasonable risk of chrysotile asbestos. In a TSCA section 6 rule, following an unreasonable risk determination, EPA must apply risk management requirements to the extent necessary so that the chemical no longer presents unreasonable risk and only consider costs to the extent practicable, 15 U.S.C. 2605(a), (c)(2), subject to time-limited conditional exemptions, 15 U.S.C.

2605(g). By contrast, a consumer product safety rule under the CPSA must include a finding that ''the benefits expected from the rule bear a reasonable relationship to its costs.'' 15 U.S.C. 2058(f)(3)(E). Additionally, the 2016 amendments to TSCA reflect Congressional intent to ''delete the paralyzing 'least burdensome' requirement,'' 162 Cong. Rec. S3517 (June 7, 2016), a reference to TSCA section 6(a) as originally enacted, which required EPA to use ''the least burdensome requirements'' that protect ''adequately'' against unreasonable risk, 15 U.S.C. 2605(a) (1976). However, a consumer product safety rule under the CPSA must impose ''the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated.'' 15 U.S.C. 2058(f)(3)(F). Analogous requirements, also at variance with recent revisions to TSCA, affect the availability of action CPSC may take under the FHSA relative to action EPA may take under TSCA. 15 U.S.C. 1262. Gaps also exist between OSHA's authority to set workplace standards under the OSH Act and EPA's obligations to sufficiently address chemical risks under TSCA. To set PELs for chemical exposure, OSHA must first establish that the new standards are economically feasible and technologically feasible. 79 FR 61387 (2014). But under TSCA, EPA's substantive burden under TSCA section 6(a) is to demonstrate that, as regulated, the chemical substance no longer presents an unreasonable risk, with unreasonable risk being determined under TSCA section 6(b)(4).

EPA therefore concludes that: TSCA is the only regulatory authority able to prevent or reduce risks of chrysotile asbestos to a sufficient extent across the range of conditions of use, exposures and populations of concern; these risks can be addressed in a more coordinated, efficient and effective manner under TSCA than under different laws implemented by different agencies, and there are key differences between the finding requirements of TSCA and those of the OSH Act. For these reasons, in the Administrator's discretion, the Administrator does not determine that unreasonable risk from the conditions of use of chrysotile asbestos may be prevented or reduced to a sufficient extent by an action taken under a Federal law not administered by EPA.

B. TSCA Section 9(b) Analysis

If EPA determines that actions under other Federal laws administered in whole or in part by EPA could eliminate or sufficiently reduce a risk to health or the environment, section 9(b) of TSCA instructs EPA to use these other authorities unless the Administrator determines in the Administrator's discretion that it is in the public interest to protect against such risk under TSCA. In making such a public interest finding, TSCA section 9(b)(2) states: ''the Administrator shall consider, based on information reasonably available to the Administrator, all relevant aspects of the risk . . . and a comparison of the estimated costs and efficiencies of the action to be taken under this title and an action to be taken under such other law to protect against such risk.''

Although several EPA statutes have been used to limit chrysotile asbestos exposure (Unit II.B.1), regulations under those EPA statutes have limitations because they largely regulate releases to the environment, rather than direct human exposure. CAA generally focuses on releases of asbestos to the ambient air. Under RCRA Subtitle D, the disposal of chrysotile asbestos is regulated as a non-hazardous solid waste; RCRA does not address exposures during manufacturing, processing, distribution and use of products containing chrysotile asbestos. Only TSCA provides EPA the authority to regulate the manufacture (including import), processing, distribution in commerce, commercial use and commercial disposal of chemicals substances to be able to address chrysotile asbestos direct exposure to humans.

For these reasons, the Administrator does not determine that unreasonable risk from the conditions of use of chrysotile asbestos could be eliminated or reduced to a sufficient extent by actions taken under other Federal laws administered in whole or in part by EPA.

C. TSCA Section 26(h) Considerations

In accordance with TSCA section 26(h), EPA has used scientific information, technical procedures, measures, methods, protocols, methodologies, and models consistent with the best available science. The unreasonable risk determination was based on a risk evaluation, which was subject to peer review and public comment, was developed in a manner consistent with the best available science and based on the weight of the scientific evidence as required by TSCA sections 26(h) and 40 CFR 702.43 and 702.45. The extent to which the various information, procedures, measures, methods, protocols, methodologies or models, as applicable, used in EPA's decision have been subject to independent verification or peer review is adequate to justify their use, collectively, in the record for this rule. Additional information on the peer review and public comment process, such as the peer review plan, the peer review report, and the Agency's response to comments, can be found at EPA's risk evaluation docket at EPA–HQ–OPPT–2019–0501 (Ref. 23).

VII. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos. December 2020. (EPA–HQ–OPPT–2019–0501–0117).
2. EPA. Economic Analysis of the TSCA Section 6 Proposed Rule for Asbestos Risk Management, Part 1. April 2022.
3. U.S. Geological Survey. (2021). Mineral commodity summaries 2021: U.S. Geological Survey, *https://doi.org/10.3133/mcs2021.*
4. Environment and Climate Change Canada. (2021). Prohibitions of Asbestos and Products Containing Asbestos Regulations (*SOR/2019–196*). *https://pollution-waste.canada.ca/environmental-protection-registry/regulations/view?Id=150.* Accessed August 31, 2021.
5. Department of Labor, Occupational Safety and Health Administration. Permissible Exposure Limits—Annotated Tables. *www.osha.gov/annotated-pels.* Accessed August 31, 2021.
6. EPA. Problem Formulation for the Risk Evaluation of Asbestos. May 2018. (EPA–HQ–OPPT–2016–0736–0131). *https://www.regulations.gov/document/EPA-HQ-OPPT-2016-0736-0131.*
7. EPA. Section 6(a) Rulemakings under the Toxic Substances Control Act (TSCA) Chrysotile Asbestos Rulemakings E.O. 13132: Federalism Consultation. May 13, 2021.
8. EPA. Notification of Consultation and Coordination on Proposed Rulemakings under the Toxic Substances Control Act for Asbestos Part 1: Chrysotile Asbestos. May 24, and June 3, 2021. Tribal Consultation.
9. Asbestos Disease Awareness Organization. Comments submitted at the Environmental Justice Webinar. June 1, 2021.
10. EPA. Part 1. Asbestos (Chrysotile) Public Webinar Slides. February 3, 2021.
11. EPA. Meeting with Environment and Climate Change Canada on Risk Management under TSCA section 6, Asbestos Part 1: Chrysotile Asbestos. February 26, 2021.

12. EPA. Email Exchange with Mobis and EPA on the presence of Asbestos in its Brake and Friction Products. March to June, 2021.
13. EPA. Existing Chemical Exposure Limit (ECEL) for Occupational Use of Chrysotile Asbestos. March 2, 2021.
14. EPA. Meeting with Chemours Corporation on Risk Management under TSCA section 6, Asbestos Part 1: Chrysotile Asbestos. March 29, 2021.
15. EPA. Meeting with Olin Corporation on Risk Management under TSCA section 6, Asbestos Part 1: Chrysotile Asbestos. June 2, 2021.
16. EPA. Meeting with Oxychem Corporation on Risk Management under TSCA section 6, Asbestos Part 1: Chrysotile Asbestos. May 27, 2021.
17. EPA. Meeting with Westlake Corporation on Risk Management under TSCA section 6, Asbestos Part 1: Chrysotile Asbestos. May 20, 2021.
18. Westlake Corporation. Comments submitted to EPA on Axiall/Westlake use of asbestos for diaphragms in chlor-alkali facility. May 22, 2018.
19. Asbestos Disease Awareness Organization. (2019). ADAO Chlor-Alkali Industry Report. *https://www.asbestosdiseaseawareness.org/wp-content/uploads/2019/08/ADAO-ChlorAlkali-Industry-Report.pdf.* Accessed on June 1, 2021.
20. EPA. Meeting and Correspondence with The Chlorine Institute on Risk Evaluation and Risk Management for Part 1: Chrysotile Asbestos. June 30, 2021.
21. EPA. Email Correspondence with Oilfield Industry concerning use of Chrysotile Asbestos in Brake Blocks. April through June, 2021.
22. U.S. Department of Energy Efficiency and Renewable Energy, Industrial Technologies Program. (2006). Zero-Gap Membrane Chlor-Alkali Cells with Oxygen-Depolarized Cathodes Achieved Energy Savings of 32%. *https://www1.eere.energy.gov/manufacturing/industries_technologies/imf/pdfs/1797_advanced_chlor-alkali.pdf.* Accessed on November 1, 2021.
23. EPA. Summary of External Peer Review and Public Comments and Disposition for Chrysotile Asbestos. May, 2020 (EPA–HQ–OPPT–2019–0501).
24. EPA. Information Collection Request (ICR) for the Regulation of Part 1: Chrysotile Asbestos under TSCA Section 6(a) (Proposed Rule). EPA ICR No. 2707.01 and OMB No. 2070–[NEW].
25. EPA. Environmental Justice Consultation on Forthcoming Proposed Rulemakings under TSCA Section 6(a). May 12, 2021. *https://www.epa.gov/chemicals-under-tsca/epa-announces-environmental-justice-consultations-risk-management-0.*
26. Office of Management and Budget. Memorandum for the Heads of Executive Departments and Agencies (M–95–09). Guidance for Implementing Title II of S. 1. March 31, 1995. *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/1995-1998/m95-09.pdf.* Accessed December 14, 2021.
27. National Institute for Occupational Safety and Health. Hierarchy of Controls. *https://www.cdc.gov/niosh/topics/hierarchy/default.html.* Accessed December 10, 2021.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB recommendations have been documented in the docket. EPA prepared an economic analysis of the potential costs and benefits associated with this action, which is available in the docket and summarized in Unit IV.D (Ref. 2).

B. Paperwork Reduction Act (PRA)

The information collection requirements in this proposed rule have been submitted to OMB for review and comment under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by the EPA has been assigned the EPA ICR number 2707.01 (Ref. 24), and it is briefly summarized here.

The information collection activities required under the proposed rule include recordkeeping requirements. The proposed rule does not include any reporting requirements or any third-party notification requirements, nor does it include any certification requirements that would substitute for a collection of information to collect evidence of, or to monitor, compliance with regulatory standards. As explained in Unit IV.A.4.b and specified at proposed section 751.X11, companies that manufacture (including import), process, distribute in commerce and use chrysotile asbestos would be required to retain certain information at the company headquarters for five years from the date of generation. These information collection activities are necessary to provide EPA with information upon inspection. EPA believes that these information collection activities would not significantly impact the regulated entities. As further explained in the ICR document:

- Four chemical manufacturers that use sheet gaskets and 12 companies installing aftermarket automotive brakes are estimated to incur additional recordkeeping costs associated with their disposal activities. Each firm is predicted to incur a burden of approximately 4.4 hours. The aftermarket automotive brake installers incur this burden for one year, and the chemical manufacturers using sheet gaskets incur it for two years.
- For the remaining industry sectors and recordkeeping activities required by the rule, records that comply with the requirements are assumed to already be maintained as part of ordinary business records. Therefore, EPA estimates that such respondents would incur no additional incremental paperwork burdens due to the rule.

Respondents/affected entities: Chrysotile asbestos manufacturers (including importers), processors, and distributors.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 16.

Frequency of response: On occasion.

Total estimated burden: 29 hours per year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,166 per year.

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 OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to EPA using the docket identified at the beginning of this proposed rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than May 12, 2022. EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities

under the RFA, 5 U.S.C. 601 *et seq.* The small entities subject to the requirements of this action manufacture (including import), process, distribute in commerce and use chrysotile asbestos in the conditions of use covered by this proposed rule. EPA estimates that the proposed rule would affect at least 15 small entities, of which 12 are businesses supplying aftermarket brakes incurring costs between $778 and $11,523 per firm (depending on the number of brake replacements they perform). Nine of the brake replacement firms have a cost impact of less than 1% of their annual revenue. Of the three small entities estimated to be affected by the rule that are not supplying aftermarket brakes, two manufacture sheet gaskets for chemical production and one imports oilfield brake blocks. EPA did not have the information necessary to estimate the cost impacts on the other three small entities. The available information about the magnitude of the small entity impacts for each use category are summarized below:

Chlor-alkali plants: None of the three affected firms are small businesses.

Sheet gasket manufacturing for chemical production: EPA does not have the information to calculate the costs of the rule to small businesses in this sector, so small business impacts have not been estimated. EPA requests comment on the costs of the rule to firms currently manufacturing asbestos sheet gaskets for chemical production.

EPA is aware of one small business that manufactures sheet gaskets containing asbestos for chemical production, and the Agency assumes that there may be a second small business engaged in this activity. While EPA lacks the information to estimate the compliance cost and the resulting impact on firms in this sector, the one firm EPA is aware of sells a diverse line of products (including non-asbestos gaskets and many products other than gaskets) serving several different industries, and it operates several sites that do not manufacture gaskets containing asbestos. This suggests that asbestos-containing gaskets are not a primary source of revenue for the firm. EPA assumes that if there is another manufacturer of asbestos gaskets, that it also sells non-asbestos gaskets. Since asbestos gaskets are such a niche portion of the gasket industry, EPA believes this is a reasonable assumption. If the customers using gaskets containing asbestos are able to convert entirely to asbestos-free gaskets, the affected gasket manufacturers could likely provide the substitute products. These customers consist of chemical manufacturers that are all large businesses as far as EPA is aware. To the extent that asbestos-free gaskets do not last as long as those containing asbestos, the proposed rule could increase revenues for the affected gasket manufacturers. A less durable product might be less profitable for the customers, but selling a product that has to be replaced more often could increase revenues for the suppliers.

Sheet gasket end users (chemical production): None of the 4 firms known to be affected are small businesses. It is possible there may be other unknown small businesses that may be affected.

Oilfield brake block importer: EPA does not have the information to calculate the costs of the rule to small businesses in this sector, so small business impacts have not been estimated. EPA requests comment on the costs of the rule to firms supplying oilfield brake blocks.

There is one firm known to import and distribute oilfield brake blocks containing asbestos and it is a small business. While EPA was not able to estimate the compliance cost and its impact on this firm, if the customers (which may include other small businesses) with older drilling rigs currently using brake blocks containing asbestos continue to use those rigs, the importer could likely provide the asbestos-free brake blocks used as substitutes. To the extent that asbestos-free brake blocks are more expensive and do not last as long as those containing asbestos, the proposed rule could increase revenues for the affected brake block importer. A less durable product might be less profitable for the customers, but selling a product that has to be replaced more often could increase revenues for the importer.

Oilfield brake block—end users: EPA has not identified any small businesses using oilfield brake blocks containing asbestos. If there are such small businesses, EPA does not have the information needed to calculate the costs of the rule to them. EPA requests comment on whether there are small businesses using oilfield brake blocks containing asbestos, and if so, what the costs of the rule to them would be. Industry sources have indicated that the use of asbestos-containing brake blocks has declined over time because the type of drilling rigs that use them have been replaced by equipment that does not require the use of brake blocks containing asbestos, or that do not use brake blocks at all. Since there is only one known importer and it is small, there are likely few companies still using asbestos-containing brake blocks.

Aftermarket automotive brakes: Twelve firms are estimated to be affected by the proposed rule, and all of them are assumed to be small businesses. As described in the Economic Analysis (Ref. 2), brakes containing asbestos are estimated to have a very small share (0.002%) of the total market, and the cost impact of the rule is modest (estimated to range between $800 and $12,000 per establishment based on an incremental cost of $4 per brake and annual recordkeeping costs of approximately $178). It is expected that the affected firms would pass the higher cost of non-asbestos brakes on to their customers, who may include other small businesses. EPA did not estimate any costs for these businesses associated with finding suppliers of non-asbestos brakes because EPA assumes that these businesses already sell non-asbestos brakes as well as brakes containing asbestos.

Other gaskets: EPA is not aware if any firms that would be affected for this use category, since the one firm that previously indicated that it used these products subsequently stated that it does not do so. Therefore, no impacts are predicted on this use category as a result of the rule.

Other vehicle friction products: EPA is not aware of any firms impacted for this use category because the one firm that previously indicated to EPA that it used products in this use category subsequently stated that it does not do so. Therefore, no impacts are predicted on this use category as a result of the rule. To the extent there are ongoing uses, it is likely that the effects of the rule would be similar to those for aftermarket auto brakes (a few firms facing a small cost-increase for asbestos-free products that probably can be passed on to consumers).

Details of this analysis are presented in the Economic Analysis (Ref. 2).

EPA requests public comments regarding on the number of small businesses subject to the rule, including use categories for which EPA did not identify any affected small businesses, and on the potential impacts of the rule on these small businesses.

D. Unfunded Mandates Reform Act (UMRA)

This action contains a federal mandate under UMRA, 2 U.S.C. 1531–1538, that may result in expenditures of $100 million or more for state, local and tribal governments, in the aggregate, or the private sector in any one year. Accordingly, the EPA has prepared a written statement required under section 202 of UMRA. The statement is

included in the docket for this action and briefly summarized here.

Total estimated compliance costs of the proposed rule are estimated to be approximately $909 million per year the first two years, not including costs for sheet gaskets used in chemical production, brake blocks in the oil industry, other vehicle friction products, or other gaskets. Thus, the cost of the rule to the private sector exceeds the inflation-adjusted UMRA threshold of $100 million in any one year. When longer term savings in the chlor-alkali industry are accounted for over a 20-year period, the quantified effects of the proposed rule range from an incremental cost of $49 million per year to an incremental savings of $35 million per year using a 3% discount rate. Using a 7% discount rate, the incremental effects range from a cost of 90 million per year to savings of $300,000 per year.

Most of the estimated compliance costs would be incurred by the chlor-alkali industry. Of the nine chlor-alkali plants affected by the rule, seven are in Louisiana or Texas.

The economic impact of a regulation on the national economy is generally considered to be measurable only if the economic impact of the regulation reaches 0.25 percent to 0.5 percent of Gross Domestic Product (GDP) (Ref. 26). Given the current GDP of $23.17 trillion, this is equivalent to a cost of $58 billion to $116 billion. Therefore, EPA has concluded that this rule is highly unlikely to have any measurable effect on the national economy.

The quantified benefits of avoided cancer incidence due to the requirements for chlor-alkali plants, sheet gaskets in chemical production, and aftermarket automobile brakes total approximately $3,000 per year using a 3% discount rate and $1,200 per year using a 7% discount rate. There may be additional unquantified benefits from reducing exposures associated with other uses of chrysotile asbestos, and avoided cases of non-cancer health outcomes. There may also be significant benefits due to the reduction in pollutants generated by electric utilities that supply power to the chlor-alkali plants.

Additional information on EPA's estimates of the benefits and costs of this action are provided in Units I.E and V.F and in the Economic Analysis for this action (Ref. 2). Information on the authorizing legislation is provided in Unit I.B. Information on prior consultations with affected State, local, and Tribal governments is provided in Units VIII.E and VIII.F.

This action is not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

The EPA has concluded that this action has federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because regulation under TSCA section 6(a) may preempt state law. EPA provides the following preliminary federalism summary impact statement. The Agency consulted with state and local officials early in the process of developing the proposed action to facilitate their meaningful and timely input into its development. EPA invited the following national organizations representing state and local elected officials to a meeting on May 13, 2021, in Washington, DC: National Governors Association; National Conference of State Legislatures, Council of State Governments, National League of Cities, U.S. Conference of Mayors, National Association of Counties, International City/County Management Association, National Association of Towns and Townships, County Executives of America, and Environmental Council of States. A summary of the meeting with these organizations, including the views that they expressed, is available in the docket (Ref. 7). EPA provided an opportunity for these organizations to provide follow-up comments in writing but did not receive any such comments.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rulemaking would not have substantial direct effects on tribal government because chrysotile asbestos is not manufactured, processed, or distributed in commerce by tribes and would not impose substantial direct compliance costs on tribal governments. Thus, E.O. 13175 does not apply to this action. EPA nevertheless consulted with tribal officials during the development of this action, consistent with the EPA Policy on Consultation and Coordination with Indian Tribes.

EPA met with tribal officials via teleconferences on May 24, 2021, and June 3, 2021, concerning the prospective regulation of chrysotile asbestos under TSCA section 6 (Ref. 8). Tribal officials were given the opportunity to meaningfully interact with EPA risk managers concerning the current status of risk management. EPA received questions during both meetings held during the consultation period concerning potential risks to workers, consumers, and general population. Participants in the consultations expressed interest in the conditions of use where EPA found unreasonable risk and how EPA would address that unreasonable risk. EPA responded by providing the suite of options provided the agency under TSCA section 6 to address the unreasonable risk (Ref. 8).

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is subject to Executive Order 13045 because it is an economically significant regulatory action as defined by Executive Order 12866, and the EPA believes that the environmental health or safety risk addressed by this action has a disproportionate effect on children. The health effect of concern related to exposures to chrysotile asbestos are mesothelioma and lung cancer, both of which have a long latency periods following exposure. The risk evaluation demonstrated in sensitivity analyses that age at first exposure affected risk estimates, with earlier exposures in life resulting in greater risk. For children, exposures can be anticipated (1) as bystanders for consumer uses such as aftermarket brakes and (2) in consumer uses and occupational uses given that the risk evaluation presented information indicating that children 16 years of age may engage in these activities. The results of this evaluation are discussed in Units II.A. and V.A.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution in Commerce, or Use

This action is not a ''significant energy action'' under Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy and has not otherwise been designated by the Administrator of OMB's Office of Information and Regulatory Affairs as a ''significant energy action.'' The action is predicted to reduce energy use and is not expected to reduce energy supply or increase energy prices.

I. National Technology Transfer and Advancement Act (NTTAA)

This proposed rulemaking does not involve technical standards. As such, NTTAA section 12(d), 15 U.S.C. 272 note, does not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

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). Executive Order 12898 establishes federal executive policy on environmental justice. 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 health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the U.S. This rule would increase the level of environmental protection for all affected populations without having any disproportionately high and adverse health or environmental effects on any population, including any minority, or low-income population. EPA also conducted outreach to advocates of communities that might be subject to disproportionate exposure to chrysotile asbestos, such as minority populations, low-income populations and indigenous peoples. EPA's EJ consultation occurred from June 1 through August 13, 2021. On June 1 and 9, 2021, EPA held public meetings as part of this consultation (Ref. 24). See also Unit III.A.1. These meetings were held pursuant to and in compliance with Executive Order 12898 and Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619, February 1, 2021). EPA received several comments following the EJ meetings. Commenters expressed concerns that consumers who live near chlor-alkali facilities and Do-It-Yourself (DIY) auto workers could be exposed unless chrysotile asbestos is banned (Ref. 9). EPA also acknowledges that there are pre-existing environmental justice concerns in communities surrounding some of the affected chlor-alkali facilities and one other chemical manufacturer in Louisiana and Texas due high levels of polluting industrial activities and high proportions of minority residents. This rule is not expected to affect these pre-existing environmental justice concerns.

List of Subjects in 40 CFR Part 751

Environmental protection, Chemicals, Export certification, Hazardous substances, Import certification, Recordkeeping.

Michael S. Regan,

Administrator.

Therefore, for the reasons stated in the preamble, EPA proposes to amend 40 CFR part 751 as follows:

PART 751—REGULATION OF CERTAIN CHEMICAL SUBSTANCES AND MIXTURES UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

■ 1. The authority citation for part 751 continues to read as follows:

Authority: 15 U.S.C. 2605, 15 U.S.C. 2625(l)(4).

■ 2. Add subpart F to read as follows:

Subpart F—Chrysotile Asbestos

Sec.

Subpart F—Chrysotile Asbestos

§ 751.X01 General.

This subpart sets certain restrictions on the manufacture (including import), processing, distribution in commerce, and commercial use and disposal of chrysotile asbestos to prevent unreasonable risk of injury to health in accordance with TSCA section 6(a), 15 U.S.C. 2605(a).

§ 751.X03 Definitions.

The definitions in subpart A of this part apply to this subpart unless otherwise specified in this section. In addition, the following definitions apply:

Aftermarket Automotive Brakes and Linings mean any automotive friction brake articles sold in the secondary market as replacement parts (*e.g.,* brake pads, linings and shoes) used in disc and drum brake systems on automobiles and trucks.

Article means a manufactured item:

(1) Which is formed to a specific shape or design during manufacture;

(2) Which has end use function(s) dependent in whole or in part upon its shape or design during end use; and

(3) Which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.

Chrysotile asbestos is the asbestiform variety of a hydrated magnesium silicate mineral, with relatively long and flexible crystalline fibers that are capable of being woven.

Disposal means to discard, throw away, or otherwise complete or terminate the useful life of chrysotile asbestos, including any chrysotile asbestos-containing products or articles.

Distribution in commerce has the same meaning as in section 3 of the Act, but the term does not include distribution of chrysotile asbestos waste solely for purposes of disposal in accordance with this subpart.

Diaphragms means semipermeable diaphragms, which separate the anode from the cathode chemicals in the production of chlorine and sodium hydroxide (caustic soda).

Gasket means an article used to form a leakproof seal between fixed components.

Oilfield Brake Blocks means the friction brake blocks component in drawworks used in the hoisting mechanism for oil well drilling rigs.

Other Gaskets means gaskets other than *sheet gaskets in chemical production,* to include gaskets used in the exhaust systems of utility vehicles.

Other Vehicle Friction Products means friction articles such as brakes and clutches, other than *aftermarket automotive brakes and linings,* installed on any vehicle, including on off-road vehicles, trains, planes, etc. Vehicle Friction Products do not include articles used in the NASA Super Guppy Turbine aircraft, a specialty cargo plane used for the transportation of oversized equipment that is owned and operated by the National Aeronautics and Space Administration (NASA).

Processing has the same meaning as in section 3 of the Act, but the term does not include processing of chrysotile asbestos waste solely for purposes of disposal in accordance with this subpart.

Sheet Gaskets in Chemical Production means gaskets cut from sheeting, including asbestos-containing rubberized sheeting, that are used in chemical manufacturing facilities for extreme condition applications such as titanium dioxide manufacturing.

§ 751.X05 Restrictions on Conditions of Use.

(a) After [DATE 2 YEARS AFTER EFFECTIVE DATE OF FINAL RULE], all persons are prohibited from the manufacture (including import), processing, distribution in commerce, and commercial use of chrysotile asbestos, including any chrysotile

asbestos-containing products or articles, for:

(1) Diaphragms in the chlor-alkali industry; and

(2) Sheet gaskets in chemical production.

(b) After [DATE 180 DAYS AFTER EFFECTIVE DATE OF FINAL RULE], all persons are prohibited from the manufacture (including import), processing, distribution in commerce and commercial use of chrysotile asbestos, including any chrysotile asbestos-containing products or articles, for commercial use of:

(1) Oilfield brake blocks;

(2) Aftermarket automotive brakes and linings;

(3) Other vehicle friction products; and

(4) Other gaskets.

(c) After [DATE 180 DAYS AFTER EFFECTIVE DATE OF FINAL RULE], all persons are prohibited from the manufacture (including import), processing, and distribution in commerce of chrysotile asbestos, including any chrysotile asbestos-containing products or articles, for consumer use of:

(1) Aftermarket automotive brakes and linings; and

(2) Other gaskets.

§ 751.X07 [Reserved]

§ 751.X09 Disposal.

(a) After [DATE 180 DAYS AFTER EFFECTIVE DATE OF FINAL RULE], all persons disposing of chrysotile asbestos and any chrysotile asbestos-containing products or articles subject to § 751.X05(a)(1), must dispose of chrysotile asbestos and any chrysotile asbestos-containing products or articles, as applicable:

(1) In accordance with the Asbestos General Industry Standard—(29 CFR 1910.1001(k)).

(2) In conformance with the asbestos waste disposal requirements at 40 CFR 61.150.

(b) After [DATE 180 DAYS AFTER EFFECTIVE DATE OF FINAL RULE], all persons disposing of chrysotile asbestos and any chrysotile asbestos-containing products or articles subject to § 751.X05(a)(2) must dispose of chrysotile asbestos and any chrysotile asbestos-containing products or articles, as applicable:

(1) In accordance with the Asbestos General Industry Standard—(29 CFR 1910.1001(k))

(2) [Reserved]

(c) After [DATE 180 DAYS AFTER EFFECTIVE DATE OF FINAL RULE], all persons disposing of chrysotile asbestos and any chrysotile asbestos-containing products or articles subject to § 751.X05(b) must dispose of chrysotile asbestos and any chrysotile asbestos-containing products or articles, as applicable:

(1) In accordance with the Asbestos General Industry Standard—(29 CFR 1910.1001(k)).

(2) In conformance with the asbestos waste disposal requirements at 40 CFR 61.150.

(d) After [DATE 180 DAYS AFTER EFFECTIVE DATE OF FINAL RULE], each manufacturer (including importer), processor, and distributor of chrysotile asbestos, including any chrysotile asbestos-containing products or articles, for consumer use, disposing of chrysotile asbestos and any chrysotile asbestos-containing products or articles subject to § 751.X05(c), must dispose of chrysotile asbestos and any chrysotile asbestos-containing products or articles, as applicable:

(1) In accordance with the Asbestos General Industry Standard—(29 CFR 1910.1001(k)).

(2) In conformance with the asbestos waste disposal requirements at 40 CFR 61.150.

§ 751.X11 Recordkeeping.

(a) Each person, except a consumer, who disposes of any chrysotile asbestos and any chrysotile asbestos-containing products or articles subject to § 751.X09, after [DATE 180 CALENDAR DAYS AFTER EFFECTIVE DATE OF FINAL RULE] must retain in one location at the headquarters of the company, or at the facility for which the records were generated, documentation showing:

(1) Any records related to any disposal of chrysotile asbestos and any chrysotile asbestos-containing products or articles generated pursuant to, or otherwise documenting compliance with, regulations specified in § 751.X09.

(2) [Reserved]

(b) The documentation in paragraph (a) of this section must be retained for 5 years from the date of generation.

[FR Doc. 2022–07601 Filed 4–11–22; 8:45 am]

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Vol. 87, No. 70

Tuesday, April 12, 2022

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